PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

MARRIAGE (SAME SEX COUPLES) BILL

Fifth Sitting

Tuesday 26 February 2013

(Morning)

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PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£6·00

PBC (Bill 126) 2012 - 2013

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Saturday 2 March 2013

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: Mr Jim Hood, † Mr Gary Streeter

† Andrew, Stuart *(Pudsey)* (Con)
† Bradshaw, Mr Ben *(Exeter)* (Lab)
† Bryant, Chris *(Rhondda)* (Lab)
† Burrowes, Mr David *(Enfield, Southgate)* (Con)
† Doughty, Stephen *(Cardiff South and Penarth)* (Lab/Co-op)
† Ellison, Jane *(Battersea)* (Con)
† Gilbert, Stephen *(St Austell and Newquay)* (LD)
† Grant, Mrs Helen *(Parliamentary Under-Secretary of State for Women and Equalities)*
† Green, Kate *(Stretford and Urmston)* (Lab)
† Kirby, Simon *(Brighton, Kemptown)* (Con)
† Kwarteng, Kwasi *(Spelthorne)* (Con)
† Loughton, Tim *(East Worthing and Shoreham)* (Con)
McDonagh, Siobhain *(Mitcham and Morden)* (Lab)
† McGovern, Alison *(Wirral South)* (Lab)
† Reynolds, Jonathan *(Stalybridge and Hyde)* (Lab/Co-op)
† Robertson, Hugh *(Minister of State, Department for Culture, Media and Sport)*
† Shannon, Jim *(Strangford)* (DUP)
† Swayne, Mr Desmond *(Lord Commissioner of Her Majesty's Treasury)*
† Williams, Stephen *(Bristol West)* (LD)

Kate Emms, Alison Groves, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 26 February 2013

(Morning)

[Mr Gary Streeter *in the Chair*]

Marriage (Same Sex Couples) Bill

Written evidence to be reported to the House

MB 25 Liberty

MB 26 General Assembly of Unitarian and Free Christian Churches

MB 27 Trevor Sidnell

MB 28 Professor Julian Rivers

MB 29 Gender Identity Research and Education Society (GIRES)

MB 30 Rt Rev. Dr Alan Wilson Bishop of Buckingham

MB 31 Emeritus Professor James H. Grayson

MB 32 Rev. Canon Rosie Harper

MB 33 CARE

MB 34 Quakers

MB 35 Mr and Mrs R. Whitehead

MB 36 Equality Network/Scottish Transgender Alliance

MB 37 Adrian Smith

MB 38 Catholic Bishops Conference of England and Wales

MB 39 Elder Dr P. M. Woodley on behalf of Hyde Heath Chapel

MB 40 Peter Henderson

MB 41 W. R. Mohon

MB 42 Ronnie Devine

MB 43 Mothers Union

MB 44 Robert Williams

MB 45 John Etherton

MB 46 Emeritus Professor James Grayson—supplementary evidence

MB 47 Lisa Fairman-Brown

MB 48 John Hudson

MB 49 John Peters

MB 50 Jodie Mearns

MB 51 Rev. Chris Casey

MB 52 Rev. Dick Wolf

MB 53 Ryan Burton King

MB 54 Professor Davina Cooper

MB 55 Christie Elan-Cane

MB 56 Rev. C. B. Ross

MB 57 Michael Graham

MB 58 Dr James B. Waddell

MB 59 O. B. Hepworth—supplementary evidence

MB 60 Right Rev. Frank White

MB 61 Steve Bow

MB 62 Keith Dilliway

MB 63 Emeritus Professor James Grayson—supplementary evidence

MB 64 Canon Nicholas Anthony Turner

MB 65 Peter Bowen

8.55 am

The Chair: Before we begin, it may be useful to those Members new to Public Bill Committees if I explain how the proceedings work. The selection list for today's sittings is available in the room. It shows the amendments selected for debate and those that have been grouped together for debate. Amendments grouped together are generally on the same or a similar issue. The Member who tabled the lead amendment makes an opening speech and moves the amendment. Any other Member is then able to speak on the amendments in the group. Once all Members—including the Minister, if appropriate—have replied, I will call the Member who moved the amendment again. It will be useful if that Member will indicate if he wishes to withdraw the amendment before the Committee or to seek a decision on it. The same applies to any other amendments in the group. Amendments are voted upon in the order that they come in the Bill, although they may have been debated in an earlier group. I hope that provides some clarity for proceedings.

Mr David Burrowes (Enfield, Southgate) (Con): On a point of order, Mr Streeter. I welcome you to the formal proceedings of the Bill Committee, as we get down to business. I also welcome all other Members present, and, indeed, the Minister, whom I know from many occasions on which we have shared innings for the parliamentary cricket team and have gone in to bat together. I look forward to opening the innings on behalf of the dissenters to the Bill.

I have two points to make. First, I am not sure whether we are hacking down forests or not—the paper may be from sustainable sources—but nevertheless we have received a large number of written submissions. Unfortunately, with regard to the later submissions that have come in, colleagues received an e-mail yesterday afternoon with over 40 written submissions as attachments, and I am not sure whether Committee members have had the opportunity to go through every one line by line. I know from speaking to one member of the Committee that the submission from Liberty alone was over 40 pages long. That gives some indication of the criticism expressed throughout the passage of the Bill that the measure is being rushed and we are not allowed to give due weight to the concerns that have been raised. I would ask that when we receive written submissions they are put on the letter board, as is the normal way. I was in the House until 10 o'clock last night, and looked in vain on the letter board for a hard copy of the submissions. I would hope that the order will be that, if we receive submissions so close to the next sitting of the Committee, they are put on the letter board.

It is also important that we ensure that we are able to deal with all manner of opinion that is coming forward, and are able to consider submissions. The Bill is unique and is being dealt with in a unique way. In many ways we are breaking with precedent by dealing with a Bill on a conscience issue, which is subject to a free vote, away from the Floor of the House. Such a Bill would normally

be dealt with by a Committee of the whole House. It is important that we recognise that we have dealt with this differently so that we could hold proper evidence sessions, which we have done. The Minister said on the Floor of the House when discussing the programme motion that a key purpose of dealing with the Bill in Committee was to allow evidence to be heard, not least from religious groups. It was good that we heard from some of those marginal religious groups. Liberal Judaism, Unitarians and Quakers were represented alongside the Church of England, Catholics and others.

The Chair: Order. I am reluctant to interrupt a point of order, but some of these points are points of debate. Perhaps the hon. Gentleman can make his point of order, so we can deal with it and move on.

Mr Burrowes: I will do so, Mr Streeter. We did not hear from any representatives of the black and minority ethnic community, for example—Sikhs, Hindus, Muslims, the millions of evangelicals and others—so the sessions were partial. The point I was making is that we are very much relying on written evidence, so it is important that we receive submissions as early as possible so that we can give due weight to them.

My other point is on the issue of the free vote. I want to clarify that we are in free vote territory in this Committee. Two Whips are present, but I anticipate their taking very little action in the proceedings. I just want to make a further point—

The Chair: Very quickly.

Mr Burrowes: We have four dissenters in Committee who have voted against the Bill. If one looks at the batting order, one can see that the majority of the amendments, the scrutiny and the opposition is coming from the dissenters. I am not sure if it is in the Standing Orders that we should sit on the Government side. Given the fact that the Opposition do not necessarily offer the main opposition to this Bill or the main scrutiny, perhaps we could reconfigure and allow the dissenters to move to the Opposition Benches, not least to allow the hon. Member for Strangford not to be lonely.

The Chair: Two points of order have been raised. On the second point, it is not a matter for the Chair to decide whether or not it is free vote territory in Committee. Colleagues are free to sit wherever they wish and I invite them to do so.

On the more substantive point about evidence being presented to the Committee in good time, a good point has been made and we will make sure, of course, that all those who are responsible for producing evidence have listened to the hon. Gentleman's very important point.

Clause 1

Extension of marriage to same sex couples

Mr Burrowes: I beg to move amendment 15, in clause 1, page 1, line 5, leave out subsection (1) and insert—

'(1) Marriage of same sex couples is deemed to be legitimate.'.

The Chair: With this it will be convenient to discuss the following:

Amendment 16, in clause 1, page 1, line 5, leave out subsection (1) and insert—

'(1) Where a same sex couple solemnize a marriage between each other in accordance with the provisions set out in subsection (2) below they shall be deemed to be married to each other.'.

Amendment 17, in clause 1, page 1, line 5, leave out subsection (1) and insert—

'(1) Marriage of same sex couples is legally equivalent to marriage between the couples of the opposite sex.'.

Amendment 18, in clause 1, page 1, line 5, leave out subsection (1) and insert—

'(1) Marriage of same sex couples is legally equivalent and is deemed to be morally equivalent to marriage between couples of the opposite sex.'.

Amendment 19, in clause 1, page 1, line 5, at end insert 'and is deemed to be equivalent to the marriage of different sex couples.'.

Amendment 10, in clause 1, page 1, line 6, after 'The', insert 'civil'.

Mr Burrowes: To continue the batting terminology, I am opening the innings and looking forward to doing so. I want to enable the Minister to have some full tosses, to be able to proceed with a straight bat, as he always does, and to be helpful and to begin a conversation. It may start slowly; when one opens the innings one is pushing the singles out and not getting too many boundaries.

We shall begin the process of scrutiny in a gentle manner, and I hope that I am in accord with most members of the Committee in saying that we should have a conversation with the Minister and the Government so that we can understand what we mean to do in the Bill. I and the other three dissenters voted against the principle of the Bill, and we appreciate we are not here primarily to debate that principle. We had a good debate on Second Reading and I would not wish to repeat that. It is important to try and help the Government to be as transparent and open as possible. The Government champion openness and transparency, and it is important that this Bill is no exception to that fine principle.

I would also like to look at the meaning and consequences arising from a redefinition of marriage. All the amendments are intended to probe the foundational assumptions behind the Bill to enable the Government to explain in more detail what they want to achieve and whether the drafting of clause 1 succeeds in meeting the Government's policy goals. The Bill is unusual in many ways. It is usual to begin a Bill by setting out its main propositions, but I do not believe that we fully achieve that in clause 1, so I want to be helpful in suggesting changes.

I suggest that the drafting of subsection (1) is confusing, with great respect to parliamentary counsel and those who have been involved in drafting the Bill. I would not want anyone to suggest that I am simply putting forward my own view. We have already said that we represent dissenters and the millions of people who vote and have made submissions against the whole principle of the Bill. We are speaking on behalf of them and on behalf of those parliamentary draftsmen who may no longer be in post but have contacted me. One is Mike Ovey, who expressed the hope that his old office was not involved in drafting this particular Bill. He said:

[Mr Burrowes]

"The degree of conceptual confusion compressed into seven words is, professionally speaking, appalling."

In one sense, one could look at the words,

"Marriage of same-sex couples is lawful",

and say, "Well, is it really unlawful?" Is the marriage service for same-sex couples unlawful, would legal sanctions apply if same-sex couples said that they were married? It could be argued that a same-sex couple can quite lawfully go through a service of marriage. We have received a submission—I am not sure if members of the Committee have had a chance to see it in the forest of submissions—from the British Humanist Association, which makes the point very passionately and clearly that, as far as it is concerned, it already carries out same-sex marriages. That does not have legal force, but the association is not acting unlawfully as it carries out services for same-sex couples. It would quite rightly say that it is not committing a criminal or civil offence, and it has not been hauled up before the courts. No penalties have been imposed on any of those couples because of those services. At this early stage, we are trying to clarify exactly what the Government say the measure is about. That is why it is important to look at the definitions. Certainly as far as dissenters and many people across the country are concerned, this is not just an issue about access to ceremonies and a legal tidying-up but an issue profoundly about the redefinition of marriage.

In the evidence sessions, it was very helpful to be able to ask questions of the Secretary of State and to hear her answers. For example, I asked her quite directly how she defined the meaning and purpose of marriage in the Bill. Her answer is revealing to the extent of its limitations:

"I see marriage very simply as an ability for two people to come together and stay together … for life."—[*Official Report, Marriage (Same Sex Couples) Public Bill Committee*, 12 February 2013; c. 5, Q6.]

Who would argue with that? However, if one then adds the words "is lawful"—"Marriage as an ability for two people to come together and stay together for life is lawful"—it is hard to understand the meaning of theclause.

Amendment 15 seeks to widen the meaning of clause 1(1) by changing the word "lawful" to "legitimate". The amendment says:

"Marriage of same sex couples is deemed to be legitimate."

Parliament can deem many things that may not be wholly a reality. It may deem that marriage means marriage of same-sex couples. It can deem that, however far it would be from reality out there. However, more importantly, we have heard in evidence from many people that this is not just an issue of lawfulness in relation to the ceremony. It is an issue not just of legality but of legitimacy.

The institute of marriage has been around for the long time and there has been clarity about its being an exclusively heterosexual institution, but the Bill says that we now have a different situation. We have heard evidence from Stonewall and others. We have heard passionate speeches and moving accounts in the House, and we have also read submissions and heard in Committee about the importance of endorsing and recognising the legitimacy of same-sex relationships, particularly in relation to marriage. We heard during our evidence sessions about people being able to say that they are not just partnered but married.

The amendment raises the question of whether the main proposition of the Bill is to enable the marriage of same-sex couples not just to be lawful as such—whatever that means exactly—but to be legitimate. The Bill's advocates have been saying loud and clear that it is very much about acceptance. Indeed, to use the words of the Secretary of State, one could say that it is a "gold standard" acceptance. Is this the journey that those who advocate the Bill would want us to be on? Is the proposition behind the Bill that it is a mark of a tolerant, liberal society to say, "Yes it is legitimate for same-sex couples to be married"?

If that is the case, and that point is being made quite openly, we must raise the question—it will be raised throughout the Bill's passage—of what we think of those who disagree? What of those—like me and many millions of others—who say that there needs to be freedom to dissent and to say, "No, we recognise the validity of marriage as a heterosexual institution; we do not recognise the validity of marriage between same-sex couples." Where do we fit in under the Bill and how do we deal with that?

Many of us have been called different things because of our views; we are able to take that and carry on. However, there is an implication in some of the evidence that we have heard—this is certainly the case in things that are written to us, and especially in tweets—that we should not have the freedom to dissent, and that we are bigots and the rest of it. Part of the debate is the marginalisation of those who disagree. I will welcome throughout our proceedings the Government's good intentions of providing religious protection and freedoms in the Bill, but I am concerned about the freedom of not only those with religious conscience, but people of good conscience who disagree with the Bill's fundamental principle. How are they going to be accommodated? Amendment 15 is about the legitimacy of the marriage of same-sex couples, but how will we accommodate those who do not consider that to be legitimate? How will we avoid the situation that happened in Canada following the introduction of same-sex marriage in 2005, where there is the suggestion that those who cannot in good conscience accept the new law are deemed to be lawbreakers and threatened with legal action? How can we ensure that freedom of conscience and freedom of speech for those who do not believe that same-sex marriage is legitimate are not curtailed?

A senior Canadian Government Minister recently announced in a speech in Ontario that if the Roman Catholic Church did not approve of same-sex marriage, it would have to change its teaching. We obviously do not want to go anywhere near that kind of suggestion, and I do not think that one of our Ministers would ever say anything near to that. Indeed, one cannot legislate for off-the-wall comments by Canadian Ministers. Nevertheless, there is already a chill wind. When I was campaigning in Eastleigh along with my colleagues, and looking forward to a good result for most of the Government side on Thursday, I met a student who did not agree with my views on marriage, but certainly respected my freedom to stand up and say what I thought. I was shocked to hear from him that, during a debate on same-sex marriage in the Portsmouth university politics union two weeks ago, when a student stood up and wanted to speak against it—in a similar way to how I will be speaking today, because I have the freedom to

do so—she was refused the opportunity to speak. She was not allowed to speak because—irony of ironies—Portsmouth's politics union has a zero-tolerance policy. In the spirit of zero tolerance, there was great intolerance to her simply speaking against same-sex marriage, because that was considered hate speech. We want to avoid that situation happening way beyond the hallowed walls of this Committee Room. In work places and throughout our communities, people should have the freedom to be able to say that they do not believe that the proposition of this Bill is legitimate.

Professor John Corvino, a leading advocate of same-sex marriage, has written an academic piece in which he admits that the introduction of same-sex marriage will necessarily involve opposing views being marginalised. For him, that is a price worth paying, but it is important that we do not allow that to happen. There is a genuine opportunity for the Bill to make it clear that it does not limit people's opportunity to dissent, which I know is the view of hon. Members on both sides of the argument.

Tim Loughton (East Worthing and Shoreham) (Con): I am listening intently to my hon. Friend. He might wish to note that when I had a very respectful debate last week with students at a sixth-form college near to my constituency, it was interesting that a number of students not only wanted to see this change in the law, but did not believe that any Churches should have the right to refuse to conduct same-sex marriages. They believed that the law should be changed further to impel the Churches to do so, so this is by no means the end of the story given what some people want ultimately to achieve.

9.15 am

Mr Burrowes: We have to consider that point. The Government say that they do not want to revisit such legislation and that they want to get the Bill right now so that it includes the proper protections, provisions and clarity. We therefore need to ensure that we do not allow dissent behind the scenes, in the corridors, and in student unions and other places to be marginalised and pilloried.

If the Bill is about deeming legitimacy, we can expect, as the Church of England said in a considered submission, "culture wars" developing between those who regard same-sex marriage as legitimate and those who do not. It is important that there is proper protection in the Bill to enable conscientious objections and to give people the freedom to say that this is not legitimate. It is important that the Government explain their proposition under the Bill clearly in that context. We will press the Government further on conscientious objections later in our proceedings.

Amendment 16 would help those who feel confused about the Government's position by setting out a clear understanding of how marriage is being redefined. It says:

> "Where a same sex couple solemnize a marriage between each other in accordance with the provisions set out in subsection (2) below they shall be deemed to be married to each other."

There is, in a sense, a presupposition in clause 1 that marriage can already include a same-sex couple—indeed, we have heard examples of that during my previous comments. However, on an ordinary reading of the language of marriage, that is not the case. It is not clear from the "Oxford English Dictionary". It is therefore important that we enable those reading and applying the Bill to understand how the Government have moved us to a position of redefinition.

If it is the case that this new type of marriage is to be all about the ceremony, amendment 16 would ensure that that was the focus. The hon. Member for Rhondda made a big thing about the importance of ceremony, not only in his questions to witnesses, but during the passage of the Bill that became the Civil Partnership Act 2004. We need to recognise that importance, and steps were taken to ensure that a public ceremony was very much a part of civil partnerships. There are those who see marriage as being very much about ceremony and the public affirmation of a couple's commitment. If that is the particular purpose of the redefinition of marriage, the amendment makes the obvious point that it is the action of going through the process of a marriage ceremony by which a couple are deemed to be married as a same-sex couple.

The Bill is focused on the ceremony. There is a focus on religious institutions and their involvement—or not—in the ceremony. It is therefore important to know whether this is as far as the Government go with their understanding of the Bill's implications. Is it all about the ceremony, or is this, as many of us believe, a redefinition of the institution of marriage that goes way beyond the issue of ceremony?

Amendment 17 is all about the question of whether the marriage of same-sex couples is legally equivalent to marriage between opposite-sex couples. That may well be the case, because clause 11 states:

> "In the law of England and Wales, marriage has the same effect in relation to same sex couples as it has in relation to opposite sex couples."

Such a statement will need particular scrutiny, given how the thousands of references to marriage in English law may be affected. I know that the Government want the Bill to deal with things openly and transparently, so it will be interesting to see the extent to which we will have to rely on future Bills and secondary legislation to tidy up references to "wife" and "husband". I will draw the Committee's attention to an example of that soon.

The question for the Government is: is it proposed through the Bill to make marriage between same-sex couples legally equivalent to marriage between couples of the opposite sex? We have already heard debate about non-consummation and adultery and whether there is an issue of legal equivalence in that respect, and we have heard much evidence regarding pension provisions and whether, if the Government want to be clear, the legal equivalence that is explicit in clause 11 should be explicit in clause 1. We need to understand whether that is the case. It is important that we understand whether this is about legal parity. In the consultation, which was originally called the "Equal civil marriage consultation", it was about supporting equivalence; then, at a later date, in response to the consultation, it was described as "equal marriage", so equivalence is still on Ministers' lips and stated by them in writing. If that is the proposition in the Bill, we need to be clear about it.

Amendment 18 takes us a stage further by asking whether it is not simply a matter of same-sex marriage being legally equivalent, but whether it is deemed to be morally equivalent. It is important to understand whether

[Mr Burrowes]

that is what the Government intend, because if the Government are saying that same-sex marriage is legally and morally equivalent to opposite-sex marriage, that affects the millions of people who do not agree. Whatever Parliament does and whatever the state tells them, millions of people will not be convinced that same-sex marriage is morally equivalent to opposite-sex marriage. The Government can do all they can to make it legally equivalent, and many of us would say that civil partnerships have gone a long way in establishing legal rights for same-sex unions, but making it morally equivalent, if that is what the Government are doing, has a profound impact on the consciences of millions of people up and down the land and many of our constituents.

That is why many of us make a big thing about the teachers issue, and that is why it is important at this early stage that we discuss the question of equivalence. Later, we will debate amendments that go to the heart of the questions around teachers and others, but there are teachers who very much hold a traditional view of marriage. When they have to follow the guidance on teaching the importance of marriage, they will see that as a moral judgment that marriage is important—inevitably, there is a value judgment—and so they will be required to teach the equal importance of same-sex marriage. If the proposition in the Bill is that same-sex marriage is morally equivalent, that is what the Government will be telling them to do. The amendment is important because it allows for conscientious objection to the Government's proposition. In good conscience, I believe, those who object would not say that there is a moral equivalence.

Amendment 19 is a variation on a theme and I do not propose to take up too much of the Committee's time discussing it, but it would make the Bill clearer and say that it is not just about whether it is legal or moral equivalence. Perhaps one is dancing on a pin and it is all about equivalence in any event. The amendment says something not dissimilar to clause 11, but would enable the Government to have it in clause 1 where propositions are put forward. I have covered the first few amendments. The main point of tabling them is to enable the Government to allow us to understand exactly the purposes of the Bill.

Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op): I am listening intently to the hon. Gentleman's argument. It seems that if we agreed with him, the original wording of the Bill would be more satisfactory to his arguments. If we are dealing with what is lawful, there is room for dissenting view; but if we are deciding what is moral and legitimate, surely that would label any dissent as immoral or illegitimate.

Mr Burrowes: I am trying to get to the heart of that very debate. The intention of Ministers is to allow for objection and freedom of expression, not just of religious bodies but of individual ministers. We need to know exactly where we are.

Chris Bryant (Rhondda) (Lab): Is the hon. Gentleman going to support his own amendment if he pushes it to a vote, or is he going to oppose it? If he is going to oppose it, it is not in order.

Mr Burrowes: The hon. Gentleman is too impatient. He is going to have to wait. He is seeking to end my innings too early. He needs to wait.

This is an important point; the issue of equivalence matters greatly. Let us start with legal equivalence. I will give one example: section 47 of the Criminal Justice Act 1925 abolished the common law presumption of coercion of a married woman by her husband and substituted a statutory provision that

"on a charge against a wife for any offence other than treason or murder it shall be a good defence to prove that the offence was committed in the presence of, and under the coercion of, the husband".

What would be the effect of the Bill, which seeks to provide equivalence? Paragraph 5 of schedule 3 to the Bill applies only to new legislation and therefore technically does not apply here, but a husband is defined as including

" a man who is married to another man"

and a wife as including

"a woman who is married to another woman".

If that is the appropriate interpretation to apply to the 1925 Act, what is the effect? Does that mean that the defence provided in section 47 will apply to both parties in a marriage between two women but to neither party in a marriage between two men, or does it mean that the defence will not apply at all in a same-sex marriage? That is just one example relevant to the question of legal equivalence about which the Government need to be clear.

We have heard Ministers champion that there is a right for people to hold traditional views of marriage. We are told that teachers are free to explain their conscientious views; we are told that churchmen will continue to be able to uphold the traditional view of marriage within their own churches. We are told that no one who disagrees with same-sex marriage will get into difficulty if they are expressing in a reasonable manner their conscientious views, but we need to be clear about that and ensure that there is proper space for those who do not believe that marriage between same-sex couples is necessarily valid or legitimate. We need to enable difference of opinion.

It is also important that we are able to deal with the cases that affect people beyond the scope of the Bill. It is important to recognise that its scope extends further. Amendment 10 takes the matter further by enabling this Committee to have a debate that is already taking place around the House. Following Second Reading, many hon. Members on all sides of the argument expressed a desire to take a more active role in determining the principles of the Bill. This probing amendment was tabled to enable the Minister to explain the journey that the Government have been on and how their position has changed since they published their consultation paper, "Equal civil marriage", which was issued before the Bill was drafted.

9.30 am

In that consultation paper, in many ways what the Government sought was crystal clear: to bring in civil marriage for same-sex couples. The rationale was that the provision of marriage would be equal to that of opposite-sex couples, but after that consultation, what we have ended up with is not specifically civil marriage, although many still refer to it as that—many of the

submissions talk of civil marriage—and it is not particularly equal. I have already mentioned that consummation and adultery in terms of equality, as well as other areas, will be subject to further scrutiny and debate; we will also discuss equalising civil partnerships in a debate on a proposed new clause.

The Bill is not limited to civil marriage, so I want the Minister to help us to understand how we have got to that position, given that a particularly large number of respondents to the consultation were opposed to same-sex marriage in principle. Many of them made that point on the basis of the Government's original premise in the consultation: equal civil marriage. Now, the Government have moved the goalposts to enable same-sex weddings in religious premises.

Stephen Williams (Bristol West) (LD): Good morning, Mr Streeter. Is that not because one of the responses to the consultation was from several religious denominations, such as Liberal Judaism, Unitarians and Quakers, who said that they wished to offer same-sex marriages, and the Government responded to that?

Mr Burrowes: The consultation happened over a period of time, but many of us could argue that the time given to respond to the Government's new changes was limited. Indeed, we heard from Unitarians, Liberal Jews and Quakers, who represent some thousands—*[Interruption.]*. Was it 38,000 or so members? We did not hear in the evidence sessions from the millions of evangelical Christians or the millions of Sikhs, Muslims and Hindus, but we did hear from the Church of England and Catholics who disagree with that view. My point is that the Government moved with haste to the point where they moved the goalposts and did not allow for scrutiny and debate of that change. It may be that they were responding to the legitimate calls from the Unitarians, Quakers and Liberal Jews.

Jim Shannon (Strangford) (DUP): The small churches who have given their viewpoints may have 38,000 members, but there are some 40,000 teachers who are opposed to this proposal. Are their opinions not equally important?

The Chair: Order. Before the hon. Member for Enfield, Southgate resumes, of course his remarks will be restricted to amendment 10. I do not want to open this up for another Second Reading debate.

Mr Burrowes: I am grateful, Mr Streeter. Many voices were raised and 500,000 people signed a petition against this principle, but that did not seem to get much regard in the response to the consultation.

Kate Green (Stretford and Urmston) (Lab): Good morning, Mr Streeter. I point out to the hon. Gentleman the YouGov polling that suggests that a majority of people of faith support same-sex marriage, and same-sex religious marriage as well.

Mr Burrowes: I want to avoid the temptation to go down the line of opinion polls; in many ways, if you ask the right question, you get the right answer. None the less, I will happily look at the opinion polls if that is what the Committee wants. One could look at opinion polls in relation to the gay community, which is mixed in its message.

The Chair: I would prefer that we discussed the amendment.

Mr Burrowes: Okay, yes. I want to know whether the change was made because of legal advice regarding the challenge to the European Court of Human Rights, which would overrule the complete absence of any opportunity for religious same-sex weddings. If that is the case, it will be important to hear the Minister say it so that we can understand why that happened.

We recognise that there is in many ways no such thing as civil marriage, to extent that there are civil weddings and religious weddings, which are two different doors leading to the same legal institution. The confusion that I have tried to highlight in the amendments is that there is a focus on the nature of the ceremony, civil or religious, as though that were what marriage is primarily about. However, we do not say that we go to civil or religious weddings and we do not talk about being married religiously or civilly. People get married. That is important.

My point is that we need not to sidestep the key issue for the millions of people who are dissenting and whom we represent, which is that the Bill is about redefining the institution of marriage. People may ask, "What's this to you? How will loving, committed same-sex couples having the right to be married affect you? What effect would that have on your marriage?" but we have heard evidence from people saying that it will affect them. Amending the Marriage Act 1949, under which all existing marriages are solemnised, will mean that all married couples will retrospectively be deemed to have entered a gender-free institution. The Church of England said that, and it is important that we hear its words as it represents a significant interest.

The Church said that what will be left after the Bill is not marriage as we know it. Its response to the consultation stated:

> "The effect of the proposals would be that everyone who wished to marry—irrespective of the form or ceremony by which their marriage was solemnized—would be required to enter into the same new, statutory institution of 'marriage'. That institution would be one which was defined as the voluntary union for life of any two persons. English law would, as a result, cease to provide or recognise an institution that represented the traditional understanding of marriage as the voluntary union for life of one man with one woman…
>
> The established institution of marriage, as currently defined and recognised in English law, would in effect, have been abolished and replaced by a new statutory concept which the Church—and many outside the Church—would struggle to recognise as amounting to marriage at all. A man and a woman who wished to enter into the traditional institution of marriage would no longer have the opportunity to do so. Only the new, statutory institution, which defined a 'marriage' as the voluntary union of any two persons, would be available."

Those are serious words, and it is important that we do not just sidestep them and deal just with religious protections around ceremonies. We need to recognise that this is a fundamental redefinition of the institution of marriage. Should we call it civil marriage? Some have argued that we should go one stage further and not talk about "marriage" at all, but talk of civil union and allow people to opt in or out in a similar way to the French system. Some people say that same-sex couples cannot be given the right to marriage without taking away the right of opposite-sex couples to have their uniquely heterosexual relationships recognised in law.

[Mr Burrowes]

Those are the reasons for my final amendment, which also allows other hon. Members to pursue the matter in other ways, as they will later. Some might suggest calling it "state marriage" or a more radical solution that recognises that there are deeply incompatible views of marriage in British culture that will not be reconciled. Perhaps the relationship between the Church and the state, which are currently married together in terms of a united concept of marriage, needs to be rethought as that concept is being divided. Perhaps we need to recognise that there is a complete departure of views about marriage, and that we need new terminology in law. That is what the amendment seeks to flag up.

Perhaps the way forward should be to separate the state's legal registration of unions from their religious celebration and solemnisation to embrace more consistently the gender-blind understanding that is ushered into secular law by the Bill. We should follow the logic of equality by offering a single category of civil union; established legal rights and duties can follow from that.

Some hon. Members have argued that perhaps we could move away from the hotly contested language of marriage, and from the issue of who should prescribe and own that view, and end some of the political and legal discussion about a state definition. Religious communities and others can be allowed to adopt definitions as they choose. The amendment probes those issues. I look forward to hearing from the Minister.

Kate Green: It is great pleasure to serve on the Committee under your chairmanship, Mr Streeter. I will be brief on the amendments proposed by the hon. Member for Enfield, Southgate. I profoundly disagree with him on their necessity or desirability. I am not a romantic woman, but if I were, the microscopic detail in which he has sought to define marriage would have removed all the romance from me. I am sure that was not his intention.

Amendments 15 to 19 over-prescribe the definition of marriage, and seek to protect the rights of some to dissent. I find that hard to get my head around, and some of my colleagues have struggled with the logic of the hon. Gentleman's position. It is perfectly possible to take the first line of the Bill—

"Marriage of same sex couples is lawful"—

at face value. Those who do not agree are free to dissent from that point of view to the extent that they can say, "It is the law, but I do not believe it should be, and I do not believe it is right." There are plenty of examples of that happening in relation to moral issues. A good example is attitudes to abortion, which vary widely. Abortion is lawful in this country in prescribed circumstances, and people are perfectly free to dissent from that view, despite the law. I see no reason why we should regard the Bill in any other way.

Mr Burrowes: The hon. Lady raises an interesting example. Section 4 of the Abortion Act 1967 allows for conscientious objection. Would she follow that analogy and fully allow the same conscientious objection in this Bill?

Kate Green: We will come to that issue. The hon. Gentleman has tabled amendments that would create opportunities for individuals, on conscience grounds, not to be required to effect certain provisions of the Bill. My view is we should tread down that path with great care. I look forward to discussing why we should be careful, in relation to certain offices and roles. However, even under the terms in which the Government introduced the Bill, those who do not wish to marry a same-sex couple in a religious institution on conscience grounds can receive protection. My understanding is that is what the Government seek to do in the Bill.

Jonathan Reynolds: My hon. Friend is right to mention abortion as an analogous case where freedom of conscience is crucial. However, in relation to these amendments—in particular, amendment 10—would the example of divorce not be more appropriate? We do not call second or third marriages illegitimate just because some people disagree with the concept of divorce. Many legislative changes in history have affected marriage, but we have not followed this line of logic in the past.

Kate Green: My hon. Friend is right that we have seemed more broadly to accept that subsequent marriages can follow divorce, although that remains not the teaching of many Churches, and certainly there are people who would not accept that the subsequent marriages were actually marriages. None the less, we can accommodate that dissent quite comfortably, and without much social tension, in the context of the law of the land allowing such marriages.

I am grateful to my hon. Friend for referring to amendment 10, because when I looked at the group of amendments, I could see little reason or need for amendments 15 to 19, but I thought that we might have an interesting debate on amendment 10 and whether we want to move to a wholly secular and state-based understanding of marriage, with no statutory role for religious institutions. In fact, the hon. Member for Enfield, Southgate was not particularly exploring that idea. Indeed, we would expect that the Church of England, the Church in Wales and others to be reluctant if that were the intention of the amendment. However, it is certainly an argument that I would have been prepared to engage in, had the hon. Gentleman introduced it.

9.45 am

I am perplexed by what the hon. Gentleman said about people within religious institutions who feel strongly that they do not accept or want to carry out same-sex marriages and that they are not protected adequately under the Bill. Since the Government brought forward their proposals, we have gone far to provide that protection, so that those faiths that do not want to carry out same-sex marriages are able to say that they will not do so. The Bill is permissive; it is not prescriptive. It is not saying that religious institutions must marry same-sex couples. Indeed, my impression, from listening those religious institutions that gave evidence to us a couple of weeks ago and did not intend to marry same-sex couples, was that they were broadly happy with the way in which the Government have set up those protections.

There is little need to engage in the detail of the amendments. They would add no value to the purpose or substance of the Bill. I certainly do not intend to

support them if the hon. Gentleman puts them to the vote. We are still a little unclear about his intentions, and I shall urge hon. Friends and other hon. Members not to support the amendments. They are uncalled for, and we should reject them.

The Minister of State, Department for Culture, Media and Sport (Hugh Robertson): I join others, Mr Streeter, in welcoming you to the Chair this morning. I thank my hon. Friend the Member for Enfield, Southgate, for his contribution to the debate, and for the opportunity to discuss the effect on the Bill of his amendments. Let me be absolutely clear at the outset: the fundamental purpose of the Bill is to extend the institution of marriage to same-sex couples, plain and simple—end of story.

The Government do not believe that it is right that a couple who love each other and want to formalise their commitment to each other should be prevented from marrying simply because they both happen to be of the same sex. I know that there is disagreement about that among members of the Committee, but that is the fundamental purpose of the Bill.

Clause 1(1) sets out the fundamental purpose of the Bill, which is to make the marriage of same-sex couples lawful in England and Wales. The Bill does one simple and important thing: it amends the law in that regard to enable same-sex couples to access the legal institution of marriage, an institution that symbolises many of the issues that we have debated this morning. In my personal view—this is not in the Government's briefing notes—the Bill allows people to make that religious commitment in a way that works for them. That is exactly the point that the hon. Member for Stretford and Urmston made a moment ago. Every marriage is different, and the Bill will allow people to enter into marriage in a way that works for them.

Amendments 15 and 16 deem same-sex marriage to be "legitimate", but that suggests that such marriages are not legitimate in some way, though the Government have decided to treat them as if they were. That is absolutely not our position. Same-sex marriages will be every bit as legitimate as marriages between a man and a woman. We are not creating a separate institution of marriage, or a purported marriage. We are opening up the existing important legal institution of marriage to same-sex couples, so that all couples can enjoy the rights and benefits of being married.

I have taken legal advice, and technically, amendments 15 and 16 would call into question whether marriage of same-sex couples had legal effect. It runs the risk of creating a new and slightly second-class category of marriage for same-sex couples. That would be contrary to the Government's intention, and would risk leaving individuals in legal and moral uncertainty.

Amendments 17 and 18 draw a distinction between the legal status of marriage and its moral value. As we have just heard, it is not for the law to dictate the moral value that people place on marriage. Those who feel that marriage is an institution created for one man and one woman are free to continue to hold that view. The civil understanding of marriage has always been broader than that of many religious organisations. Nothing—absolutely nothing—in the Bill affects how religious organisations view marriage. They are free to continue defining marriage as they wish, in line with their beliefs. The fact that the law will allow some same-sex couples to marry does not affect anybody's ability to hold that view. The Bill does not need to suggest distinctions, as implied in amendments 17 and 18, between what is legal and what is deemed to be morally equivalent to opposite-sex marriage.

Tim Loughton: I understand what the Minister is saying; he clearly sees this as an extension of equal opportunity to everybody, but surely there remains clear discrimination against devout Anglicans who want a same-sex marriage, because they are specifically forbidden, under the terms of the Bill, from having such a marriage in Church of England premises, conducted by a Church of England member of the clergy. How can he justify such discrimination specifically against Anglicans?

Hugh Robertson: Very simply, this is a permissive Bill, and it allows the Church of England, quite properly, to make those decisions itself. That is a decision for the Church. It is as simple as that.

Amendment 10 would create a division between civil and religious marriage for same-sex couples, so that only civil marriage would be available to those couples. As such, the amendment is based on a fundamental misconception. Marriage is, in my view, a single institution that can be entered into either in a civil ceremony or in accordance with religious rites or usages.

Setting aside that fundamental issue for a moment and addressing the motivation behind the amendment, we do not think that a bar on the marriage of same-sex couples through religious ceremonies is the right approach. Our consultation showed that many people, including in some religious organisations, believe that religious organisations that want to conduct religious marriage ceremonies for same-sex couples should be able to do so, and the Government do not believe they should be prevented from doing that. By enabling religious organisations that want to marry same-sex couples to do so, while protecting those that do not, the Bill protects and promotes religious freedoms—exactly the point made a moment ago. This permissive Bill enables religious organisations to make their own choices. Amendment 10 would alter that balance.

The consultation responses and our continuing discussions with religious groups, which were aired in some detail during the evidence sessions, and particularly in the evidence given by Liberal Jews, Quakers and Unitarians, demonstrate clearly that some religious organisations that want to celebrate same-sex marriages, either now or in the future, should be able to do so in the same way that they celebrate marriage for opposite-sex couples now. They should not be denied that opportunity, and amendment 10, if accepted, would limit their freedom to do that.

Let me deal with various questions asked by my hon. Friend the Member for Enfield, Southgate. On humanists and same-sex marriages, the Bill relates to the legal status of marriage. Marriage ceremonies of same-sex couples in England and Wales currently have no legal effect, and the Bill changes that. On the freedom-of-speech point, it is clear that my hon. Friend's view is that marriage should be between a man and a woman. That is a lawful belief, and nothing in the Bill changes that; indeed, it is protected under the Equality Act 2010. He

[Hugh Robertson]

asked about the effect on section 47 of the Criminal Justice Act 1925, with which, of course, I am very familiar. We will deal with that when we discuss the equivalence provision in clause 11, so there will be time for a longer debate on that.

On the consultation document, which stated that the Government were not, at that stage, proposing to open up religious marriage ceremonies to same-sex couples, my hon. Friend asked why we changed our mind. We set out the proposals to get people's views in the consultation, and then did that unusual thing in Government of listening to those views and acting on them. Many people, including those in religious organisations, thought that some religious organisations that want to conduct religious marriage ceremonies for same-sex couples should be able to do so. It was as simple as that.

In conclusion, clause 1 ensures that same-sex couples will have access to the existing institution of marriage, with all the rights and benefits that it brings, through civil and—on a permissive basis—religious ceremonies. It has been drafted carefully and precisely to strike a balance between the views of many people, and to achieve that effect. In short, it does what is needed, so I ask my hon. Friend to withdraw his amendment.

Mr Burrowes: I am grateful for the Minister's response. I apologise to the hon. Member for Stretford and Urmston for not being happy or romantic enough. Hopefully I will make up for it in debates on later clauses, when I want to get into a bit of Shakespeare and develop a bit of romance. I am just at the beginning of my innings, still pushing out the singles. I have not become too flamboyant, and the boundaries have not yet come. They will come.

The amendments have genuine purpose. They were tabled so that the Minister could tell us, at this early stage, about the Government's intentions, which lie at the heart of the Bill, and tell us explicitly about the intention to allow those who share my view, as many do—the view that marriage should not include same-sex marriage—to hold that view in good conscience. We will test how far that should be made explicit in the Bill.

There is inevitably a difference, but I can only press it so far, because at the heart of clause 1, we have a fundamental disagreement on the principle of the Bill. It is a difference in understanding that should not be lost. It is not just about an extension of the legal status of marriage; it is about providing a new statute definition of marriage. The amendments probe the Government to ask them to acknowledge that. We will have to continue on that journey. I do not want to take up too much more of the Committee's time on amendment 15, so I beg to ask leave to withdraw it.

Amendment, by leave, withdrawn.

Mr Burrowes: I beg to move amendment 20, in clause 1, page 1, line 5, at end add—

'( ) The purpose of marriage is—

(a) companionship (including its expression in sexual union);

(b) fidelity (including its expression in sexual fidelity) and stability;

(c) procreation and the nurture of children;

(d) mutual care and provision in sickness and in health;

(e) to benefit society.'.

The Chair: With this it will be convenient to discuss amendment 21, in clause 1, page 1, line 5, at end add—

'( ) The purpose of marriage is—

(a) companionship (not including its expression in sexual union);

(b) fidelity (not including its expression in sexual fidelity) and stability;

(c) not procreation and the nurture of children;

(d) mutual care and provision in sickness and in health;

(e) to benefit society.'.

Mr Burrowes: The amendments would put the purpose of marriage on the face of the Bill. Again, the thinking is that it is important to put down, early on in our deliberations, the propositions within the Bill. When one is dealing with marriage, it would be useful to know what its purposes are.

Amendment 20 puts down a traditional understanding of marriage, in paragraphs (a) to (e); amendment 21 would edit those paragraphs to accommodate a new understanding of the purposes of marriage. I asked the Secretary of State to help us to understand the meaning and purpose of marriage, but her response did not give a clear idea of that. That is a profound concern. These amendments would help the Government with that. I asked her a number of times what the purpose of marriage is in the Bill, and she said:

"Marriage will mean different things to different people…That is the premise on which we have put forward this Bill."—[*Official Report, Marriage (Same Sex Couples) Public Bill Committee,* 12 February 2013; c. 5, Q8.]

That is not good enough. We need to be able to establish the purposes of marriage in the Bill. The amendments seek to draw out a fuller answer and response from the Minister than the Secretary of State gave.

There are those—I would not suggest that they are members of the Committee—who are cynical about marriage and do not support it. I have not seen so many hon. Members in campaign groups for marriage over the years, and I have seen some, but not others, advocating the extension of marriage. There are many of us who have championed the cause of the institution of marriage over a number of years, and then there are those who are quite dismissive of it and see it as a dying institution. It is therefore important that we should be clear about our support for it.

10 am

Chris Bryant: Some of us have been campaigning for a long time for more people to be allowed to get married.

Mr Burrowes: I agree; certainly there is a good track record on that. I am talking not so much about numbers as about the institution of marriage and how we support it. Many of us have wanted to support it through the tax system and in other ways.

Some, however, dismiss marriage as nothing much more than an arrangement of property rights—that is a view that has been around. We know that cannot be right. I will try to be a bit more romantic—I am sure that even among the literature in the House of Commons Library some romance on the subject of marriage can be found, such as love letters between spouses. How can

those be put down just to a mere property arrangement? Did John Donne or Shakespeare say that marriage was just a property arrangement?

"Let me not to the marriage of true minds
Admit impediments. Love is not love
Which alters when it alteration finds".

Surely that was not written about bare property arrangements. No, marriage has much more meaning than that. It establishes a new social unit and is based on the union of two individuals.

Chris Bryant: John Donne eloped with his boss's daughter and consequently wrote:

"John Donne, Anne Donne, Un-done",

because he got into terrible trouble. He ended up losing his job in politics because of his carnal desire.

The Chair: Order. I am blaming the hon. Member for Enfield, Southgate for this—for trying to be romantic. I should be most grateful if we could get back strictly to the amendment.

Mr Burrowes: I was only bringing a bit of love into the Committee. It can go in lots of different directions.

What is clear is that marriage is not just the extension of a ceremony; it establishes a new social unit based on the union of two individuals embodying the fundamental distinction or difference within humanity—between male and female. Traditionally, marriage—this applies to the purpose of marriage in amendment 20—has embodied a physical and sexual union: an act with a procreative potential, even if it does not result in childbirth in every case or in every marriage. With a marriage, a husband and wife commit to each other and give themselves physically to each other in a way that is exclusive for life. Sexual union with another person of the opposite sex is recognised in law as adultery and is a specific ground for divorce.

Hugh Robertson: On the point about procreation, does my hon. Friend accept that many people get married at a later stage in their lives—and we would absolutely encourage them to do so—when they have no chance of procreating? Should their marriages be any less worthy for that?

Mr Burrowes: Of course not. It is interesting if the Minister is telling me that I am making a judgment on worthiness—earlier we debated legitimacy and value judgments. I am simply giving a commentary on what the purposes of marriage have been established to be.

One of the last witnesses who gave evidence to us in Committee was Mark Jones. He spoke about the fact that he and his wife cannot have children; however, he recognised that the structure and form of marriage has been around the procreative act, even if it does not necessarily produce children. The sexual union embodied in that is one that he values and the structure is something that he thinks is important. The exceptions—to do with whether one can have children or whether one is too old to have them—do not necessarily mean that a central purpose of marriage should be put to one side.

Hugh Robertson: But the fact is that amendment 20 specifically draws attention to the procreation and nurture of children. That is specifically part of it, so my hon. Friend puts it at the centre of his amendment, although he knows that for many people whose marriages we value that will never—sadly, or otherwise, for them—be a possibility.

Mr Burrowes: The Minister makes an important point. The purposes in my amendment are drawn from the traditional church ceremony and vows. If the Minister wants to argue that the Church is wrong to put that in its service, then he can. However, amendment 21 provides the opportunity to set this out quite clearly. Perhaps the Minister's questions raise an important point—that we should have a slimline version of the purposes of marriage. Perhaps we should look carefully at amendment 21, which says that marriage is not about procreation. That helps the Minister, and I should be interested to hear whether he wants to support that amendment. It is important that we recognise the difference between arguments about the redefinition of marriage and those about the purposes of marriage.

As I mentioned earlier, we received a letter from the British Humanist Association, which is not satisfied with the Bill, as it does not see how it allows for humanist weddings to be recognised in law. There is a logic to its position; indeed, I await with interest new clause 3—which my hon. Friend the Member for Bristol West will move at a later date—which seeks to deal with that point, although I do not want to speak to it now. The letter from the BHA helps to explain the purpose of these amendments and quotes from a letter it received:

"We were able to totally write our vows that reflected our own values of life and love and were also compatible with those of humanism. This was a wonderful process that allowed us to really look at our relationship and what it was and what we wanted it to be. The ceremony was relaxed and moving. Several couples we know who were there and had pretty much decided that getting married was pointless were inspired by what we were able to create and are now planning their own 'dream days'.... Some people commented that the ceremony was not a 'real wedding' and just some hippy thing. It was not! For us it was a dream come true"—

the romance and the love that the hon. Member for Stretford and Urmston mentioned. That couple were very satisfied. For them, marriage is a dream day.

The Secretary of State told me that marriage means different things to different people. To that humanist couple it means the dream day, but have we now decided—perhaps we should properly codify marriage, including the purposes of marriage—that we are moving away from a collective view that I would say has held this country in good stead to an understanding and a new definition of marriage as an institution that is much more autonomous and much more about the couples themselves and whatever it means to them? The Secretary of State was clear when she gave evidence that she thought marriage was the gold standard—some members of the Committee took issue with her for saying that it should be the gold standard. Indeed, the Prime Minister has said that he is "a marriage man" and many people will quite properly speak up for marriage.

Perhaps this marriage Bill is a really important opportunity for the Government to help us all to be clear about the purpose of marriage. We hear lots of talk about marriage and what it means. Surely we can

[Mr Burrowes]

be open and transparent in the way we allow the purpose of marriage to be clear on the face of the Bill. We do not have that statement, so these two amendments set out its purposes—one on a traditional basis, the other in a refined way.

During the recess I searched high and low for a reference in Government documents to the purpose of marriage. I managed to find something on page 11 of the consultation paper:

"At its heart, marriage is about two people who love each other making a formal commitment to each other."

That might be the purpose of marriage as far as the Government are concerned—perhaps we should put that in the Bill—but surely that is insufficient. We all recognise that marriage is about people falling in love with each other, making promises, making a commitment to each other, the undying nature of love and the rest of it, but surely the institution of marriage is deeper than that—more magnificent, more multi-faceted, more society-enhancing.

Marriage is about more than commitment, because commitment can take many forms. We can commit ourselves to many endeavours and to other relationships —we can be committed to the care of family members—but that does not necessarily mean more than marriage. It is not enough for the Government, in talking about the purpose of marriage in the consultation paper, just to call it a "formal commitment", because many contractual engagements and relationships can involve formal commitments, but they cannot be compared to marriage. Marriage is indeed all about love, but it is also about how we express and evidence it. Marriage is about more than love and more than a formal commitment.

I will not go through each millennium, but marriage has been around for millennia. It predates the Church—I am not suggesting that the Church owns the concept—and it certainly predates the state, which has assumed an increasingly active interest in it. It is important that we recognise that marriage has a civilising effect. It is a bulwark for our freedoms. Some communist dictatorships made efforts to eradicate marriage as a bourgeois institution, but it has outlasted many a dictator. In the final evidence session, we heard Brendan O'Neill say that he thought there was a bourgeoisie conspiracy to campaign for gay marriage. It is interesting to hear the different sides of the argument.

I do not believe that it is enough just to have one line about love and formal commitment, or a throwaway comment from the Secretary of State on what marriage is about. That is insufficient when dealing with an important Bill. We need to identify its purposes. That is why amendments 20 and 21 seek effectively to allow the Government a choice. Criminal justice Bills often look at the main purposes of sentencing, and there is often much debate around and interest in those purposes.

I looked a bit further than the consultation paper and found a Department for Work and Pensions paper published last year that cites the importance of the stability that marriage provides. It observes:

"Given that married relationships tend to have greater longevity and stability than other forms, this Government believes marriage often provides an excellent environment in which to bring up children. So the Government is clear that marriage should be supported and encouraged."

Perhaps we are moving to the stage where the purpose of marriage is stability in relationships. That quote also refers—"at long last", one might say—to children. Notwithstanding the Minister's concern about couples who will not or cannot have children, the Government are clearer than others, including previous Governments, that the value of the state getting involved in marriage is around children, stability and the good outcomes that come from supporting marriage. That needs to be recognised and is important.

It is of concern that there has been little reference to children and parenthood. It is not a matter of indifference whether children are brought up in marriage, and we need to take account of that. That is why I included the word "procreation" in my amendment. I wanted to see whether the Government agree that it is one of the purposes of marriage. The Minister's comments suggest to me that it should not explicitly be a purpose of marriage. If that is the case, let us be clear about it. The sad reality of divorce and marital breakdown means that we need to take the issue seriously. We need to be careful if we move to a stage where we are not encompassing the effect of the law on adultery, for example, in relation to married couples. We need to be clear about why we are doing that. I have therefore deliberately included in my amendment references to consummation and adultery. The absence of those concepts, or their qualification or exemption, is important because it indicates that we are moving to a different definition and understanding of marriage.

10.15 am

Jane Ellison (Battersea) (Con): Does my hon. Friend recall the evidence in, I think, the Church of England session, that there is an existing anomaly? Someone in a heterosexual marriage being unfaithful with someone of the same sex currently does not qualify as adultery. If there is an inconsistency, it is a persistent inconsistency.

Mr Burrowes: I am grateful for that intervention. Is this not a good opportunity to deal with this issue? We are here to legislate on marriage and related issues, so should we not look at everything, including consistencies and inconsistencies? Some might even want us to put to one side completely the whole issue of adultery; some might say it is a red herring. Indeed, we had questions about the numbers, and a helpful letter from the Minister to the hon. Member for Rhondda told us that adultery is cited as grounds for divorce in approximately 15% of divorces, which is more than people say and not an insignificant figure compared with the 48% citing unreasonable behaviour. It is more than 17,000 divorces per year, or 17,000 people for whom the recognition that their spouse broke vows of fidelity was important. That is a significant number, so we need to have a serious debate on and scrutiny of this issue, and an explicit recognition that we are moving away from a traditional understanding of the purposes of marriage.

The right hon. Member for Exeter, who is not in his place at the moment, asked the Minister about the concept of consummation and adultery in an evidence session and suggested that it be repealed. Later in Committee, perhaps we will see an amendment from Her Majesty's official Opposition on repealing the whole concept of adultery and consummation. The Minister said:

"We looked very closely at the relevance of those two concepts to extending marriage, but I did not really feel that it was appropriate to get into reforming those particular concepts as part of the scope of the Bill."—[*Official Report, Marriage (Same Sex Couples) Public Bill Committee,* 12 February 2013; c. 6, Q12.]

I am not sure that we can take that fast and loose approach to qualifying adultery and consummation—they are in the Bill and within its scope, and we cannot avoid the debate. The lid is lifted off the issues and we need to see where the debate takes us.

The same question was asked of Ben Summerskill, who is in the Public Gallery, watching attentively for Stonewall. He made the point that civil partnerships are no longer good enough and that we need same-sex marriage. Civil partnerships, however, have been used as a model for the Bill, but adultery is absent as grounds for dissolution of civil partnerships. Importantly, the purposes of marriage have traditionally been about not only commitment and love but fidelity. In addition to the need to recognise the importance of companionship, which we all support—it is all about companionship—there is also evidence, explicitly recognised in the Bill, of the importance of sexual union: of the bringing together of two to be one. That is of resonance and importance to millions of people. If, as I am suggesting in amendment 21, we are not going to have sexual union as part of the purposes of marriage, and marriage is about companionship, let us be clear about that.

When pressed, Mr Summerskill said:

"In terms of consummation, one almost feels that one is getting to angels and pinheads in this territory. We…have not seen a lot of our stakeholders saying they are deeply concerned about consummation. It may be that perhaps sex is something that heterosexual people are slightly more fixated about than homosexuals."—[*Official Report, Marriage (Same Sex Couples) Public Bill Committee,* 12 February 2013; c. 64, Q169.]

We could perhaps argue that point, Mr Speaker—I mean, Mr Streeter; there is only a few letters' difference. Perhaps we could redefine "Streeter" to "Speaker"; it is all very close. Although I am not necessarily obsessed by sex with my wife—perhaps I should be; who knows?—I am obsessed by sexual union and sexual fidelity. It may not sound too loving and romantic to talk in such terms, but this is a serious issue.

Historically, sexual fidelity matters greatly. Historically, as it once was with the private ceremonies of marriage, the only way there could be proper evidence of sexual infidelity in a public forum was through addressing the issue of adultery and showing that there was sexual infidelity. That matters greatly and is a fundamental aspect, not a red herring. We now know that, numerically, that is significant. The Government have led us into a greater state of confusion, as my hon. Friend the Member for Battersea said in an intervention, and they need to clear that up so that we all know where we are going—this is the purpose of the amendment—and can understand what is happening.

We will discuss adultery and non-consummation later, but amendment 21 would enable the Government to exclude from the purpose of marriage anything to do with sexual union and sexual fidelity, enabling the explicit exclusion of sex as a central part of the purpose of marriage. Adultery is important; it is an objective test for divorce. Unreasonable behaviour is subjective. There is a clear difference in law in respect of how those matters are dealt with. There is no guarantee that, down the line, a court will always rule that adultery in one form is wholly unreasonable behaviour; it will depend on whether a petitioner can adduce enough evidence that they find it intolerable. Will adultery be regarded as not so unreasonable if someone has put up with it for 10 years, or if there is an open relationship?

We need to ensure, at this early stage, that we are clear about the purposes of Bill and whether it leads to a new definition of marriage, as stated in a submission to the Committee, which, as far as the Secretary of State is concerned, is as valid as any other definition. The submission states:

"Marriage is the union of two people (whether of the same sex or opposite sexes) who commit to romantically loving and caring for each other and to sharing the burdens and benefits of domestic life. It is essentially a union of hearts and minds, enhanced by whatever forms of sexual intimacy both partners find agreeable. The state should recognise and regulate marriage because it has an interest in stable romantic partnerships and in the concrete needs of spouses and any children they may choose to rear."

That definition may appeal to some, including Committee members, but it leaves out the crucial principle of exclusivity. The Bill takes us down the path of removing exclusivity, leading to the question of whether there can be stable romantic partnerships that at the same time allow other relationships.

In evidence, questions were raised about whether we are obsessed by sex, whether we should perhaps even remove the sexual element, and whether sex has less of a point in terms of being explicitly a purpose of marriage. We need answers to these questions, which is why the amendments were tabled. We need to be able to establish clearly the purpose of marriage. The Bill gives us a great opportunity to do so. Society has moved on and changed in many ways, enabling us to do that. I ask the Minister for those answers and I look forward to hearing his response.

Chris Bryant: I, too, welcome you, Mr Streeter, as Chair of the Committee, although not yet as Speaker.

I am grateful to the hon. Gentleman for the way he moved his amendments, although both are redundant and mutually contradictory, as is obvious, so he cannot really move, or even propose, both of them. My guess is that he considers them probing amendments. He said several times, and Committee members have said it too, that the purpose of marriage has never changed and that it has always fundamentally been the same. I wholeheartedly disagree with that proposition.

For many centuries, as has been said, the purpose of marriage law was to ensure the succession of property. Particularly in relation to magnates and the royal family, the whole point was to maintain the succession, and to establish that estates did not dissolve and that there was absolute legal clarity. The Marriage Act 1753, presented by Lord Chancellor Hardwicke, was an attempt to regularise the fact that up until that moment, although in theory no marriage could be valid unless the banns of marriage had been published and it was performed in a church by a clergyman according to the rites and rituals of the Church of England, in many cases people eloped or got married in different ways. Those marriages were not voided. A lot of people took exception to that legislation at the time because they thought it was an attempt to invalidate their own parents' marriages because they had not got married according to those rules.

[Chris Bryant]

When the Marriage Act 1836 was brought forward, which allowed not just the Church of England but a few other organisations to perform civil marriages, Bishop Henry Phillpotts of Exeter described it as

"a disgrace to British legislation."

I feel as though Bishop Phillpotts was among us still. I think he still held slaves at the time; he had voted against the abolition of not only the slave trade but slavery, and he kept slaves for another 25 years, so I am not sure that he is my ultimate authority on changes in the law.

Well into the 20th century, women were still regarded as the property of their husband in legislation. The hon. Member for Enfield, Southgate, used the word "lifelong" at one point; on Second Reading, when people were talking about the purpose of marriage, it struck me that some of those who were saying that marriage had never changed were people who had got divorced, and yet the meaning of marriage was that it should be lifelong. That, frankly, seems to be hypocrisy.

There are only two definitions in law of the purpose of marriage. The first is in the Book of Common Prayer, which is still really the only definition accepted by Parliament. To remind Members, it is this:

"First, It was ordained for the procreation of children, to be brought up in the fear and nurture of the Lord, and to the praise of his holy Name.

Secondly, It was ordained for a remedy against sin, and to avoid fornication; that such persons as have not the gift of continency might marry, and keep themselves undefiled members of Christ's body.

Thirdly, It was ordained for the mutual society, help, and comfort, that the one ought to have of the other, both in prosperity and adversity."

The next attempt at writing a definition of the purpose of marriage was in 1928, when the Church of England acquired its new freedom under the new establishment of the General Synod. It decided to bring forward a new prayer book: the Book of Common Prayer 1928. Unfortunately, Parliament refused ever to sanction it for use, but I suspect that an awful lot of people actually got married under those provisions, because the Church of England kept using it, even though those marriages were not really legally agreed marriages. The 1928 book is quite clear; it says:

"First, it was ordained for the increase of mankind, according to the will of God."

That is slightly different from the 1662 Book of Common Prayer. The 1928 book goes on to say:

"Secondly, It was ordained in order that the natural instincts and affections, implanted by God, should be hallowed and directed aright"—

a rather different proposition from the mere avoidance of fornication.

I raise all that because I think that it is fundamentally ill-conceived to put a definition of the purpose of marriage in any Bill. It may be legitimate for the Church of England to preach on what the nature of marriage should be, and I have my own version of what I think marriage is all about. I think it is at once a deeply personal commitment to another human being, come wind or rain, for good or ill, and a highly public celebration of companionship, intimacy, fidelity, mutuality and, for that matter, difference as well. It may be a legal contract, but it is far more than that. It is a bilateral loyalty—an association of partners that provides stability for children, succour for individuals and a bulwark against the fleeting and the ephemeral in life. However, I do not particularly want to put that in any piece of legislation because somebody else may rather like the fleeting and the ephemeral. They may say that their marriage will be constituted in a completely different way.

The only bit that I take real objection to in the hon. Gentleman's two varying definitions is the bit about procreation and the nurture of children. The reason why the Church of England decided in 1928 not to use the old language of 1662 was that it recognised, even if no one else did, that an awful lot of people were getting married not to protect property rights or to have children, but for the third clause—for the mutual society and companionship that one gives to another, thereby giving mutual society to the rest of society by strengthening and underpinning our wider communion.

10.30 am

Saying that marriage must be about procreation is a form of cruelty. If it is about procreation, I cannot see why on earth two divorcees such as the Prince of Wales and his wife should be allowed to marry. They do not count in either version of the hon. Gentleman's understanding of marriage, unless he thinks they are in the second category.

The hon. Gentleman links procreation and the nurture of children in one fell swoop. I know a large number of friends who have either adopted children as a gay or lesbian couple, or taken on the nurture of children, whether those children are from a marriage that has since been dissolved or from a previous relationship, or whether that has been organised through surrogacy or some other means. Indeed, I remember when we debated whether fostering and adoption agencies should be allowed to refuse gay couples the right to adopt; even then, the Catholic Church said that gay individuals whom they allowed to adopt often took some of the most difficult children to place, because not every child who is put up for fostering or adoption is a three-week-old baby; many are much older.

I know the hon. Gentleman and others have often said that they feel under attack, because a lot of people are calling them bigots and so on. As he knows, I do not think of him as a bigot. I note that he has done a great deal of work in his constituency and elsewhere to address homophobic bullying. When people push the idea that marriage is all about procreation and the nurture of children, and when they link the two as if it somehow means that homosexual couples cannot provide a safe, nourishing, nurturing and cherishing environment for children to grow up in, they are profoundly misguided. Sometimes they cause genuine offence and hurt, not just to the parents—the parents may well be able to cope—but to the children, because that is the moment when, although everyone in the classroom knows that the child's parents are two mums or two dads, the child thinks, "So apparently I am not in a safe and loving environment."

That just takes us too close to those who, in their green-coloured, highlighted and italicised e-mails, written in block capitals, send me fulminations, supposedly from God, telling me what will happen when it comes to

hellfire and brimstone. When those people take a direct line from homosexuality to pederasty and paedophilia, it is very dangerous territory, and we need to affirm that there are thousands of same-sex couples in this country who are bringing up children very well. Many of those children are deeply grateful. If anyone wants to see the most moving speech I have ever seen on that topic, it is on YouTube. The video is of a young man in Ohio or Idaho talking about how he was brought up by two women.

Finally, the hon. Gentleman has already confessed that he is obsessed with sex, and I will take confession later. Sexual union is far more difficult to define than he thinks. It has taken centuries to develop the common-law definition of sexual union, as in the consummation of heterosexual marriage. It might take a considerable period for us to define sexual union and consummation of a same-sex partnership, if we wanted to allow the common law to do so. That is why it is dangerous to leave the issue as one that is not referred to at all in statute—because people would not know what they were buying into when they entered into a same-sex marriage. If one were to go down the other route of defining consummation and sexual union in a same-sex relationship, there would be rather lengthy clauses that might be hotly disputed. I merely suggest to the hon. Gentleman that when Bill Clinton said that he had not had sex with that woman, he in his head was speaking legally correctly, even though that was not the general public's understanding of having sex with somebody.

The hon. Gentleman knows that I do not support his amendments, but he does not support them either. He is not going to press them to a Division or vote for either of them, I should think, although he is winking at me in a way that suggests one never knows what might come. That might just be his sexual obsession carrying on. I oppose these amendments because they are trying to drive a coach and horses through the Bill.

Jim Shannon: It is a pleasure to speak on this issue. I thank the hon. Member for Enfield, Southgate. As for the issue of getting us all together, I do not feel lonely on this side of the room, Mr Streeter. I am quite happy to be here, and to support colleagues on these issues.

Amendment 20 is important; it is the foundation of what I believe, as it is for the vast majority of people who have contacted me. As hon. Members are well aware, I have recounted that some 1,700 people have written, e-mailed or spoken to me to say that they were against the redefinition of marriage, whereas only 17 people wanted change.

Ever since the word "marriage" came into use, it has described the bonded relationship between a man and a woman, as officially recognised by the community here and all over the world. It is a word that gives structure to our lives more than any other. For thousands of years, in every society, every religion, every framework of law and every culture around the world, that has been its meaning. The institution of marriage is the backbone of society. What could be wrong with that? Is there a case for changing its meaning?

I would like to quote some of the people of a religious persuasion who contacted me. It is good and important to have in *Hansard* their thoughts and views on this issue. They say, and I agree, that there is only one true definition of marriage, founded on the words of Jesus Christ, and not merely on tradition. Jesus Christ himself said:

> "Have you not read that he who created them from the beginning made them male and female…therefore a man shall leave his father and his mother and hold fast to his wife, and the two shall become one flesh?"

That is what Holy Scripture says; that is what the 1,700 people who contacted me also say. I will also quote the statement from the Westminster Confession of Faith. It is important to include that, as we base many of our religious viewpoints on the Westminster Confession.

Chris Bryant: I do not.

Jim Shannon: Well, many of us do. Whether the hon. Gentleman likes it or not, it will be the viewpoint of many here; there are obviously many things on which people disagree. The Westminster Confession of Faith, at XXIV(ii), helpfully explains that

> "Marriage was ordained for the mutual help of husband and wife, for the increase of mankind with legitimate issue, and of the Church with an holy seed; and for preventing of uncleanness."

People who contacted me from Churches also said:

> "While we affirm the value of human beings made in the image of God, to redefine marriage as the mutual commitment of two men or two women is to contradict the revealed will of God and is consequently detrimental to the well-being of society."

Those views are held by millions of people across the United Kingdom.

> "What…God has joined together, let man not separate."

Clearly, God has joined together a man and a woman. That is God's good plan for us. That is the opinion of a great many people who have contacted me about the redefinition of marriage. It is important that they register their opinion, and I am here to register it on their behalf.

The redefinition of marriage, in many people's opinion, is a corruption of language. Equality is not the same as equivalence. The purpose of language is to help us to express ourselves accurately, to speak the truth and to define difference, so that we can be clear and honest in what we say and mean, and I hope that many of us will be able to do just that this morning.

We cannot say that because other words change their meaning, it is all right to change the meaning of marriage. Words change their meaning through daily use, and without Big Brother legislation. We face the prospect of the word "marriage" being redefined, and many of us have some concern about that. We should not claim that the attempt to change the meaning of the word is just a natural evolution; it is a forced change, brought on by many people in this Committee and outside it, so it is a corruption of terminology.

I want to focus on procreation and the nurturing of children. The hon. Member for Enfield, Southgate, the Minister and the hon. Member for Rhondda have expressed different opinions. My opinion is very clear, as I intend to show. There is every reason why two people who are in love with one another should be free to commit publicly to a lifelong partnership, and to be respected for that by society as a whole. Lasting personal commitments, regardless of sexual orientation, are good for us all.

[Jim Shannon]

Substantial issues arise, however, where children are involved. For many people, the purpose of marriage is to have children and to ensure that they are brought up in the most secure and balanced environment. Having all been children ourselves, we will appreciate the importance of that to our welfare. However, in the attempt to change the meaning of marriage, no account has been taken of the interests of children, or of how that change will impact on them. It is children who pay the highest price when it comes to the redefinition of marriage.

Once children arrive in any relationship, the game changes. Quite simply, the world has changed. A new child, with rights of its own, joins the stage and becomes an equal player. That is why the rights of children must be factored into any proposed change in the meaning of marriage.

Jonathan Reynolds: The hon. Gentleman mentioned Big Brother legislation, but I cannot think of anything more Big Brother than specifying five specific purposes of marriage in a Bill. However, what would be the practical effect of implementing the amendments, whichever one we went for? Would a marriage be invalidated if it did not meet the relevant meaning? Would someone be able, heaven forbid, to seek a judicial review of their marriage? Given that marriage means different things to different people, how can we specify those meanings in primary legislation?

Jim Shannon: My opinion of marriage is very clear, and it will be different from the opinions of other members of the Committee. For me, marriage is the commitment of a man and a woman, and that is what the Bible tells me; indeed, it is also what great numbers of my constituents tell me they believe. I will, I hope, expound their viewpoint in this room today.

We have known since time immemorial that marriage is the most secure and most balanced environment for the child. There is no substantial evidence to show that anything will be gained by changing the definition of marriage. On the contrary, man-man or woman-woman relationships are, by definition, lacking in balance. Every child is born of a mother and a father. They created its path into the world, and it has a right to expect them to nurture it and help it grow up strong and well-balanced, physically, emotionally and spiritually. I believe that that happens with a mother-father balance.

Kate Green: I agree with the hon. Gentleman about the importance of protecting children's best interests. I also recognise that stable parental relationships are an important element of that. However, will he not acknowledge the oral evidence, presented to us by Stonewall, that civil partnerships are less prone to ending in divorce than opposite-sex marriages? Therefore, stability might actually improve for children if we opened up marriage to more same-sex couples.

10.45 am

Jim Shannon: I perhaps would not agree with the hon. Lady. On many of the issues she brings to the House, I wholeheartedly support her, but we will have to agree to differ on this one.

I put forward this viewpoint because it is the heartfelt view of the people who contacted me. The hon. Lady probably agrees that there is no such thing as the right to have children. It is a privilege. As the father of three boys and a wee grandchild, I understand the importance to a loving relationship of having children, and of having a grandchild. The great thing about being a grandfather, of course, is that at the end of the day you can give the child back to the mum and dad, who have to do all the worrying and extra work. Being a grandfather with a grandchild is a very different role. Children are not social accessories or consumer products. They need a relationship with a mother and a father, because it gives them balance in society, especially if they wish to have what many of their friends have.

I want to give two examples of where the law could be very difficult. If marriage became a catch-all to describe all officially registered relationships, think of the implications for divorce settlements between either two men or two women, particularly where children were involved, and a new man-man or woman-woman relationship had been formed.

Consider a scenario in which David and John are getting divorced. They have two children, Sean and Mary, both born to surrogate mothers. One was fathered by David, and one was fathered by John. David plans to marry Jack and have more children with him; John plans the same with Bill. Sean and Mary want to stay together—not with either dad, but with one of their natural mothers. What rights and status will Mary and Sean and subsequent children have? What will be the rights of their natural fathers or mothers? In time, David and John die without leaving wills. Later, their own fathers die, leaving great fortunes. Who will be entitled to what?

In another scenario with Janet and Joan—

Chris Bryant: I am sorry, but I think it is quite offensive to create hypotheticals that do not exist. If the hon. Gentleman wants to bring to this Committee actual examples of relations that do exist, rather than theoretical ones that do not, he would do his argument more favour.

Jim Shannon *rose—*

The Chair: Before the hon. Gentleman resumes, I would like him to relate his remarks expressly to the two amendments before us.

Jim Shannon: Thank you, Mr Streeter. I am quite happy to relate my remarks to the procreation and nurturing of children, which is what the amendment is about. Obviously, I do not agree with the hon. Member for Rhondda, as has not gone unnoticed.

As for the scenario relating to the families of Janet and Joan, and the consequences for their two boys of their divorce and remarriage, that involves facts of life that will have to be faced up to if the redefinition of marriage goes through. Each mother wants to take one child, but the boys do not want to be split up. Which parent has the rights? What catastrophe will this wreak on the lives of these children? It will create dilemmas that even Solomon could not solve. I am sure that members of the Committee know the story of Solomon. Those who wish to read their Bible again will learn what happened.

Once we concede the right to marriage, we concede the right to have children and to bring them up from birth. For me, the rights of the child supersede the rights of parents when they split up. The point is the children. Regrettably, many marriages fail, and that is unfortunate. Most work, and we must find out and implement what is needed to help more succeed. Crucially, the role of marriage in nurturing the next generation is under attack; it needs more support now than at any time before. If we allow marriage to include same-sex relationships, we will in future be unable to distinguish traditionally married couples who have had children naturally from same-sex couples who have had them artificially.

The advances of science were never intended to create a human production line, but the promotion of marriage for same-sex couples will only encourage increased production. This takes us away from the idea of a child being a gift, and is instead a passport to equivalence. Maintaining the distinction between marriage and civil partnership is therefore vital to protect the integrity of the child, who has no say in being born, and to secure the best possible future for all our children.

Many Members have mentioned statistics, including the hon. Member for Enfield, Southgate, and the hon. Member for Stretford and Urmston, who referred to national opinion polls. The fact is that of the 7 billion people on the planet, 2 billion live in the so-called liberal democracies, in fewer than a quarter of which civil partnerships are legal, so let us put things in perspective.

We have received deputations and have heard witnesses from small Churches. We do not ignore them, because it is important to have their views on board, but they amount only to a certain number of people. There are millions of people in the Church of England and the Church of Ireland, and in the Presbyterian, Methodist and Roman Catholic faiths. There are millions of Muslims, Sikhs, Orthodox Jews, and members of the Baptist Church and Pentecostal faith, yet some people are grasping at the belief of a minority of Churches almost like it was the holy grail, to the detriment of all the other millions of people with opinions. As for the procreation and nurture of children, we experienced an almost dismissive attitude from one of our witnesses in respect of the 40,000 teachers who have an important role to play in how our children are brought up.

I know that I am in a minority, but I do not mind that. I am happy to be there and hold a view that is close to my heart, my faith and what I believe in. It is close to the opinion of my constituents, who have told me overwhelmingly that they want me to speak against the definition of marriage under the Bill. The amendment tabled by the hon. Member for Enfield, Southgate, is worthy of consideration. It is a view to which many of us hold fast. There are various amendments to consider; whether they will be accepted, I do not know, but at least our opinion will be on the record, and that is important.

Hugh Robertson: I am grateful to my hon. Friend the Member for Enfield, Southgate, for speaking to the amendments, and for this opportunity to debate the purpose of marriage—or perhaps relatively grateful. However, I fundamentally do not accept the contention that the Government must now define in law the purpose of marriage. That is not the purpose of the Bill. I genuinely believe that. It is very dangerous territory for a Government to step into.

Those in a marriage know precisely what it means for them and, as the Secretary of State made clear in our evidence session, the strength of the commitment that two people make in a marriage to stay together for life is something on which society thrives. That is precisely why we want to extend the opportunity of marriage to all couples, should their religion allow it. Of course, companionship, fidelity and all the various things set out in the amendments are good, if they are what the couple want, but not all of them will be present in all marriages, or have to be for all marriages to work.

It is not for us to prescribe that a marriage that does not involve procreation, for example, has failed in some way or purpose. That would be wrong and offensive to many people who marry late, or in the knowledge that they are unable to have children, or who decide, perfectly reasonably, that they do not want children. None of those things would make their marriage any less worthy.

To go to the philosophical point behind the amendments, the state has always had a broader understanding of marriage than many religions—for example, in relation to the recognition of divorce. Nothing in the Bill affects that. Religious organisations are free to continue defining marriage as they wish, in line with their beliefs. Picking up the point made by the hon. Member for Rhondda, there is nothing to prevent the Church of England from setting out its understanding of the purpose of marriage in its Book of Common Prayer, or to prevent any other religious organisation from setting out its understanding of marriage in its religious teachings.

Even among different religious organisations, marriage is understood in different ways. We have been absolutely clear that the Bill will not affect the definition of marriage, which means different things to different people. As a result, I do not believe that we should prescribe the purpose of marriage. The amendments are unnecessary and, of course, as has been highlighted, contradictory. For the reasons that I have set out, I urge my hon. Friend the Member for Enfield, Southgate not to press them to a Division.

Mr Burrowes: I am grateful for the competent history lesson that the hon. Member for Rhondda gave us, which will help me when we discuss the next group of amendments because I shall not have to go through the history of our relationship with the Church. However, we cannot deny the important role that the Church has played in this country's marriage laws, and its link to the purpose of marriage, as is outlined in the service.

I do not know the exact numbers for the Catholic Church, but the Anglican Church boasts that a quarter of all marriages take place in an Anglican setting. Most of those marriages involve an order of service that states the purpose of marriage, and that is what I have outlined in the amendments. Those services are welcomed by couples, and no one is saying, "You have failed if you do not procreate." I take issue with the Minister's suggestion that that is the purpose of the amendment. I have simply outlined what is in the services, which most couples assent to and welcome. They want to get married in a church setting and take part in a service that makes the points about the purpose of marriage that are set out in amendment 20.

[Mr Burrowes]

The amendment does not say, "You must." We would not dare to say, "You must procreate and you must nurture children." There is no "must" in the amendment, and it would be ludicrous to suggest that it involves compulsion. It would simply set out in the Bill the purpose of marriage that forms an integral part of most weddings, and certainly those taking place in a church setting.

The Minister helpfully made the point that there is an issue about the different treatment of sexual union and sexual fidelity under the Bill. The point of the two amendments, which are obviously contradictory, is to bring that issue out into the open at this early stage. This debate has helped that to happen. It would be unwise for the state to prescribe purposes to which people must assent, because marriage means different things to different people.

The Minister agrees with the Secretary of State's definition of marriage—or lack of definition—that it means anything to anyone, so I take issue with him suggesting that the Bill therefore does not redefine marriage. I do not see how marriage does not mean anything to anyone. The institution of marriage has a meaning and a purpose. In reality, as the Bill changes the shape of marriage, it also changes its purpose, and that is at the heart of the amendments.

Hugh Robertson: There is an important distinction. It is not that marriage does not mean anything to anyone, because otherwise no one would do it; it is simply that it means different things to different people.

Mr Burrowes: I hear what the Minister says, but the way in which marriage has developed over many years in this country has been informed by Christian tradition and heritage. Those purposes are not contentious for the people who get married in churches up and down the country, so it is interesting that hon. Members find it contentious that I have set them out them in an amendment. Perhaps my point is made by the fact that such dissent has been caused by my putting such straightforward purposes in an amendment. The Government could take the view that they should go for the lowest common denominator view of the purpose of marriage, which would allow us to be clear.

It is important that I respond to some of the comments made by the hon. Member for Rhondda. The courts are clear about adultery. It is defined in case law, and it is applied in 15% of the marriages that sadly break down. We cannot duck the issue. As we move further into the Bill, we should say that this is one way to deal with it. Previously, the Government thought about simply leaving it to the courts to decide over a number of years, but before we get into that debate, it is important for us to recognise that the Bill is saying that the sexual union, as it has been traditionally defined, and sexual fidelity are not issues that we want to hold as perhaps the "gold standard", to use the Secretary of State's phrase.

11 am

I appreciated the comments of the hon. Member for Rhondda about my commitment to the equal value of all men and women and my concerns about homophobic bullying. I do not want the amendment and my comments to be misconstrued, and I hear the point about procreation being aligned to the nurture of children. I accept the value of same-sex couples nurturing children, and I do not want my words to give any succour to people who write in green ink and capital letters and want to judge otherwise. The evidence is still growing. Indeed, the debates on the Human Fertilisation and Embryology Act 2008 showed that when one looks at that issue in greater detail—with regard to IVF treatment and the rest of it—the jury is still out. One needs to look evidentially at outcomes as children reach their teenage years.

I am not questioning the value of same-sex couples nurturing children. I am probing how the purposes of marriage, which have been recognised and spoken about in church services up and down the land, have informed our understanding of the institution of marriage. We will get to that when we debate the next group of amendments, but I take issue with the Minister, because one cannot avoid the fact that the Bill changes the purposes inherent in the institution of marriage.

Having said all that, even though I think that we are getting to a point where we have narrowed the definition and purposes of marriage, it would nevertheless still be helpful, albeit recognising the concerns about prescription, to have some understanding of the slim-line version of the purposes of marriage. However, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Burrowes: I beg to move amendment 22, in clause 1, page 1, line 16, at end insert—

'Nothing in this Act shall prejudice the rights, privileges or powers of the Church of England to make provision about marriage.'.

The Chair: With this it will be convenient to discuss amendment 23, in clause 1, page 1, line 17, leave out subsection (4) and insert—

'Any duty of a member of the clergy—

(a) to prepare a couple for marriage,

(b) to solemnize a marriage,

(c) to provide care, counselling or other support and services to a couple by reason of their marriage,

(and any corresponding right of persons with respect to the activities of members of the clergy in paragraphs (a) to (c) of this subsection) is not extended by this Act to marriages of same sex couples.'.

Mr Burrowes: The right hon. Member for Exeter has suggested that the previous group of probing amendments was a waste of time. I take great issue with that, because there needs to be a proper opportunity to deal with these serious issues that cause grave concern to many people. It is important that the Committee has the opportunity for dissent.

We are making great progress by rapidly moving through the amendments to clause 1, and we are now on to a terrain that we cannot avoid, because it is an important fabric of our country involving the laws of the land and the laws of the Church. Amendment 22 would provide greater understanding about the relationship between the Church and the state. I do not think that that is achieved by the clause's current wording, even if its outcome is perhaps the same.

Some who are making written submissions to the Committee want to take us down a different route, because they see the Bill as an opportunity to redefine not just marriage, but the relationship between Church and state. The Government need to be open and transparent so that we can look at how the Bill fundamentally affects—it could be said that it is unprecedented, although we can argue about the history—the historic relationship between Church and state and takes it to a whole new level.

The National Secular Society has stated:

"We now end up with the absurd situation that the church of the state will, in England, not abide by the law of the land that the government proposes for society generally and for other religious organisations. Additionally, religious organisations that register marriage on behalf of the state will now have the ability to pick and choose which of the varieties of marriage that they will choose to administer and celebrate and they will be legally protected against possible charges of discrimination for refusing to conduct same sex marriages. Given that two in three couples now choose civil ceremonies to register their marriage, it would seem appropriate to now consider a complete overhaul"

of

"the laws concerning marriage by requiring all marriages, of whatever type, to be registered firstly and separately in a civil ceremony by the civil registration authorities in non-religious premises."

Clearly, the National Secular Society, which is very much a marginal society, given its number of members, sees the Bill as part of a wider agenda, but the Government have the opportunity to say that that will not be the case. A separation of Church and state could gets into the realms of a system such as that in France, where Churches are not legally allowed to register marriages. Perhaps the hon. Member for Stretford and Urmston would like us to debate that, given her earlier comments.

We need to recognise that, under clause 1(3), canon law will be departing from the laws of the land. The Government have been clear that the right to solemnise marriages in a place of worship is a historic reflection of the vital part that the Church has played, and still plays, in our country and in public life. It is also a key marker of the religious liberty that we enjoy, which is the envy of many around the world. When we debate clause 2, we will consider how the Government will want to protect the right to solemnise marriages and provide the locks for the Church of England, which conducts a quarter of all marriages, which millions of people want to enjoy.

It is important for us to recognise the Christian tradition that has informed the institution of marriage. In a sense, there is a marriage between the Church and state but, under the Bill, there is effectively a divorce. Church and state had a united concept and understanding of marriage, but subsection (3) effectively states that there is a divorce and that the Bill is the settlement that we are reaching. It divorces an understanding that has been the foundation of the way in which marriage has developed in this country to the point at which there is now an exemption for the Church. It is important for the Committee to flag that up so that the Minister may respond.

The state has developed an important role in intervening on the whole area of marriage. We heard the history from the hon. Member for Rhondda, which I will not repeat, which involved protecting marriage, regularising it and providing access in public. However, never before has the state intervened to the extent that it redefines marriage and effectively says that there is a break with the Church in canon law.

Stephen Williams: Would not the hon. Gentleman concede that the Matrimonial Causes Act 1857 was a pretty fundamental break from the understanding of marriage that pertained for hundreds of years before, which was the reason why many people, including Gladstone, opposed it? Surely allowing a wife to divorce her husband represented a fundamental intrusion of the state.

Mr Burrowes: There have been some important departures, but not to this extent, which is a fundamental foundational side to people's understanding of marriage in the Church of England. It is interesting to take it further in relation to divorce. To pick up the earlier intervention on abortion, if we were to follow through on the issue of divorce, would we give a conscientious objection to individual ministers? We will come to that issue later when we discuss the amendment of the hon. Member for Rhondda, which supports the Equality Commission's view that compulsion should not extend to individual ministers. Does the same parallel apply in relation to divorce? Presently, there is an understanding that individual ministers do not have to solemnise marriages that they disagree with, such as, for example, remarriage of divorcees.

I appreciate that you are looking to see that I speak to the amendment, Mr Streeter; my point is that these areas are important and we need to ensure that the Committee, the Government and others are clear as to where we have got to in terms of the relationship between the state and the Church. We have already mentioned that historic dimension of that relationship in our earlier debate; we need to recognise that this issue is also historic—I would say even more so—and we should not let it go without mention.

Amendment 22 seeks to address a drafting issue with clause 1(3). That provision excepts any canon

"making provision about marriage being the union of one man with one woman"

from the provisions of the Submission of the Clergy Act 1533. If such canons were not excepted they would be overridden by the redefinition of marriage for which the Bill provides. I do not seek to go against that provision. However, I have looked hard and searched high and low, and the only other exception from the 1533 Act is contained in a Measure of the Church itself, the Church of England (Worship and Doctrine) Measure 1974, which effectively says that any ecclesiastical common law rules relating to worship and the doctrinal declarations that are required of the clergy are not to override provision made by canon in accordance with that Measure. The 1974 Measure would have come before Parliament in the usual way and been approved by both Houses before receiving Royal Assent, but, crucially, it was not originated by the Government, or, indeed, by any Member of Parliament or peer; it came from the Church itself. That dynamic is very important. I believe that the way in which the Bill has developed, with Parliament and the Government saying, "This is what we want to do, but, okay, Church, we are going to give you an exemption," creates a new dynamic in the relationship between the

[Mr Burrowes]

Church and the state. Previously, matters developed and evolved, and a parliamentary form of statute emerged. We are doing things in a very different way—maybe that is what we want to do these days—by saying that we, the state, know what is best, and that the Church of England and its canon law can be exempt from that.

We need to recognise that that is a change. It is an historic departure. It is as much an issue of the process as of the substance. I have struggled to find precedents in the way in which we have got to this point. Perhaps what the National Secular Society said has more truth to it, and that is the route that we are heading down. If we are, we should be clear about it; if we are not, my amendment would make that abundantly clear with regard to the declarations in the Bill.

The provision in clause 1(3) is, I believe, an unprecedented departure, in that it permits canon law to define marriage in a different way from statute law. That is why we have the situation I mentioned when quoting the evidence of the Church of England. As the Church says, the effect is that English law will contain two different and, as far as the Church is concerned—as well as those who are not of any religious conscience—conflicting definitions of marriage, one in statute law and one in canon law. Both will have effect within their respective spheres. There is a concern that the Church of England will now have to justify its position in relation to so-called religious marriage to all and sundry and to Parliament. I expect it will not be too long before we see what we have already seen over women bishops and the like—although I would not to conflate those arguments—namely, many a debate in which people say how out of touch the Church of England is. The Prime Minister himself has spoken about how he thinks that the Church needs to be clear on issues of equality. There will be pressure on the Church of England—perhaps implicit, perhaps increasingly explicit—to get more equal, as it were.

11.15 am

The amendment is important, because it explores the unprecedented dynamic behind subsection (3), which is that the state through Parliament effectively thinks it has a new jurisdiction over the Church of England's canons, because the Bill says that the canons can be excepted from the provisions. There is concern that there may be a creep towards a new relationship between the church and the state. The subsection is effectively saying that in time the Church of England will have to consider its own canons and remove or amend them to come into line with the laws of the land. The relationship between the church and the state on marriage has changed. It is no longer equal, but more of a master and servant relationship.

In the clause, perhaps by stealth, we have redefined the relationship between the church and the state, and that needs to be dealt with. Amendment 22, for the avoidance of doubt, states:

"Nothing in this Act shall prejudice the rights, privileges or powers of the Church of England to make provision about marriage."

That has a better resonance and gives more integrity to the Church of England's position in our land. That is why I tabled that amendment.

Amendment 23, which is in my name and the names of my hon. Friends, makes a different point. It makes the case that we are not just talking about issues with clergy doing ceremonies. It is an attempt, as clause 1(4) is—I commend the Government's intentions—to protect clergy. I accept the Government's good intentions on the so-called locks, but the Bill needs to go further to give a proper understanding of the clergy's role, for example. The wording of subsection (4) betrays a lack of understanding—perhaps not; the Minister can tell me—about the practical work of the clergy. A member of the Committee was previously a member of the clergy, so perhaps he can get involved in this issue.

In effect, the clergy offer services other than the solemnizing of marriages, not only in terms of worship, but in terms of goods and services relating to marriage. They offer marriage preparation and marriage counselling, and that is an important part of the marriage service that couples get from going to their local church for marriage. If the Government want to provide the protection that they say they want to—we have already heard that today—which people are looking for, and not just a protection that does not relate to the reality of what happens on the ground, that protection needs to go further.

Amendment 23, which was tabled by a clergyman and former parliamentary draughtsman, would replace clause 1(4) and give a more realistic list of the things that clergymen and women get involved in. Those activities in helping a couple to marry include preparing a couple for marriage, solemnizing a marriage, and providing

"care, counselling or other support and services to a couple by reason of their marriage".

The amendment makes it clear that the extension of marriage to same-sex couples does not oblige a member of the clergy to provide such services for same-sex marriages.

Let us talk about real examples, as the hon. Member for Rhondda wants us to do. It may be that the hon. Gentleman or the right hon. Member for Exeter go to their local parish churches—I think they are both members of the Church of England; I know the right hon. Member for Exeter is—to be married. In each case, they may well want marriage preparation and marriage counselling, but that individual minister may not agree with same-sex marriage. Presently, there is a lock that says that the minister does not have to engage in the solemnizing of marriage. However, the question is whether it is discriminatory for them to refuse, both before or after marriage, to offer marriage guidance or marriage counselling. This happens all the time with couples. I would ask the Minister to respond to whether there is need for further protection in those particular examples that go beyond solemnisation. These are important amendments and I look forward to hearing the Minister's response.

Chris Bryant: It is a delight to go back to 1533. It just seems a little bit odd that the Government have put this particular bit in the Bill and therefore Members feel that they need to refer to it.

There was a big row between Henry VIII and Archbishop Warham. William Sandys, who was Laura's great, great, great something or other, was one of the King's counsellors and Convocation refused to surrender the power to

make its own canons. Henry VIII said, "No, you must surrender that power because I had always thought that you were my subjects but now I have discovered that you are only slightly my subjects and you are partially the subjects of the Pope." It therefore seems rather odd to use one of the more autocratic moments of English history to allow a permissive piece of legislation. I think that it is aimed at allowing the Church of England to go down a separate route from that which Parliament determines rather than to seek to enforce that canon law must be determined by Parliament. However, in actual fact, the law still remains that canon law can only be agreed by Parliament. The only change that the Church of England can make on the solemnisation of marriage has to come through the Ecclesiastical Committee of Parliament and has to go through an ecclesiastical legislative process. This is why amendment 22 is completely and utterly redundant. Incidentally, the Government's subsection is also redundant but I am quite happy to overlook that. I shall not overlook the amendment.

Mr Burrowes: You are being selective.

Chris Bryant: Yes, it is the art to discriminate that makes us good legislators—but not in the way that others might wish to discriminate. Amendment 22 is unnecessary and amendment 23 is downright dangerous. If the hon. Member for East Worthing and Shoreham, who is the son of a clergyman, is going to defend amendment 23 he should go home and have a few more tutorials from his father—

Tim Loughton: I have not said anything yet.

Chris Bryant: No, but I can imagine what the hon. Gentleman will say and it will all be wrong. My point is that there is a duty in law for Church of England clergy and Church in Wales clergy to perform the solemnisation of marriage of those who are legally entitled to marry—those who are within their parish and are not barred from marriage. There is also a special provision on the remarriage of divorcees. There is no requirement in law anywhere to provide,

"care, counselling or other support and services to a couple;"

Or, indeed, to prepare a couple for marriage. I have prepared a lot of people for marriage and solemnised quite a lot of marriages. I was required by law to solemnise their marriage unless I thought that there was a particular impediment. On one occasion, there certainly was an impediment and I refused to marry them. However, there is of course no requirement to provide anything else.

Mr Burrowes: Let us take the example of a couple who get married in a local Quaker or Unitarian church. They go to their local parish church because they have problems with their marriage and they want to have marriage counselling from the parish priest. The parish priest refuses because he only recognises the validity of heterosexual marriage. Would any issue or claim for discrimination arise from that?

Chris Bryant: The hon. Gentleman used the phrase "parish priest" and I am not quite sure precisely what he means by that term. He could mean either a priest in the Roman Catholic Church or a Clerk in Holy Orders in the Church of England or the Church in Wales. For the last two, there are specific requirements in law on the solemnisation of marriage but not any other public duty. If two people came to see any clergyperson of any denomination to talk about their relationship—

The Chair: Order. We will hear more about Henry VIII after lunch.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.