PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

MARRIAGE (SAME SEX COUPLES) BILL

Sixth Sitting

Tuesday 26 February 2013

(Afternoon)

CONTENTS

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

£6·00

PBC (Bill 126) 2012 - 2013

Members who wish to have copies of the Official Report of Proceedings in General Committees sent to them are requested to give notice to that effect at the Vote Office.

No proofs can be supplied. Corrigenda slips may be published with Bound Volume editions. Corrigenda that Members suggest should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

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

(Afternoon)

[Mr Jim Hood *in the Chair*]

Marriage (Same Sex Couples) Bill

2 pm

The Chair: This morning, Mr Burrowes raised a point of order on written evidence submitted to the Committee. The written evidence is circulated on Mondays and Wednesdays and will now be circulated both electronically and by way of hard copies placed on the letter board. The large number of submissions in yesterday's circulation was directly due to evidence being received during the recess. I hope that that explanation helps right hon. and hon. Members.

Clause 1

Extension of marriage to same sex couples

Amendment proposed (this day): 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.'.—*(Mr Burrowes.)*

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing 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.'.

Chris Bryant (Rhondda) (Lab): As John Donne said,

"I struck the board, and cried, No more",

and so I finish my speech with the view that I disagree with the hon. Member for Enfield, Southgate on these amendments.

Tim Loughton (East Worthing and Shoreham) (Con): Welcome to the Chair, Mr Hood.

I support the two amendments standing in the names of my hon. Friend the Member for Enfield, Southgate and other hon. Friends. As he said, they are very different amendments, on different subjects. Let us take the first one. Clearly, all of us in this Committee know—it is why we are spending some time considering clause 1—that we disagree on the principle of whether we need same-sex marriage and whether it represents an extension of equality. We will not agree on that principle, I am sure, and we will continue to vote as we voted on Second Reading, but what we do need to explore in this Committee, and the reason why the Committee is so important, is the robustness of some of the provisions in the Bill and its workability.

The purpose of amendment 22 is to probe whether clause 1 is suitably drafted. The hon. Member for Rhondda queried why clause 1(3) is in the Bill. He took issue with the amendment proposed by my hon. Friend the Member for Enfield, Southgate, but then also questioned why we need subsection (3). The reason I asked the Minister earlier about discriminating—apparently—against people who are devout Anglicans and who specifically are not able to get married in an Anglican church was that the Church of England and the Church in Wales are dealt with very differently from other faiths and other Churches, which can opt. They include those three Churches that we took witness statements from and that collectively represent a congregation of some 38,000. They are mentioned in the Bill at various points.

What I want to tease out goes to the heart of the relationship between the state and the Church of England, which is why the Church of England is so special in terms of this Bill, and how we change the law to protect the Church of England or not. The point on which I want to probe my right hon. Friend the Minister goes back to the Submission of the Clergy Act 1533, which I have with me. Apparently, it is the oldest Act that the Library has been asked to provide—*[Interruption.]*

The Chair: Order.

Tim Loughton: The Library tells me that this is the oldest Act that it has had to provide, and it provided it to me. Section III, about canons, reads:

"Provided alway that no canons constitucions or ordynance shalbe made or put in execucion within this Realme by auorytie of the convocacion of the clergie, which shalbe contraryaunt or repugnant to the Kynges prerogatyve Royall or the customes lawes or statutes of this Realme; any thyng conteyned in this acte to the contrarye herof notwithstondyng."

The *Hansard* writer is having a bit of a bate about that, but I will give them the wording as it appears. The whole point of that provision is that no canon of the Church of England should be in opposition to statutes of the land. Subsequent amendments and legislation have superseded or deleted parts of that Act, but not section 3. The Church of England (Worship and Doctrine) Measure 1974 made it clear that canon does not have to be the same as statute. It seems clear from previous legislation that the Church of England can do its own thing, without having to follow the law of the land and without fear of insulting the King's prerogative, going back to 1533, so why have we had to put it in the Bill again in clause 1(3)? We need a proper explanation for that.

What I want to know is: what happens next? If the Church of England, through a meeting of the General Synod, decides to change its canons—to do so, it must go through a series of processes, as we heard from the legal representatives to the Church of England—I do not think it will be as easy as the Minister suggested it would be for the Church then simply to opt in. It is not a case that a Church can decide to do that, and then opt in. The Church of England is treated in a very different

way, and that is why I want the Minister to reconsider his earlier answer. I want to know the details of how the Church of England could effectively opt in under this legislation.

The Church of England is a strange beast. We do not have disestablishmentarianism, and this opens up the whole debate on the relationship between the Church and the state. If the Synod decided that the Church of England would, in principle, allow same-sex marriages on Church property in a recognised official form, who would sanction that? Would every priest be covered? Would it be down to bishops to decide on the licensing of the clergy within their diocese, of whom my father was one?

Chris Bryant *rose—*

Tim Loughton: The hon. Member for Rhondda, having anticipated everything I was going to say, now wants to interrupt and will no doubt say, "I told you so." I will let him intervene.

Chris Bryant: I did tell the hon. Gentleman so, but my point is that the Church of England would introduce its own Measure, just as it had to after the Matrimonial Causes Act 1973, which allowed for the remarriage of divorcees. The Church of England had to decide whether no cleric in the Church of England could remarry divorcees, or whether a diocese or an individual parish could choose to do so, or what would occur if a vicar wanted to but the bishop did not. All that was provided for by an ecclesiastical Measure that went through the usual processes in Synod and then came to Parliament—to the Ecclesiastical Committee and then to the House of Commons and the House of Lords. It would be exactly the same for this.

Tim Loughton: The trouble with that is that it is not being consistent. One of my local vicars told me the other day that, although she can choose to marry divorced couples in her church, she cannot choose to bless the union of civil registration partners, for example, which I would support because it is a natural extension of what should happen. I see no reason why the Church of England should not bless those unions, which have been legal since the Civil Partnership Act 2004 was passed. The legislation has not been treated consistently regarding the instructions under which parish priests may perform certain ceremonies or not.

Chris Bryant: It is entirely up to the Church of England to decide whether it wants to have uniformity across the whole of the Church on the remarriage of divorcees, or on the blessing of civil unions, or in future on same-sex marriage, if it wants to go down that route. I thought that we were all in favour of ensuring that the Church of England can make its own decisions on such matters, rather than the statute law telling it what to do.

Tim Loughton: Again, that ignores the special position of the Church of England. Who appoints the bishops and archbishops in the Church of England? It is the Crown or, effectively, the state. So there is a relationship unique to the Church of England that none of the other Churches that can decide whether to opt in actually has. The state could decide to appoint a whole load of bishops who are in favour of some of the things that I have mentioned, or in favour of same-sex marriage, or against it. The state is the final arbiter on that, which is why this legislation is unique to the relationship with the Church of England. That is why it is not as straightforward and simple as the Minister said—that it is simply up to the Church to decide.

The amendment is designed to get a proper explanation from the Government of exactly what the relationship is now, and why they have felt it necessary to insert subsection (3) into the Bill. I do not believe it is necessary, unless there are other complications of which we have not been made aware. I think that there are complications with the way that individual clergy may or may not be licensed or allowed to—or would want to—conduct same-sex marriages on Church of England premises within their own parishes.

Amendment 23 addresses a very different issue. It is about the functions of the clergy, which go beyond the obvious function of solemnising a marriage and conducting a marriage on licensed Church premises. As my hon. Friend the Member for Enfield, Southgate explained, the job of a clerk in holy orders goes well beyond simply turning up at 2.30 on a Saturday afternoon to conduct a wedding service and marrying two individuals. The job of a member of the clergy involves preparing certain couples for a marriage. My father used to hold sessions for several couples to come together and be talked through whether they knew what marriage was all about. He would try to talk them out of it if he was not convinced that they were really meant for each other. At the other side of the delivery mechanism, if things started to come a cropper, he would effectively—he is retired now—perform the services of a Relate-style marriage counsellor if and when a marriage got into difficulties.

Although I think we are clear about the responsibilities and functions of a clerk in holy orders in actually taking a service, there are other aspects of a clergyman's job and it is not clear how they would be covered in the legislation. It goes back to the earlier points raised when we challenged some of the witnesses about the position of registrars and marriage guidance counsellors, and specifically the two cases on which the European Court recently adjudicated.

The registrar and counsellor involved in those cases were not allowed to discriminate on the basis that they had a conscientious objection against civil partnerships—although I made the point at the time that if I were in a civil partnership, the last person I would want to go to for relationship counselling, if my relationship was in trouble, was somebody who had a problem with civil registered partners. However, according to the ruling, it was not up to the local association or the local authority to make that decision. It was expected that the relationship counsellor or the registrar would have to perform all types of services. Clearly that would now apply to same-sex marriage in the same way as to civil partnerships since 2005.

2.15 pm

The amendment raises a question. We can take it as read that a vicar in the Church of England or elsewhere would not be forced to perform that marriage ceremony. The question then is: how does he or she stand on

performing some of the ancillary services that go with it that are tantamount to the job of a relationship counsellor? I would like some clarification from the Minister about what makes a clergyman different from other people covered by the public sector equality duty. My understanding is that clergymen in the Church of England and the Church in Wales have a common law duty to marry all their parishioners, and they also bear a public sector equality duty to treat people alike, regardless of race, sex, sexual orientation or religious beliefs. This public sector equality duty comes from the principal and agent relationship between the state and the Church of England and the Church in Wales clergy. So what specifically makes a Church of England vicar any different from a registrar or a Relate counsellor under that public sector equality duty?

I am asking the Minister to clarify rather than the shadow Minister, who would be quite useful on this because he has his own opinion. What is unique about the position of clergy that they can be exempted from the public sector equality duty in performing ancillary services which are not specifically the act of marrying a same-sex couple in a church? If the shadow Minister thinks he wants to answer, by all means let him.

Chris Bryant: In law, a clerk in holy orders and a minister of religion in other Churches is an office holder, a post holder, not an employee. It is quite a simple, straightforward legal difference.

Tim Loughton: Where is the protection for that? Why can that not be challenged? What makes it so different from someone who is an employee, or someone who is a stand-alone relationship counsellor, who would not count as an employee? It would be quite useful to have these answers from the Government who are proposing this legislation, rather than from the Opposition. We will let the Minister respond.

The point of the two amendments is first to try to get to the heart of the relationship between state and Church which, on the face of it, seems to be catered for already, yet the Government have found it necessary to insert subsection (3) into the Bill. I do not see why they have done so. The second aim is to tease out, because it is really important as part of the protections on which the Government have promoted the Bill, why clergymen are not subject to those same public sector equality duties as other people, who have fallen foul of the law, most recently in the European Court. That is the purpose of these two probing amendments.

The Minister of State, Department for Culture, Media and Sport (Hugh Robertson): I am grateful to my hon. Friend the Member for Enfield, Southgate for tabling these amendments, not least because it gives me the opportunity to make it clear that the Bill's protections for the unique position of the Church of England, as the established Church, are both appropriate and effective. Amendment 23 provides an opportunity to explore the boundaries of the common law duty on the clergy of the Church of England and the Church in Wales to marry parishioners. Crucially, during the evidence session the Church made it clear that it is perfectly happy with the protections as drafted and, and it has reconfirmed that in its subsequent contacts with the Department.

I accept, of course, that the Church of England must be free to believe if it wishes that marriage is an institution by which one man and one woman commit to each other for life and to express that position in the legislation governing its affairs. The Bill as drafted achieves that result, so amendment 22 is unnecessary. It is, in any event, an avoidance of doubt measure. As the Committee will know, the Church of England has the power, under the Church of England Assembly (Powers) Act 1919, to propose a Measure for approval by Parliament and, by means of such a Measure, to amend any Act of Parliament. That power is not constrained or changed by the Bill.

To stray a little into the future to deal with amendment 22, clause 11 makes it clear that no Measure or canon of the Church of England, whenever passed or made, is affected. All such laws will, when referring to marriage, mean marriage as the union of one man with one woman, unless the General Synod introduces provisions to change that position. I will come on to exactly how that could be done in a minute. As I have said, I entirely accept the premise that the Church of England should be able to operate on the basis of its belief that marriage is between a man and a woman, and the Bill as it stands achieves that.

We have made clear our intention that the common law duty on clergy of the Church of England and the Church in Wales to marry parishioners should not extend, as a result of the Bill, to the marriage of same-sex couples. We are confident that the Bill does not extend the duty in that way. It is also clear that both Churches are also confident of that, as they made clear during the evidence sessions. Contrary to what amendment 23 suggests, we do not believe—the hon. Member for Rhondda made this point—that the common law duty to marry parishioners includes a duty to provide marriage preparation, care or counselling, or any other support for couples concerning their marriage. I am perfectly happy to put that on the record. Furthermore, we have not been given any indication by the Church of England or the Church in Wales that they believe that that might be the case.

To answer the question raised by my hon. Friend the Member for East Worthing and Shoreham, it is worth putting on the record that schedule 23 to the Equality Act 2010 already enables ministers of religion to restrict participation in the activities they carry out, including the provision of services, because of a person's sexual orientation. That applies to all ministers of religion, not just to Church of England and Church in Wales clergy. Thus the law already makes it clear that restricting the sorts of services covered by the amendment to opposite-sex couples would not be unlawful discrimination because of sexual orientation.

Tim Loughton: What does that actually mean in practice? It strikes me that that might give powers to a clergyman to say that he will not allow gay people into his church. Is that right?

Hugh Robertson: The exact rights and responsibilities are clearly laid out in schedule 23 to the 2010 Act, which gives clergy an exemption from the provisions, exactly as I have just said. This is not a debate about the Equality Act.

Tim Loughton: Absolutely not, but it is very important that the Minister, if he cites the Equality Act to explain why we are treating clergymen differently—that is the point that the amendments seek to make—clarifies the extent of the powers. The theoretical extension of what he has just said, which would be pretty atrocious, is that a clergyman has the power to exclude gay people from coming into his church at all. Where in the Equality Act is that not permitted?

Hugh Robertson: As I said in my answer, ministers have the power to restrict participation in the activities they carry out, including the provision of services, because of a person's sexual orientation. That is laid out in schedule 23 to the Equality Act.

Tim Loughton: So he can exclude gay people?

Hugh Robertson: Yes. *[Interruption.]*

The Chair: Order. We are not having a conversation.

Hugh Robertson: Finally, to answer the question about how the Synod would make the change, if the Church of England decided to allow same-sex marriages, it could introduce in the Synod an amending canon to amend its own canon law, and a Measure to amend the Book of Common Prayer and to change marriage Acts and other legislation where necessary. Like all synodical legislation—I am looking for a nod from the hon. Member for Rhondda regarding my pronunciation, as that is not one I have come across before—the Measure would of course be subject to parliamentary approval. That is exactly how it would happen.

Mr David Burrowes (Enfield, Southgate) (Con): I welcome the Minister's response. Will he answer the question about

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

Hugh Robertson: Yes. That is precisely why there are protections. I gently point out to my hon. Friend that if the Church of England thought that such might be the case, it would have raised that objection during the evidence sessions and made the Committee very aware of it. Not only did it not do that, but it did precisely the opposite and told us in very clear terms that it was entirely satisfied with the protections in the Bill.

On that basis, I hope my hon. Friend is reassured and would ask him to withdraw his amendment.

Mr Burrowes: I welcome you to the formal part of our proceedings, Mr Hood. I also welcome my hon. Friend the Minister's response, which focused on the protections in clause 2, which we will soon discuss, and the fact that the Church has said it is happy. However, if one looks in detail at its response, I would say that "happy" is quite a broad way of describing the Church's view, considering that it recognises that it is reliant on Ministers' assurances regarding protections.

This morning the debate was not just about the issue of protections and locks. I sought to raise the issue of this being an historic and, I would say, unprecedented change to the relationship between the Church and the state, not least in terms of the issue before us—the redefinition of marriage and the departure of canon law from the laws of the land. As for the wording of the clause, I do not wish to go against the intention of subsection (3), but an "avoidance of doubt" declaration would have at least made it crystal clear and given more respect to the integrity of the Church's position. However, I do not wish to dance on a pin on this issue or take up too much of the Committee's time.

I welcome the Minister's reassurance and clarity about schedule 23 to the Equality Act in relation to sexual orientation and the relevant protections and exemptions—that it wholly and squarely covers the issue of a suggested discrimination in relation to marriage. That is welcome.

Chris Bryant: Before the Equality Act, the Bishop of London removed the Lesbian and Gay Christian Movement from St Botolph's, Aldgate. There was a big legal row at the time, but it was clear in law that he had every right to do so and that there was no means of preventing that—although some may think it was a rather curious thing to do. It is quite difficult to be specific about precluding any individual homosexual person from a church, because it is quite difficult to spot them.

Mr Burrowes: I do not think there is any particular need to respond to that intervention. I welcome the debate that we have had and the Minister's assurances, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Burrowes: I beg to move amendment 11, in clause 1, page 1, line 20, at end add—

'(5) Any duty of a registrar to conduct a marriage is not extended by this Act to marriages of same sex couples where a registrar holds a conscientious objection to conducting such marriages.'.

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

Amendment 25, in clause 2, page 3, line 21, leave out subsection (b).

New clause 5—*Conscientious objection*—

'(1) No person shall be under any duty, whether by contract or by statutory or other legal requirement, to conduct a marriage to which he has a conscientious objection.

(2) For the purposes of this section, a "conscientious objection" exists where the refusal to conduct a marriage is only that it concerns a same sex couple, and is based on the person's sincerely held religious or other beliefs.

(3) This section is without prejudice to the duty of a registration authority to ensure that there is a sufficient number of registrars and superintendent registrars for its area to carry out in that area the functions of registrars and superintendents.

(4) In any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it.'.

Mr Burrowes: This group includes two important amendments and a crucial new clause. Amendment 11 was tabled in my name and that of my hon. Friend the Member for East Worthing and Shoreham, alongside my hon. Friend the Member for Reading East (Mr Wilson),

[Mr Burrowes]

who has joined forces with us on this amendment despite not being on the Committee. The amendment reflects a widespread concern, which has already been raised, about registrars and their obligations to conduct same-sex marriages.

Amendment 25 was also tabled in my name and that of my hon. Friend the Member for East Worthing and Shoreham, alongside that of the hon. Member for Strangford. It would remove the provision excluding registrars from the conscience protection provided by clause 2, the debate on which will give us another opportunity to consider the issue in detail. We also tabled new clause 5, which would introduce a conscience clause to create the space for people to be registrars who, for religious or other principled reasons, cannot endorse same-sex marriage.

I would like to make some brief general points about what brings these amendments to the Committee's attention. Plainly the Bill does not, on the face of it, give any protection to registrars who feel unable to preside over same-sex marriages. That is clear—indeed, the Government's clear view is that it is not necessary to do so from a legal or policy point of view. Two weeks ago, the Equality and Human Rights Commission told the Committee that registrars would have to perform such ceremonies because the definition of marriage will have been changed. As we know, there are a significant number of registrars in England and Wales. Many do not take issue on sexual orientation, but simply believe that marriage should be between one man and one woman. The Bill makes no attempt to protect their view. They are being asked to make a decision—it is one they are already having to make—to act violation of their conscience or lose their livelihoods. Meanwhile, those who might otherwise want to become registrars will find that it is a profession to which—it will be said—those with an orthodox Christian or traditional view of marriage need not apply.

2.30 pm

One can look overseas for examples of how this has been handled. The Netherlands has a transitional provision to accommodate existing registrars and give them the space to recognise that, as far as they are concerned, the goalposts have changed, from the employment they entered to the one that has now been legislated upon them. The transitional provision protects them. Perhaps the Minister could say in response whether the Government have considered that type of transitional provision for this Bill.

We have received evidence from a number of people who say that not making any accommodation or offering any protection for a registrar's conscience is a discriminatory move. I do not wish to dwell on the 19th century for too long, but I believe that Parliament has moved from that point—when there was, I suppose one could say, a more majoritarian way of handling these issues, reflecting the majority view—to a proper liberal democratic view, where the views and concerns of minorities are taken into account. Laws have been put in place specifically to avoid perverse or unintended consequences, particularly in relation to a minority view—there are even some examples from the 19th century, in relation to military service, vaccinations and the like.

An example from a completely different terrain—I would not suggest it is wholly analogous, but it nevertheless makes the point—is the Road Traffic Act 1972, which requires all motorcyclists to wear a crash helmet. The Sikh community expressed great concern and reservations about not being provided with a space—they would have had to violate their faith identity and remove their turbans or cease using motorbikes. That was obviously not sustainable. Parliament quite properly recognised that and introduced the Motorcycle Crash Helmets (Religious Exemption) Act 1976, to provide the Sikh community the opportunity to carry on wearing turbans and riding motorbikes.

Stephen Williams (Bristol West) (LD): Good afternoon, Mr Hood. My hon. Friend talks about competing minority rights. He and I are both members of minorities. He has chosen to belong to a minority practice of attending the Church of England. I was born a homosexual. Which right does he think should trump the other?

Mr Burrowes: I am not currently a member of the Church of England; I am a member of the Independent Evangelical Church, which represents about 5 million or so evangelicals.

Stephen Williams: They are both minorities.

Mr Burrowes: They are still minorities in one sense, but my hon. Friend makes an important point. When looking at competing rights, such as sexual orientation rights and people's right to manifest their faith, a number of cases have reached the European Court, and it has been the case that the rights of those seeking to manifest their faith have been trumped. It is an important point, and I do not believe that we as a Parliament have reached a settled position where we can enable a proper respect for minority rights while dealing with competing rights in a manner that supports important public policy goals—such as, in this case, the registration and solemnisation of marriages. It is important that we are able to accommodate different minority views.

I believe we have before us a law framed out of a regard to the concerns of a minority group that has expressed concerns about the need to extend marriage to encompass same-sex couples. However, drawing on my hon. Friend's intervention, it is a law that can lead to unintended consequences—maybe they are intended—or, at least, some perverse consequences for other minorities, certainly in terms of their minority view. We have to look at whether there is any opportunity or space to accommodate that view.

Amendments 11 and 25 and new clause 5 seek to correct that—certainly as seen by the dissenters from this Bill, who represent the millions who join with us in their dissent—by saying that if it is the determination of Parliament and the state to take a new approach to marriage, there needs to be an ongoing space for those registrars in our society who subscribe to a traditional view of marriage, to avoid them having to choose between violating their conscience and losing their livelihoods. It is important to consider this.

This is not simply a hypothetical situation concerning the role of registrars; we are already aware of the cases that have come to court, not least the case of Lillian

Ladele. We will recall that her lawyer, Mark Jones, gave evidence to the Committee a fortnight ago. That evidence concerned Miss Ladele who, as we know, was employed as a civil registrar by Islington borough council in 2002. Following the implementation of civil partnerships in 2004, Miss Ladele wrote to her employer explaining that she did not feel able to perform civil partnerships because of her religious beliefs. She requested that her employer provide reasonable accommodation for such beliefs and asked whether she could concentrate on officiating different-sex marriage ceremonies, while other colleagues without a faith objection to civil partnerships would manage the same-sex marriage ceremonies. A reasonable request, many would feel—it would not impact on others or prevent the registration of such marriages. In order to be helpful, she said she would be happy to be involved in the paperwork for civil partnerships. Despite acknowledging that there were more than enough registrars to carry out the required number of civil partnerships, the employer decided it was not willing to accommodate Miss Ladele and she was effectively asked to decide between her conscience and her livelihood. She lost her livelihood.

Miss Ladele is not a one-off case. The fact that she is mentioned quite often as an example may mean that people think she is on an extreme and that hers is simply one view. However, I have been informed that there are already local authorities that, without any primary legislation accommodation, have the flexibility and space for registrars with a conscientious objection to conducting civil partnerships, so long as—this is what is within the amendments—other colleagues are available to preside at civil partnership ceremonies. It is therefore unfortunate that the Bill does not provide the space to do that. A considerable number of registrars agreed to conduct civil partnership ceremonies on the basis that civil partnerships were not the same as marriage. I understand that Mark Jones, Lillian Ladele's solicitor, has been approached by a number of such registrars, who are clear that if marriage is redefined, they could not in good conscience preside over marriage ceremonies without acting in violation of their conscience. It is therefore important to make it clear whether we want to change the law—as these amendments seek to—to make space for them, so that they will not be forced to act in violation of their conscience or lose their livelihood.

When one looks at these clauses, it is very much in scope to address the issue of the registrar, given that clause 2 refers to the whole issue of registration. We need to be sure that the law gives appropriate space. To that end, the proposal in amendment 11—that no registrar should be compelled to conduct same-sex marriages—speaks for itself. Amendment 25 and new clause 5 should be dealt with together. Amendment 25 deals with the problems with clause 2. It is not entirely clear why clause 2 mentions registrars—in that it deals only with marriages according to religious rites, which it terms "relevant marriages"—rather than a separate clause dealing with civil same-sex marriages. That would seem a much more logical way of dealing with the fact that such persons are not exempt or excluded.

Mr Ben Bradshaw (Exeter) (Lab): I hope that the hon. Gentleman will explain why lesbian and gay taxpayers should be expected to pay for the salaries of people who are not prepared to provide them with a service to which they are legally entitled.

Mr Burrowes: We do not have a voucher system where taxpayers pay for the service provided by an individual registrar. We pay for the service. We pay the local authority to undertake duties responsibly and reasonably. We will soon have debates around other areas where local authorities are involved, such as how the public sector equality duty properly respects equality on behalf of taxpayers. We need to see how that duty will impact on other areas, such as registrars who operate in non-Church of England buildings.

Tim Loughton: To aid my hon. Friend, according to the logic of the right hon. Member for Exeter, why should childless spinsters be expected to pay council tax for education services when they have no children to use those services? *[Interruption.]*

The Chair: Order. I encourage hon. Members not to heckle from a sedentary position.

Mr Burrowes: I will not go down the route of spinsters, but I will say that it is unclear why the protection against being obliged to conduct such a marriage should apply only to the clergy or others within Churches. That protection has the potential to generate conflict between religious individuals and religious organisations. Indeed, the hon. Member for Rhondda has tabled an amendment around that. The Bill will accord greater weight to the religious freedoms of individuals than to institutional autonomy, but we will debate that at a later stage.

It is the view—not least of the Catholic Church, which represents a considerable body of people—that if the conscientious objection was broader and also protected individuals in circumstances where the state is involved, the interference would be justified. The fact that the measure is directed at religious organisations only is worrying and cannot be justified. Why has it been drafted that way? Why are particular interventions from the state not separate?

Amendment 25 deals with the conscientious objection issue. It would clarify the confusion caused by the reference to registrars in the context of relevant marriages. It would allow all individuals, including registrars and superintendent registrars to exercise their right to freedom of conscience and of religion. Crucially from a policy perspective, doing so would not prevent same-sex couples from accessing civil or religious marriage ceremonies. It is not necessary for all current and future registrars to become same-sex marriage registrars in order to provide same-sex marriage to couples who want it. It is an issue of conscience. As I understand it, at the beginning of a ceremony, the registrar would have to declare the definition of marriage as it extends to same-sex couples and there would be an issue of conscience as to whether they endorsed that view.

Amendments 11 and 25 and new clause 5 are important provisions that would ensure that the legislation matches the Government's aspiration to provide freedom of conscience and would enable us to have a liberal, tolerant society that respects different views, including those of registrars. They would also protect existing registrars from being faced with a choice between a violation of conscience and losing their livelihood. That choice will persist unless the provisions are adopted or some transitional provisions could at least apply to existing registrars.

Kate Green (Stretford and Urmston) (Lab): It is a pleasure to see you in the Chair this afternoon, Mr Hood. The hon. Member for Enfield, Southgate has proposed some interesting amendments. I will, if I may, refer back to some of the oral and written evidence that we received before this afternoon's debate. It is right to draw on the experience that we have gained from the case of Ms Ladele who expressed a wish not to authorise or register same-sex civil partnerships. That is absolutely the starting point for the Government's proposals in relation to marriage, which I should say for the avoidance of doubt that I support.

2.45 pm

On 12 February, in response to a question from the hon. Member for Enfield, Southgate, Lord Pannick said:

"Were a future Ms Ladele to say, 'I am a marriage registrar and I have a religious objection to being involved in a same-sex marriage,' she would fail for the same reason."

That is the same reason that she failed in relation to civil partnerships.

"The reason she would fail is because if you want to perform the public function of being a marriage registrar, you really cannot say that you are not prepared to marry people who are marrying according to the law of the land in a civil marriage ceremony."—[*Official Report, Marriage (Same Sex couples) Public Bill Committee,* 12 February 2013; c. 48, Q142.]

That seems to me to go to the heart of the matter. We are talking about someone who is performing a state function. They cannot pick and choose when acting as an agent of the state to what extent they are prepared to fulfil the function that they are required to perform.

The hon. Gentleman made an important point when he said that we are seeking to strike a balance between the protection of, and respect for, religious freedoms and what we do when those come into conflict with prescriptions under the law. One Member cited the example of Sikhs and the road traffic legislation in relation to the wearing of helmets. Again, we had some helpful evidence in the course of our earlier sessions in relation to how the balance is approached. In its written evidence to us, the Equality and Human Rights Commission said:

"Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety"—

probably not applicable in this case—

"for the protection of public order"—

possibly—

"health or morals"—

perhaps—

"or for the protection of the rights and freedoms of others."

The EHRC goes on to say that the freedom to manifest one's religion or beliefs is a "qualified right", which means that the state can interfere with it in the circumstances specified. What the state needs to show is that any such interference meets the legitimate aims that are set out in that justification test. I contend that when the very purpose of the role of the registrar is to carry out registrations of marriages and other life events, it is absolutely legitimate and justified to interfere with their religious freedoms to that extent.

I just want to respond to a couple of point that have been raised in the debate on this group of amendments. The hon. Gentleman was making an important point when he highlighted the fact that for some registrars this would be a conscience issue. He said that it could become a real issue for registrars, who might have to choose between their beliefs and, possibly, their livelihood. That is a reasonable point to make, perhaps, if we are talking about existing registrars who entered into employment under one set of circumstances and then that set of circumstances changed. Regrettably, however, that is one of the things that goes with being a public servant. One is there to fulfil the requirements of the law as the law of the land stands at the time. To say, "I went in to fulfil this role when the law said x, and now it says y I am no longer prepared to follow the law", is not an option for somebody who wants to operate as a public servant on behalf of the state and, as my right hon. Friend the Member for Exeter pointed out, draw his or her remuneration from the state. To go even further, the idea that someone might consciously apply for a job as a registrar with the full intention of not carrying out the role in full, because it conflicted with their religious beliefs is not conscientious objection, it is deliberately setting out to subvert the employment to which one is applying and it would not be right for this Committee to support applicants in that endeavour.

Stephen Williams: Does the hon. Lady agree that the people who are likely to be affected by this Bill if it becomes an Act are probably watching these deliberations quite carefully. Already, there is a very small number of registrars who are likely to feel this way. There is plenty of time, given that they work in local government, for them to think through the implications of Parliament changing this law and perhaps—and I hope local government is sensible about this—to apply for redeployment elsewhere in the public service: in the library service, or somewhere else where they have to serve the customers fairly and equally, but may not know the sexual identity of the people they encounter.

Kate Green: I certainly hope that local government employers will want to enter into reasonable conversations with their employees. Of course, redeployment opportunities in local government are diminishing by the day as we see substantial job losses in that sector. Nonetheless, I think it is interesting to observe that the Ladele case got to the point that it did. It may be that there will be many local authority employers who believe that they can broadly accommodate registrars conducting ceremonies according to their beliefs and will try to make that work.

My fundamental point is that, if one wishes to be appointed by the state and employed by the state to carry out the functions of the state, one does not have the choice to pick and choose which of those functions one will or will not fulfil. It is perfectly reasonable for employers to expect the whole job to be done by that employee. The legislation—the balancing of their religious freedom with other justifications for the state to interfere in those religious freedoms—is very clear. We should reject these amendments as opening up an opportunity to unwind some of that very careful and now well-understood analysis. If they are put to the vote, hon. Members should vote against them.

Tim Loughton: I support the amendments tabled by my hon. Friend the Member for Enfield, Southgate and the new clause. I agree that it would be a grave mistake to introduce legislation that has the effect of saying to registrars who do have a genuine conscientious objection to officiating at same-sex marriage ceremonies that they must choose between violating their conscience or losing their livelihood.

The hon. Member for Stretford and Urmston does not seem to think that that is a problem. She is supported by the hon. Member for Bristol West, who thinks that they should just get on their bike. The cases in the European Court recently were retrospective. It is one thing to advertise a job where the applicant is required to comply with all the functions of a registrar, but another more serious issue to change the rules of engagement and change the terms of employment retrospectively knowing that it conflicts with the conscientious objections of a person who went into that job in good faith wanting to be a good registrar.

In the same frame as the case for the Relate marriage guidance counsellor, it seems nonsense to me that somebody who was the best marriage counsellor in the world, who was brilliant at dealing with opposite-sex couples whether married or unmarried, but had a problem giving advice to same-sex couples, at which they would probably be pretty rubbish, should be told retrospectively to get on their bike.

As my hon. Friend the Member for Enfield, Southgate said, it is not a case of depriving the public who pay taxes to expect that service, because there is a duty and obligation on the local authority to employ a relationship counselling service or whatever to make sure that that service is available to local users. Surely the duty of care is to make sure that that service is available from all employees performing the role of a registrar or marriage guidance counsellor. Retrospective changing of the rules that would deprive people of their livelihoods is dangerous. It would be a grave mistake, because it would mean that recruitment would come with the rider that those with orthodox religious or other principled conscientious objections to same-sex marriage need not apply. That is pretty discriminatory in terms of an advertised job for which people may submit their CV. We would do the equality cause a gross disservice by introducing such crude and blunt measures. As has been said, it is entirely at variance with the true spirit of equality. One of the provision's chief accomplishments would be the propagation of quite unnecessary employment discrimination.

My hon. Friend the Member for Enfield, Southgate was absolutely right to cite the provision properly made for atheist teachers to ensure that they are subject to different treatment under the law, inasmuch as they are not required to conduct collective service or to teach religious education. That is entirely right. If I wanted the best religious education for my child, I would have reservations about its being taught by somebody who had no belief in there being a superior theological force. I am happy that there are people in schools who hold those beliefs, but it would not be appropriate for them to engage in a religious education function. It would be absolutely wrong to tell atheist teachers that they must choose between acting in violation of their conscience or losing their livelihood. Similarly, it would be absolutely wrong to create a situation in which adverts for teachers in the non-faith school sector came with the words, "Atheist teachers need not apply". That would be discriminatory.

A similar argument applies to those in the medical profession, as we mentioned earlier, given a conscientious objection right in respect of the provision of abortion. Our law does not state to doctors that they must choose between acting in violation of their conscience by providing an abortion service and losing their livelihood, nor does it say to would-be doctors that those with a conscientious objection to the provision of abortion need not apply. Yet the propagation of such discrimination will be the precise effect of the Bill, although happily it need not be if the Bill incorporates amendments 11, 25 and new clause 5, which the Committee will be invited to do soon.

There is currently only one reference to registrars and superintendent registrars in the Bill, in line 21 of clause 2, which states that for the purpose of the clause "person"

"does not include a registrar, a superintendent registrar or the Registrar General".

Given the recent decision of the European Court in Eweida and Others *v.* United Kingdom that was the subject of our deliberations in relation to Mrs Ladele, a registrar who had a conscientious objection to performing civil partnerships and was subjected to disciplinary proceedings as a result, it is surprising that the conscientious objections of registrars are not referred to elsewhere in the Bill in respect of civil same-sex marriage.

Moreover, as my hon. Friend the Member for Enfield, Southgate noted, it is odd that the drafters chose to mention registrars under clause 2, which deals only with marriages according to religious rites that are termed a "relevant marriage" in the clause, and not under a separate clause that deals with civil same-sex marriages. Will the Minister clarify whether that was intentional or simply a slip of the draftsman's pen? If it were intentional, it is very concerning. In either event, we need amendment 25 and new clause 5 to deal with the problem.

To continue our earlier debate, it is unclear why clause 2 protection should apply only to protect the clergy or others within Churches from being obliged to conduct such marriages. Such protection has the potential to create significant tension and conflict between religious individuals and religious organisations. The Bill will accord the religious freedom of individuals greater weight than institutional religious freedom. If the conscientious objection clause was broader, and it protected individuals in circumstances where the state was involved, as with this measure, the interference would be justified. It is concerning that, at present, it is directed only at religious organisations, and I do not think that it can be justified.

3 pm

Amendment 25 therefore addresses this difficulty by removing line 21 from clause 2 and inserting a separate clause dealing with conscientious objections. It effectively clarifies the confusion caused by the reference to registrars within the context of relevant marriages. Crucially, it also allows individuals, including registrars and superintendent registrars, to exercise their right to freedom of conscience and religion. At the same time, it does not prevent same-sex couples from accessing civil or religious marriage ceremonies by doing so. As I have stated earlier, the duty is on the local authority as the provider.

It is simply unnecessary for all current and future registrars to become same-sex marriage registrars in order to provide same-sex marriage to couples who want it. As the Government have acknowledged, demand for same-sex marriage is not expected to be enormous. If the current number of civil partnerships is anything to go by, it is worth remembering that, when expressed as a percentage of the number of marriages, the resulting figure is something like 2.6%. We will not see a surge. There may be a blip, as we know, from those who want to convert from a civil partnership, but we are not talking about a figure that will overwhelm registrar departments up and down the country.

Chris Bryant: I want to warn the hon. Gentleman against predicting numbers. In quite a few cases, the Labour Government were not good at predicting numbers, including the number of civil partnerships—I think there were four times as many as they predicted. Also, a large number of gay and lesbian couples decided not to have a civil partnership until they could have full equality, so there may be something of a surge.

Tim Loughton: I certainly agree that the previous Labour Government were pretty rubbish at predicting figures, but even so, the numbers, as a proportion of those who are conventionally married, are still very small. The hon. Gentleman is right to say, as I suggested, that there was something of a blip when civil partnerships came in. In the first full year of civil partnerships, 14,943 were conducted. The year after that, the figure subsided to 7,900; it virtually halved. In 2011—the last year for which I have figures—it was just over 6,000, having been around 6,000 for those previous few years. It is therefore a constant number, though as I say, a blip is likely. It is absolutely possible that there will be people who did not want to go down the civil partnership route, but we are still talking about a small proportion of the 241,100 people who were married conventionally in 2010.

My point is that local registrars will not face a tide of applications for same-sex marriages that cannot be catered for unless every single local registrar is able and willing to conduct same-sex marriages. The hon. Gentleman also needs to bear in mind that many of the Churches that seem to have been singled out as major motivations behind this legislation—Quakers, Unitarians and Liberal Jews—will open their doors to same-sex marriages. That is something that they could not do to civil partnerships. In some respects, therefore, there may be even less pressure on registrars, because there are more players in the market as a result of this legislation. Let us not be deterred or go down that blind alley.

Going back to that figure, it is important to remember that the Civil Partnership Act 2004 does not require all registrars to be designated civil partnership registrars. It simply requires registration authorities to ensure a sufficient number of civil partnership registrars for the area. I have given the figures to try to illustrate precisely that point. Across the United Kingdom, registrars' beliefs have been accommodated by some local authorities, which have allowed registrars with sincerely held religious objections to the formation of civil partnerships not to be designated as civil partnership registrars. By doing this, local authorities have protected both the legal entitlements of same-sex couples and the conscientious rights of registrars. To put it another way, they have used some common sense.

Crucially, new clause 5 will not allow individuals to exercise a conscientious objection if doing so will result in same-sex couples being unable to access marriage services from a registry office. If a sufficient number of registrars is not available at any point, a registrar with a conscientious objection will come under a duty to conduct the same-sex marriage. Therefore no same-sex couple will be prevented from marrying by reason of the new clause. Surely that is what this is all about.

If we go ahead with the Bill, and there is a duty to make sure that the service is available consistently up and down the country, why do we need to place an obligation on every single member of the public who chooses to become a registrar—or who wants to continue as a registrar, having successfully fulfilled that function for many years, and who does not want to heed the pleadings of the hon. Member for Bristol West, who says that they should get on their bike, go somewhere else and lump it? Amendment 25 and new clause 5 would merely legislate for and endorse the approach already adopted by the sensible, tolerant local authorities that were prepared to live and let live in the context of civil partnerships. If we took that approach, we would prevent further cases like that of Lillian Ladele, and no same-sex couple would be denied the opportunity that the Bill intends to give them of getting married by a registrar.

Without amendment 25 and new clause 5, there will inevitably be legal disputes. There are some who, by reason of their religious or other beliefs, embrace civil partnerships but do not believe that marriage should be extended to same-sex couples. Clearly there will be many who object to same-sex marriage, as I do, and as do some of my hon. Friends and the many hon. Members who voted against the Bill but for civil partnerships. They embrace and have no problem with civil partnerships. So we will potentially be dealing with a bigger problem.

Without the amendment and new clause, registrars with a conscientious objection to presiding over same-sex marriages will be compelled to choose between violating their conscience and losing their livelihood. The post will henceforth come with the discriminatory caveat that those with conscientious objections to same-sex marriage should not apply and, worse still, those with such objections who are already in that job should get on their bikes. I do not think that was the Government's intention. I hope it is not the Committee's intention. By adopting these amendments, we can make sure that that does not happen.

Jim Shannon (Strangford) (DUP): It is a pleasure to serve under your chairmanship, Mr Hood. I should to like to comment on this group of amendments, and to focus on amendment 25. As an introduction, I ask the Committee to cast their mind back to the evidence sessions the week before last. On the Tuesday morning, Lord Pannick and Baroness Kennedy outlined why they felt that the quadruple lock was okay and safe. We also heard from Professor McCrudden from the Roman Catholic faith, who stated:

"There are two different questions. The first is whether existing registrars should be able to gain an exemption, and as you know the Ladele case was of that kind in the civil partnership context.

As you also know, the European Court of Human Rights has recently held against Miss Ladele in that, despite the fact that—this is relevant for the Committee's considerations—the Court of Appeal had decided, and the Court of Human Rights accepted, that it would have no effect whatever on the delivery of the service."

Although there appeared to be some grey area over that decision, the local council went ahead with its opinion. Professor McCrudden also said that amendments should be introduced

"to cope with both of those provisions. Essentially then, the answer to your question is that we regard that as a difficulty for registrars." —[*Official Report, Marriage (Same Sex Couples) Public Bill Committee,* 12 February 2013; c. 36-37, Q101.]

Professor McCrudden put on the record his concerns about this. The hon. Member for Congleton (Fiona Bruce), who is not a member of this Committee, and I attended a seminar the week before last with three human rights lawyers. We heard two of the three express their concerns about the Ladele case, in relation to registrars. There is clearly legal concern, from a variety of points of view, about how such matters are handled. We have tabled the amendments to address that issue and to secure important protection for registrars, which we hope will be possible.

The Committee will be aware that there is currently nothing in the Bill allowing a person to refrain from conducting civil same-sex marriages on the grounds of conscientious objection. A provision allowing for conscientious objection is what the hon. Members for Enfield, Southgate, and for East Worthing and Shoreham, wished to introduce, and I want to underline that point in the few moments available to me. The amendments would protect all people, including registrars and superintendent registrars, with a conscientious objection to conducting a same-sex marriage, whether the ceremony is religious or civil.

There is only one reference to registrars and superintendent registrars in the Bill, in clause 2(4)(b), in line 21. That states that, for the purposes of clause 2, a person

"does not include a registrar, a superintendent registrar or the Registrar General".

Given some of the recent decisions in relation to Ms Ladele—a registrar who had a conscientious objection to performing civil partnerships and was subjected to disciplinary proceedings as a result—it is surprising that conscientious objection on the part of registrars is not mentioned or addressed elsewhere in the Bill in respect of civil same-sex marriage.

We want to put clearly on the record our concern for those with conscientious objections or issues that we believe are important. I hope that nobody in the Committee would promote legislation that brushes aside the opinions of those with conscientious objections, or disregards those who have a heartfelt, honestly held opinion on this subject. Perhaps we should look forward to amendments that have been tabled by other Committee members, who are trying to do away with the word "may" and to insert the word "shall". Will those hon. Members give an indication of what they are trying to do with the Bill in this House and in Committee?

It is unclear why the draftsmen chose to mention registrars in a clause that deals only with marriages according to religious rites—and matters are developing with the new clause—and not in separate clauses dealing with civil same-sex marriages. It is also unclear why the protection should apply only to clergy, and does not prevent others within Churches from being obliged to conduct such marriages. The protection has the potential to generate conflict between religious individuals and religious organisations, and the Bill will accord the religious freedom of individuals greater weight than that of an institution. If the conscientious objection clause was broader and also protected individuals in circumstances where the state was involved, its appearance might be justified and considered. The fact that it is directed only at religious organisations is worrying and cannot be justified.

The biggest issue, when people speak to me about this, is the impact on people's religious beliefs and what they feel. Whether Committee members like it or not, there is a vast amount of religious opinion among the general public; we are talking about many millions who are clearly worried and concerned about this, which is why we need the to discuss this in Committee.

The amendments to clause 2 and the new clause dealing with conscientious objections would clarify the confusion caused by the reference to registrars with the context of relevant marriages. They would also allow individuals, including registrars and superintendent registrars, to exercise their right to freedom of conscience and religion. They would not prevent same-sex couples from accessing civil or religious marriage ceremonies. It is not necessary for all current or future registrars to become registrars of same-sex marriages to provide same-sex marriage for couples who want it.

Hon. Members have referred to exceptions. The new clause would not be unprecedented in our legal system or under the law of this land. It would not have a detrimental effect on the Bill. Section 4 of the Abortion Act 1967 allows individuals with a conscientious objection to abstain from participation in abortions. That has not resulted in any difficulty for women wishing to have abortions. That is not taking into account my personal opinion in relation to abortions; that is what the law of the land says. A conscientious objection clause in this Bill would similarly not result in same-sex couples having difficulty accessing same-sex marriage ceremonies.

3.15 pm

Furthermore, the Civil Partnership Act 2004 does not require all registrars to be designated civil partnership registrars. It simply requires the

"registration authority to ensure that there is a sufficient number of civil partnership registrars for its area to carry out in that area the functions of civil partnership registrars".

Across the UK, registrars' beliefs have been accommodated by some local authorities that have allowed registrars with sincerely held religious objections to the formation of civil partnerships not to be designated a civil partnership registrar. While doing that, local authorities are responding to the rights of same-sex couples and registrars. It is so important, given that we have the privilege of, and responsibility for, making legislation in Committee, that we get it right for our people, and ensure a fair system of legality, through the Bill, in the House.

New clause 5, like the Civil Partnership Act 2004, would not allow individuals to exercise their conscientious objection if doing so would result in same-sex couples being unable to get married. If a sufficient number of

registrars were not available at any point, a registrar with a conscientious objection would come over and conduct the same-sex marriage. Therefore, no same-sex couple would be prohibited from marrying by the new clause.

The amendments would promote tolerance, rather than hinder it. I think we have all tried, in a responsible way, to bring tolerance into the Bill. There are viewpoints that are heartfelt for us all. Individuals are more likely to live in harmony with one another even if their thoughts and traditions regarding marriage are contradictory, if one person's privileges are not limited in favour of another's. Many people tell me that in this country and in Northern Ireland, and many Christians have heartfelt fears and concerns. In this debate, equality, harmony, broadmindedness and tolerance are more likely to be achieved if both those who do and those who do not believe in same-sex marriage are equally valued and respected.

It is that tolerance and protection that we are seeking for the conscientious objector. The Civil Partnership Act 2004 did not cause problems for registrars on the whole, except in the case of Ms Ladele. Ms Ladele's local authority could have taken the approach that many other local authorities had adopted, and allowed her to refrain from being designated a civil partnership registrar. By not doing that, it forced Ms Ladele to endure protracted litigation, both in the domestic and European Court. In that case, the response of the local authority gave rise to the legal dispute. We often refer to the threat of Europe legislatively, and to the European Court of Human Rights, but sometimes things are closer to home, when it comes to the burden of legislative change and the direction taken.

The amendments would legislate for an approach that has already been adopted by sensible, tolerant local authorities that were prepared to live and let live in the context of civil partnerships. By adopting the amendments, we will prevent further cases like Ms Ladele's. Without the amendments, there will definitely be legal disputes in future. There are some who, by reason of religious or other beliefs, wholeheartedly embrace civil partnerships but do not believe that marriage should be extended to same-sex couples.

Without the amendments, the rights of those people with conscientious objections will be limited so that same-sex couples can access marriage, and some registrars will lose their jobs. I hope there is no one on the Committee who would put people in the position of losing their jobs. Parliament can and should encourage tolerance through the amendments, which will protect the rights of individuals with conscientious objections, and indeed of same-sex couples. I hope that the Committee will look on the amendments favourably. It is important that they do. If they do, protection will be given to registrars. If they do not, we are living in a sorry state.

Hugh Robertson: I am grateful to my hon. Friend the Member for Enfield, Southgate, for the amendments, as they give the Committee the opportunity to debate the importance of striking the right balance between removing the unfair barrier preventing same-sex couples being able to marry, and the rights of those who believe that marriage should be between a man and a woman. Let us be honest about it: as with much else in the measure, the key word is "balance".

We recognise that extending marriages to same-sex couples may—and I only say "may"—put some current marriage registrars who hold the religious belief that marriage should be between a man and a woman in a difficult position. Registrars are public servants who perform statutory duties. That is a point made by the right hon. Member for Exeter. It is an important principle that public servants should perform their duties without discrimination.

A registrar who marries a couple is conducting a civil marriage ceremony on behalf of the state, not performing a religious function. That is the case whether they perform the function in the register office or elsewhere. It would not be right, in our view, to allow public servants to pick and choose their duties in the way suggested, based on their beliefs about marriage and the sexual orientation of those seeking their services, any more than it would be right to accommodate different views on interfaith marriages or divorce.

It is also worth mentioning—this answers a question asked by my hon. Friend the Member for Enfield, Southgate—that officials in the Department had extensive discussions with the national panel for registration prior to and during the consultation period. Conscience was not mentioned in the national panel's response. Indeed, the response to the consultation from registrars focused on practical administrative issues, not issues of conscience.

Tim Loughton: The Minister has just used the phrase "pick and choose". How is this different from allowing another public servant, a surgeon, to pick and choose whether to perform an abortion?

Hugh Robertson: Generally speaking, I believe all these cases are different. There are plenty of issues. I spent some time as a young man in the Army, and there are plenty of cases in which the Government take a decision and expect public servants to carry it out. That is not an unfair principle in any way.

Tim Loughton: Why is it the principle that a surgeon who has strong Catholic views is allowed to pick and choose whether to perform abortions or other surgery, if the same principle cannot be applied to a Catholic registrar with strong views, allowing them to pick and choose whether to perform that other public service? What is so essentially different that we protect one but not the other?

Hugh Robertson: It is because they are different functions; that is the short answer.

Tim Loughton: That is not an answer.

Hugh Robertson: Yes, it is. They are different functions. One is an abortion; the other is a same-sex marriage.

Tim Loughton: Why do we protect religious views on abortion but not the religious views of registrars, when in both cases public servants perform a public function, for which the public pay? They are different, but saying they are different is not a justification for treating them differently.

Hugh Robertson: It is about whether that is in the Bill; that is the short answer. It is relevant that in the extensive consultation period the national body responsible did not ask for that exemption. I do not know whether that was the case when the Abortion Act 1967 was put on the book, and what representations were made by the professional bodies at that point; but the issue was not raised.

Tim Loughton: To confirm what the Minister says, the Government are picking and choosing who has an exemption and who does not.

Hugh Robertson: No. The Government have laid out a very straightforward process in the Bill, which does not provide the exemption that my hon. Friend wants. The Government envisage that if the Bill is passed, registrars as public servants should carry out their functions.

Mr Burrowes: To pursue the Minister's logic about the difference between the two functions, the Government have decided that in relation to the function of registration there will be protection, exemption and respect for the conscientious objection of religious organisations, but that does not include registrars, superintendant registrars or the Registrar General.

There is an acceptance by the Government that one cannot distinguish a public function, given that non-Church of England organisations will effectively be licensed to register same-sex marriages. Why, then, do the Government want to distinguish between religious organisations and individual registrars when it comes to protections? They give some protection—but not in the case of a registrar.

Hugh Robertson: The simple answer is because they perform different functions. During the consultation, the Church made it very clear that it wanted the protections and has since made it clear that it is happy with them, whereas one of the reasons that the protections were not extended to registrars is that the body responsible for representing registrars did not ask for them.

Mr Bradshaw: May I helpfully suggest one of the significant differences between abortion as it affects the medical profession and what we are discussing now? The jobs open to devout Catholics in the medical profession are many, the vast majority of which would never take them anywhere near an abortion. That is completely different from the functions of a registrar, which are sometimes solely, and always largely, to conduct marriages and civil ceremonies.

Hugh Robertson: It is a point well made—I slightly strayed off that one because I am not entirely familiar with the provisions that lie behind the Abortion Act 1967 and the reasons why that particular conscience clause was offered. The point is well made.

Mr Burrowes: The Minister said that the Churches were happy with this; the Churches were not happy—I go beyond the Church of England. Can the Minister provide me with evidence that the millions in Evangelical Churches were happy with the clause? Can the Minister provide me with evidence from the Catholic Church? They provide a civil and religious function in relation to registration of marriages in their churches—how can he give them distinct protection but not individual registrars?

Hugh Robertson: The short answer is that anybody who wished to was able to respond to the consultation and give evidence. The Church of England made very, very clear in its evidence session that it was entirely happy with the protections and specifically asked us not to change them in any way.

Like other people, registrars are of course entitled to hold beliefs about marriage without restriction. They are free to express their views at work, as long as that is not done in an offensive manner and does not affect their ability to do their job. Contrastingly—I think many agree with this—it is reasonable that an employer should be able to expect an employee to do their job, particularly when that job has been extended by an Act of Parliament. That is the balance that we are trying to strike.

New clause 5 states that it is

"without prejudice to the duty of a registration authority to ensure that there is a sufficient number of registrars and superintendent registrars for its area",

but it is not clear how an authority could be confident that it could meet that duty if any registrar it currently employs and any it might employ in the future could seek to rely on that exemption at any time, regardless of whether they have an objection at the time the Bill is enacted. As others have mentioned, a registrar could apply for a post that would specifically require them to conduct same-sex marriage ceremonies and then change their mind the week after they started. That would obviously cause all sorts of problems, and would place same-sex and opposite-sex couples on a different basis.

New clause 5 would apply the conscientious objection provision to any person. It is unclear whether it is intended to apply just to registrars, and if not, who else it is intended to apply to. It is also unclear whether the proposed new provision is intended to apply only in respect of the actual solemnisation of the marriage and not to any other tasks undertaken that are associated with the solemnisation of marriage. In our view, clause 2 already provides sufficient protection for individuals in religious organisations who do not wish to conduct or participate in a religious marriage ceremony for same-sex couples. That said, I do understand the issues here. However, I come back to the crucial point that the representative body for registrars did not ask for a conscience objection. On that basis and on the basis of my response, I would urge my hon. Friend the Member for Enfield, Southgate to withdraw the amendment.

Mr Burrowes: I am grateful for this very important debate on a subject that is not in any way a side issue. We are not only dealing with the registration of marriages but are going to the heart of the debate about the challenges facing the Government. When they seek to redefine marriage, they have to accomplish a balancing protecting not just religious liberty but liberty of conscience. They have to consider whether rights are trumped and whether we can properly accommodate the conscience view of individuals. That is at the heart of the amendments. I have heard the debate and the Minister's argument, but I am not persuaded. I believe that we increasingly have, as shown in the Bill, a hierarchy of protections.

3.30 pm

First, I am not convinced by the reasons given for why we have the particular framing in clause 2, which is all about marriage according to religious rites. We have had no response to that. Why are registrars picked out as not having access to the conscientious objection that individual ministers will have as part of a religious organisation? That is a concern, because the reality is that, contrary to the Minister's assertion, the situation is different if one goes beyond the Church of England: the discussions were predominantly around issues of protection for Churches and activities within church buildings. The amendments go beyond the issue of church buildings and the Minister's noble efforts to try to provide appropriate protection for religious organisations, certainly within the confines of a church building.

There is an inconsistency in the Government's position. They rightly want to protect the conscience of individual ministers performing both a civil and a religious function. If one gets married in a Catholic church, the minister has to provide both civil and religious functions. They are not separate as the Government would conveniently want us to say that they are. Such ministers are protected: they are protected on the civil side of that function as much as on the religious one that the Government want to pray in aid. Our concern is about the inconsistency in the Bill on the civil function. The conscience of ministers is protected, but that protection does not extend to registrars, superintendent registrars or the Registrar General.

Even at this stage, however, the state provides conscientious objection for certain functions, such as for doctors in relation to abortion or for teachers, as we have heard, in relation to taking part in collective worship as well as in other parts of education. We are left in a situation where many of us dissenters are not satisfied—myself in particular—by the Government's response. We need to press the Government to recognise that someone's individual conscience should be properly respected. Their conscientious objection should be properly considered. One answer that we have heard is that registrars will have to look for another job. I would be interested, beyond the day-to-day, to get further evidence from registrars to see whether what the Minister says about the panel having no concerns at all really stands the test of challenge and to see whether we are in a situation where, as my hon. Friend the Member for East Worthing and Shoreham said, registrars will have to get on their bike.

Hugh Robertson: My hon. Friend did not quite go this far, but if he is convinced that the problem is what he says it is, why does he think that the national panel did not mention it as a problem at any stage in the consultation? If there is a huge problem, why did the panel not raise it? What does he think the Government did that so frightened or intimidated the panel that it was unable to raise the issue?

Mr Burrowes: It is a shame that we did not have an evidence session with the panel to raise that question directly. That perhaps illustrates the point that I heard today, which is that the panel are of that view. It would be good for us to be able to examine that evidence to see how the panel reached its considered view. It would also be good to see how that view differs from that of several individuals who have already made the point to the solicitor representing Lillian Ladele that they are directly challenged by the Government's provisions and will have to seek new employment. I will happily seek to find further evidence if the Committee is not with me.

If the amendments do not succeed, we will undeniably be left with a situation where registrars face a choice between acting in violation of their conscience or losing their livelihood. I want us to be able to withdraw today what the Government is effectively putting forward, which is a notice to quit in several months for many such registrars. That is not something that we would want to do in good conscience if we are on the side of liberty of conscience. I therefore want to withdraw amendment 11 and to press amendment 25 to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Burrowes: I beg to move amendment 12, in clause 1, page 2, line 3, at end insert—

'( ) Premises owned or under the control of bodies specified in Schedule [ ] may not be licensed for the solemnization of a same sex marriage.

( ) The Secretary of State must, by order or regulations, amend the list of bodies specified in Schedule [ ] if further bodies notify him that they wish to be included in the Schedule.'.

I do apologise that I am still batting away. I am not sure if I have yet got into stroking any balls into the boundary; it may still be singles. I share the crease with the Minister at the moment—*[Interruption.]*

The Chair: Order. I must ask hon. Members to stop chatting among themselves, because they are encouraging some people in the Public Gallery to do so, which cannot be tolerated.

Mr Burrowes: As someone who represents a majority in the Conservative party as well as millions across the country, it is my duty to give careful scrutiny to the Bill and to provide unofficial opposition to it. The amendment takes the Government's position on locks a stage further. I think we are up to four locks—a quadruple lock is in place—so this is a quintuple lock. It provides an additional lock—one could call it a deadlock—to the other locks that are in place, particularly in dealing with this area of Church concern. I want to draw the Minister into this area because it is not all about the Church of England. We have had an important debate about the fact that the Church of England is significantly affected—it has had detailed conversations with the Government about its concerns—but there is a wide body of Christian concern in other Churches. One could even say that that concern is increasing.

One could point to the 5 million or so Evangelical Christians, or to others from whom we heard during our evidence sessions such as the United Reformed Church and Methodists, who would all say that they are not minded at present to opt in to same-sex marriage. They may do at some point, particularly the United Reformed Church and the Methodists, who indicated that there would be debates in their governing body. I would be extremely surprised if other organisations such as the Fellowship of Independent Evangelical Churches ever opted into same-sex marriage proposals, but that would be a matter for each individual Church

to determine. It is important to recognise the process that they have to go through, and whether there is a need for an additional lock, perhaps one that is also a very public or published lock that provides opportunities, with amendment 12, for additional comfort.

Certain non-Church of England religious bodies have to make an application under section 41(1) of the Marriage Act 1949 for their buildings to be registered for the solemnisation of marriages. The framework for the registration of places of religious worship under the 1949 Act could, on the face of it—this is the opinion of Aidan O'Neill, QC, of Matrix Chambers—allow a little discretion to the relevant public authority to apply conditions to any such registration or authorisation to solemnise marriages, although the public authority would still be bound by the public sector equality duty in carrying out any functions in connection with such registration.

When one looks at the terms of section 41 of the Marriage Act 1949, and when consideration is being given to applications for permission for religious premises to be used for the solemnisation of marriages, it will be a relevant consideration for, and the duty of, the relevant public authority to have regard to how any such approval might impact on its attempt to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010. How it may advance or impede equality of opportunity to remove or minimise historic disadvantages experienced by minority groups should also be considered. We shall come on to consider amendments that seek to address the issue of the public equality duty head-on, but to avoid a conflict between the registration duties under the 1949 Act and the equality duties under the 2012 Act a public authority might—I say that with caution— seek or be required to, let us say in judicial review, read down the registration provisions under the Marriage Act 1949 in a manner which then could be considered to be human rights compatible and consistent with the positive obligations under the Equality Act 2010. That is relevant, because these questions raise important issues that can provide a degree of instability for the current premises registration and approval regime.

While the Government have sought to deal with this with their quadruple lock, it is important to recognise that, if Parliament wants to prevent the possibility of such interpretation or application of the relevant legislation, it needs to be even clearer about the protections that are available. Aidan O'Neill says:

> "Without such amendment of the legislation, non-Anglican churches might better protect themselves against the possibility of becoming entangled in any such disputes by simply deciding not to seek or indeed renounce State sanction which currently allows them to provide legally recognised (as opposed to purely religious) marriage services at all, since there could then be no complaint of discrimination in the provision of services to the public as between same-sex and opposite-sex couples".

Those Churches might simply seek to opt out completely from any involvement in legally recognised marriage. That is a relevant, practical concern for Churches. I am not sure if the Minister has met those Churches, groups and organisations directly, or whether he has received and considered the evidence that they want it to be made crystal clear that they are not going to be under any threat such as, for example, the withdrawal by the local authority of their licence to carry out their legal function of marriage, or something that impacts on them in another way. We will deal with that issue later.

The amendment seeks to enable the provision of a list that is no doubt publishable and gives real clarity on which bodies have opted in or out of same-sex marriage. Amendment 12 makes the point clearly that there would be premises owned or under the control of bodies specified in a schedule that may not be licensed for the solemnisation of same-sex marriage and that the Secretary of State may by order amend that list.

3.42 pm

Sitting suspended for Divisions in the House.

4.26 pm

On resuming—

Mr Burrowes: I apologise to the spectators—votes stopped play. We have been in the pavilion of the Commons for a while now, but we are back to amendment 12.

In conclusion—those words may have particular resonance to Committee members—the amendment would create an extra line of defence. It takes the Government at their word that they want to protect civil liberties and religious freedom in the Bill. It would strengthen the Government's quadruple lock by turning it into a quintuple lock. It would add a deadlock for the use of Churches or other religious organisations and groups. The amendment is about religious freedom. It bowls the Minister a full toss that he can knock off for a boundary by saying that he supports those principles at the heart of the Bill—*[Interruption.]* I apologise that the hon. Member for Rhondda is not following my terminology.

Jim Shannon: Is there protection in amendment 12 for those who own buildings as well as for Churches? The people who own buildings may not be clergy. Is the hon. Gentleman advocating protection for both parties?

Mr Burrowes: I am grateful to my hon. Friend, as he very much is in this Committee as one of my fellow dissenters. The amendment would allow bodies and organisations to be specified in a schedule, and the list could be amended by order or regulations. It would put in place a statutory process whereby everybody would be clear about who wished to license same-sex marriage and who did not. My hon. Friend will recall that the issue of the owners of buildings, in particular trustees, was raised by the representative of the United Reformed Church. We will come on to discuss amendments through which we will press the Government about whether there needs to be particular protection for the trustees of buildings, but amendment 12 relates to the bodies themselves. It would make it clear that the Bill provides protection, which is what the Government want to achieve, by putting in place an additional reassuring lock. I commend the amendment to the Committee.

Kate Green: I listened with careful attention to the hon. Gentleman in search of the point of his amendment, but I am afraid I am still not sure that I understand it. There is a danger that the amendment would over-legislate, as it would add a fifth lock to those four locks that all

[Kate Green]

the witnesses I heard in our oral evidence sessions seemed to think were sufficient. There is no need to introduce further complication by setting out a list of premises in a schedule, which presumably would have to be amended and updated repeatedly over time. The amendment certainly does not have my support.

4.30 pm

Hugh Robertson: I thank the hon. Lady for being brief, because everyone is keen to conclude our consideration of clause 1 by the end of the sitting, if we can.

The amendment would create a statutory list of bodies that own or control premises and do not wish to have same-sex marriages solemnised on their premises. I fully appreciate that people want to feel secure that the permissive system works and, indeed, protects those religious organisations that do not wish to marry same-sex couples. However, we do not consider that the amendment is the way to go about it.

The religious protections in clause 2 and the opt-in provisions under clause 4 to 8, which will no doubt be discussed in detail later in our proceedings, will provide a robust and effective system to ensure that religious organisations that do not want to marry same-sex couples have strong protection. Indeed, as the hon. Member for Stretford and Urmston said, the Church of England, in particular, indicated that it was more than happy with those protections.

The amendment is not limited to religious organisations. It would allow non-religious and commercial organisations, such as a hotel chain, the proprietor of a stately home or a football stadium, where marriages can take place, to prevent same-sex marriages from being carried out. Such an outcome would be completely contrary to the Government's intention under the Bill that marriage should be available to same-sex couples through civil ceremonies in the same way as is it for opposite-sex couples. Under our proposals, premises approved for marriages through civil ceremonies would be available for opposite-sex and same-sex marriages on the same footing. That is a key element of delivering equal marriage for all.

Even if the amendment applied only to religious premises, I would still resist it. Although I understand to some extent the desire of some religious organisations to place on record their governing authority and so enshrine in the Bill who must give consent to a place of worship being registered for same-sex marriages, it is doubtful how much value that would add in practice. The opt-in system that we have devised whereby the consent of the governing body is provided at the point when the individual premises are registered for marriages of same-sex couples has the advantage of simply linking the premises directly to the governing authority at the relevant point in the process.

When the application is made, not only does a copy of the consent need to be provided but, importantly, the proprietor or trustee needs to certify that the relevant body has given consent. Adding another stage by which reference must be made to a central list of governing authorities would merely add unnecessary bureaucracy. It is also clear that such a list could not replace the provisions that we have already made. There are a great many small religious organisations whose governing authorities are effectively local and the maintenance of a list of all of them, in the event that they chose to opt in, would be impractical.

No religious organisation can be forced to conduct same-sex marriages and any religious organisation wishing to do so will have to take positive steps to register buildings for those purposes. What we have already provided for will work, and the Committee does not have to take my word for it, although I hope that it will, because hon. Members will be familiar with the evidence of the Church of England in the witness session. I hope that my hon. Friend the Member for Enfield, Southgate will withdraw the amendment.

Mr Burrowes: I am trying to avoid repetition, but the amendment was drafted not because of Church of England issues, but for the sake of the opt-in organisations that have expressed worry about the matter. I do not want to take up the Committee's time unduly by responding to the Minister although, in effect, we are only in the first day of a five-day test. As he knows, it is important that we make full use of each day to achieve the maximum effect.

I do not want to cause the hon. Member for Rhondda concern with my cricket analogies, and nor do I want to press the amendment to a Division, given the Minister's assurances about the quadruple lock. There will be opportunities under clause 2 to test whether those assurances hold water, and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

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

New clause 1—*Part 1 of the Civil Partnership Act 2004—*

'(1) Part 1 of the Civil Partnership Act 2004 is amended as follows.

(2) In section 1, subsection (1), leave out "of the same sex".'.

New clause 2—*Part 2 of the Civil Partnership Act 2004—*

'(1) Part 2 of the Civil Partnership Act 2004 is amended as follows.

(2) In section 3, subsection (1), after "if—", leave out—

"(a) they are not of the same sex".'.

Stephen Williams: I promise the Committee that there will be no cricket metaphors, analogies or references in my speech. On one of the occasions I appeared in the *Daily Mail* sketch, Mr Letts said, "Mr Williams is just the sort of man who you know will be absolutely no good at cricket." I think it was meant as an insult, but he was actually very accurate, as my games teacher from school could no doubt confirm.

The Bill is about extending the institution of marriage to same-sex couples and, from that perspective, about equalities and civil rights. New clauses 1 and 2 would complete the circle of equality by extending the rather more recent institution of civil partnerships to opposite-sex couples. I shall advance three reasons why I hope the Committee will consider that this is a good proposal.

More importantly, by the time that we get to Report, I hope that the Government will either embrace the new clauses or table provisions of their own to put the proposal into effect.

The first reason is that we should have parity of esteem between civil partnerships and civil marriage—a parallel legal and societal recognition of loving, sexual and exclusive relationships between two consenting adults. Civil partnerships will remain after the Bill is enacted. The Government must have considered whether to abolish them, perhaps at some point in the future, but they have decided not to do so. They will therefore remain for the couples who have them as a legal recognition of their relationships. Same-sex couples will still be able to enter into new civil partnerships under the Bill. Some of the existing holders of civil partnerships may decide to convert them into a civil marriage, or even into a religious marriage, if their denomination or faith opts into the provisions of the Bill.

I describe that process deliberately as a conversion. I do not see converting from a civil partnership to a civil marriage or even a religious marriage as trading up. I do not think that marriage is necessarily the gold standard. It would be regrettable if, after the Bill's enactment, people who have civil partnerships and do not wish for whatever reason to convert them into civil or religious marriages feel that they are somehow members of a residual class of relationship that declines in importance as more people take up civil and religious marriages. Parliament should not only continue with civil partnerships for same-sex couples, but extend the opportunity to enter into a civil partnership to opposite-sex couples.

The second reason is that there may be some demand from opposite-sex couples to take up a civil partnership, as opposed to the civil or religious marriages that are already available to them. Modern Britain has many different households and we are a very diverse society. We have many people who live alone and are in no particular relationship. We have single-parent families. We also have families with children who have two fathers or two mothers, as well as the more traditional family units of which I have no doubt my hon. Friend the Member for Enfield, Southgate would approve. We therefore need modern laws that recognise the sort of relationships that people have in modern Britain.

The latest Office for National Statistics report on household structures in the UK that is relevant to this debate is from 1 November 2012. It is entitled "Cohabitation in the UK" and shows that there are 2,893,000 opposite-sex couples in the UK who are not married. That figure is up from 1,459,000 in 1996, when the figure was previously reported, so between 1996 to 2012, the number of opposite-sex cohabiting couples doubled. Almost 6 million people are in relationships and living under the same roof, but not married, and that is the fastest growing type of family unit in the UK. Among different age groups, it is fastest growing among those aged over 65, who are clearly not entering into such relationships to have children.

While those 6 million people are currently cohabiting, as society sees it, but unmarried, as far as the law sees it, they are none the less in committed relationships. They share a home and there will quite possibly be children in the household. We can speculate about why people would choose to do that. It could be inertia, because they might have decided that their existing relationship works fine for them and see no reason to change it. It might even be cost, and I am sure that the Chancellor will have received representations about that prior to the Budget, perhaps even from several hon. Members in the room, who might wish to intervene to say that tax is the reason why people do not enter into a marriage. Perhaps my hon. Friend the Member for Enfield, Southgate will tell us.

Mr Burrowes: I am hoping that my hon. Friend will be able to tell me. I understand that Stonewall attended the Lib Dem conference in 2010 and pointed out that the extension that he seeks would cost £5 billion over 10 years. I am not sure where that figure came from, but is he aware of it? Has he been able to assess the likely cost of his proposal?

Stephen Williams: I thank my hon. Friend for that intervention and I was not aware of the figure. No doubt the Minister will give us reasons why the Government have chosen not to extend civil partnerships to opposite-sex couples under the Bill. Cost may well be one reason, but perhaps it is not the most compelling one.

Six million people are currently cohabiting in a relationship, perhaps living with children. While that might be due to inertia or cost, I suspect, in many cases, that it is simply a conscious decision that people have made, perhaps because they have an objection to the historical institution of marriage, as it has been defined over time. After the Bill becomes an Act, the perception of marriage might change. However, it has been put to me that many people see the current institution of marriage as a means of social control to which the equal rights of women have been a relatively recent addition.

People in the room, such as the hon. Member for Rhondda, are much more qualified than me to talk about the marriage ceremony. I believe that the phrase "love, honour and obey" has disappeared from the marriage service or is not usually an option any more, but it none the less it lives on in folklore and memory.

I am sure that all of us on the Committee can think of people, perhaps friends or members of our families—certainly several members of Bristol council—in long-term relationships in opposite-sex couples, perhaps living with children, who have chosen not to marry. If we passed the new clauses, those couples could have the option of entering into a civil partnership to give recognition to their commitment and, by that legal underpinning, perhaps also strengthen it, especially if there are children.

4.45 pm

The ONS report to which I referred says that, in 2012, 39% of unmarried couples had at least one child in their household compared with 38% of married couples. The latest statistics from the registrar of births, marriages and deaths show that, in 2010, 53% of birth registrations were to parents who were married. Some 31% of registrations were to unmarried parents who live together, while the remaining 16% were to parents living separately or when the father was not identified for whatever reason.

It is therefore clear that marriage is not necessarily about procreation, and a number of people who enter into marriages do not procreate. Equally, a large number

of family units in the United Kingdom certainly do procreate but, for whatever reason, choose not to enter into the existing institution of marriage that is legally available to them. Roughly four out of 10 unmarried couples choose to have children and roughly a third of children are born to unmarried parents living together. Extending civil partnerships to opposite-sex couples would give legal recognition to such family units.

The third reason behind the proposal is that the legal rights of unmarried couples, or couples who are not in a civil partnership, are not equal to those of couples who are married or in civil partnerships. There is no such thing—certainly in the law of England and Wales—as a common-law husband, wife or partner. While I was reading up on this, I discovered that even a couple who are engaged to be married—as long as there is an indication of clear intention, perhaps by buying a ring—have greater legal protection than a cohabiting couple. That is provided for under the Law Reform (Miscellaneous Provisions) Act 1970, with which I am sure that at least one of the Ministers in the room is very familiar—or is about to be, if they are not.

At present, unmarried opposite-sex couples can have separation deeds or can enter into cohabitation contracts. These existing societal arrangements seem to offer very good work for solicitors. We have all heard of pre-nuptials for people who are considering entering into marriage—I understand that some family lawyers refer to these agreements as no-nuptials—in order to protect existing property rights. An obvious example would be where a man—it probably would be a man in many cases—owns a house and his girlfriend moves in. They may live together for many years, but if that relationship breaks up at some point in the future, the girlfriend would have absolutely no rights if there had been no intention to marry and they had not been engaged. Even if there were children present, they would still need to have recourse to the courts under the Children Act 1989 to try to establish rights to what everyone else would see as the family home. Extending civil partnerships to opposite-sex couples, particularly if children were present, would provide for protection under the law much more easily.

This Bill is about equality and civil rights, but it would be perverse to pass it unamended and thereby create a new excluded minority—a large, 6 million-strong minority—who cannot enter into a civil partnership if they wish to do so. During our evidence sessions, many of us asked the witnesses whether they supported, or saw any objection to, civil partnerships being extended to opposite-sex couples. I do not recall a single witness who replied negatively. Some were neutral, but nobody put forward an opinion of why we should not do this. Indeed, Baroness Kennedy and Lord Pannick said the Bill would be much better if this extension were included.

The new clauses represent no harm to society, but could be an opportunity to create much happiness in the country. It is very rare that parliamentarians are able to vote on things that do not represent any harm but have the potential to create much happiness, so I hope that we will embrace that opportunity at some point.

Chris Bryant: I broadly agree with what the hon. Gentleman says, although I would say that the Bill itself will provide immense good without providing significant harm to anybody. Some still subscribe to the Westminster Confession and others have religious objections but, none the less, the broad weight of the Bill will provide greater benefits, even if it is unamended, and I think that that is the public's view as well. However, the Bill will also lead to some anomalies. It would be inaccurate to say that this is a Bill of perfect equations and perfect equality, because we will end up with rather different rules for heterosexuals and homosexuals, and I would prefer us not to go down that route.

When the Secretary of State came before us, her "gold standard" argument seemed to be based on the fact that she would, in all honesty, prefer to abolish civil partnerships, pretend they had never existed and go forward with same-sex marriage. However, that is not possible, because there are inconvenient people, such as myself, who are in civil partnerships, and we might not want to be in a same-sex marriage—we might be perfectly content. When civil partnership legislation was first introduced, many lesbian, gay, bisexual and transgender people said, "I actually like the fact that the legislation is slightly different. We don't want to pretend to be heterosexuals." That conversation has moved on dramatically.

However, I know many heterosexual couples who have lived together for many years—several of them have children—and have never wanted to enter into marriage, which they associate, even if it does not take place in a church, with religion, to which they do not subscribe. None the less, they would like to be able to regularise their relationship and put it on a proper legal footing. All too often, as the hon. Gentleman says, people have inherited this bizarre assumption that there is this thing called a common-law husband or common-law wife, which somehow brings with it certain rights. The Law Society has produced endless reports saying that Parliament really must look at provision for people who have lived together for many years, but who have not managed to regularise their relationship in law. Normally, the woman ends up losing out massively when her partner dies.

Those who take a religious perspective might say, "But there is a gold standard: it is marriage." The hon. Member for Strangford quoted Matthew, chapter 19, verses 4 and 5. There, Jesus quotes Genesis, chapter 2. At that time, he did not expect that, for a marriage to be concluded, three banns of marriage would be provided in a church and that someone would be able to go only to their parish priest, rather than somebody else's parish, unless they got an archbishop's special licence.

The whole construct of legal marriage in this country hinges on an historical assumption that it is right for two people to marry one another. When we had the representative from the Quakers before us, it was interesting that they talked, in a sense, about an older understanding of marriage, in which the priest or the vicar was not marrying the couple, because they were marrying one another, and everybody else was a witness. In a sense, that is what the civil marriage does.

Given all that, it would be wrong to talk about a gold standard and to say that it is what the Church provides and calls marriage, holy matrimony or whatever term we want to use, or, for that matter, that it is marriage in a registry office or some other place that is legally licensed. Many people actually want platinum, silver or whatever other precious metal we might want to refer to, because we all live our lives in different ways.

I think of the kind of couple who have lived together for 25 years and who have children. They do not want to invalidate the emotional commitment they personally made right at the very beginning, which has lasted all these years, and that is what they feel that going to a registry office to perform a marriage with a ceremony would require. However, they do want to make sure that, if anything were to happen to them, their partner would be provided for in law. That is why I think the hon. Member for Bristol West is right.

It is a big question whether it is right to make changes on this issue at this stage of the Bill. This is the Committee stage, and we can completely and utterly change any Bill in Committee, should we choose to. However, many right hon. and hon. Members thought long and hard before they voted for the Bill on Second Reading. This measure was not part of the Bill on Second Reading. It would change quite significantly the kinds of letters that a lot of right hon. Members and hon. Members would want to write to their constituents about the nature of the Bill.

I hope that we will have a debate on this issue on Report, and that we will not have a vote this afternoon; if we were to do so, although I personally support the idea behind it, I would vote against the new clause, because a decision on it should be made by the whole House rather than in Committee. I look forward to hearing the remarks of the hon. Member for East Worthing and Shoreham and the hon. Member for Enfield, Southgate, who are now about to fulminate.

Tim Loughton: I have a good deal of sympathy with the new clause. I completely fail to understand the logic of the hon. Member for Rhondda in saying that it should not be up to a Committee that has been appointed by the whole House to pass new clauses that will then have to be endorsed or overturned by the whole House. The whole point of the Committee is to have the breadth and space to discuss amendments and put forward new clauses in the spirit of consideration that is given by being in a Committee Room, and then to send the Bill back to the Floor of the House, where any other Members who have an interest can take part in the debate. The logic of the hon. Gentleman saying that he will vote against something in Committee that he actually possibly agrees with because he wants his mates to have a go at it too is bizarre. Why does he bother with the Committee at all?

Chris Bryant: To listen to your speeches.

Tim Loughton: I am delighted. It is always a pleasure to perform in front of the hon. Gentleman, but I find his latest contribution quite extraordinary.

The point of the new clauses is to right an anomaly that has pervaded since 2004. On the figures that the hon. Member for Bristol West quoted, that anomaly is going to get worse. There is a very large excluded minority that we are going to be discriminating against in a Bill that is supposedly fashioned to combat discrimination. All of us—well, almost all of us—on the Committee who were in the House back in 2004 were happy to vote in favour of the Civil Partnership Act. I have to say that there is one exception to that; I looked at the record, and my right hon. Friend the Member for New Forest West, who was at that stage the PPS to the leader of the Conservative Party, voted against civil partnerships on Second Reading, and was entrenched in his position against them. Magically, the sunlit road to New Forest West brought about some conversion, whereupon he became the now Prime Minister's PPS. Alas, my right hon. Friend is not able to contribute to the Committee's proceedings, so we will not be able to find out at what point on that sunlit road to New Forest West that extraordinary conversion took place for somebody so entrenched against the perfectly legitimate, reasonable and long overdue extension of rights and recognitions to people in same-sex relationships in that important piece of legislation from 2004.

Chris Bryant: There is more rejoicing in heaven when one sinner repenteth. I would point the hon. Gentleman to the website of the right hon. Member for New Forest West; it has a wonderful letter on Leviticus, which it would be well worth the hon. Member for East Worthing and Shoreham reading.

Tim Loughton: We have all seen that letter on the website and have all chuckled greatly at it. Most of us would not have the guts to write to our constituents in those terms, although some of us take a different view based on completely non-religious personal beliefs, or on religious beliefs that can be backed up by what is in the Gospels and the New Testament, without having to go back to the rather extraordinary law that existed in the time of the book of Leviticus.

5 pm

I was looking back over the debate we had in 2004. What was interesting about the debate about the Bill is that many contributions on Second Reading were reliving that 2004 debate. It was all about giving recognition to same-sex couples; but we had that debate in 2004. That equality in the eyes of the law was achieved at that time.

What was interesting about the debate was that there was no mention, then, even in the speech of the hon. Member for Rhondda, which I have read and re-read, and taken to bed and re-read with interest—

Chris Bryant: I will sign it if you want.

Tim Loughton: Delighted.

The Chair: Order.

Tim Loughton: A lot of order, Mr Hood, yes.

There was no mention, at that stage, of the need to make sure that same-sex civil partnerships were also available to opposite-sex couples. It is strange that it did not come up; but also, at that stage, there was no mention of same-sex marriages. That is why I made the point on Second Reading about its being bizarre: in 2004 advocates of the legislation such as the hon. Member for Rhondda, many Conservatives, and others, were not called bigots for not proposing full-blown same-sex marriage; what I still find to be an anomaly, and am still unconvinced about, is the question of what has changed so much in the period between 2004 and

[Tim Loughton]

2013 that same-sex marriages have become the requirement, so that anyone who does not support them is, in some people's eyes, bigoted and intolerant.

The new clause would also provide an answer to Alice Arnold's question. She said in a perfectly legitimate testimony to the Committee that she really regrets the fact that because she is in a civil partnership with her partner, when she is asked "Are you married?" she must say, "No, but". Another of her concerns is that as a magistrate she could not refer to herself as married. Technically, she could, actually. The law says that the term "marriage" can be used by anyone. People can refer to themselves as married as long as they do not do so to defraud someone for financial advantage—and it is also against the law for someone in such a case to describe themselves as married in filling in the census.

What Alice Arnold and others who gave evidence were concerned about—and I can understand it—is that by having to say they are in a civil partnership someone automatically reveals that they are in a same-sex relationship. If the provision is passed, as I hope it will be—whether we get the opportunity to vote, with the support but not the vote, in Committee, of the hon. Member for Rhondda and his colleagues, or whether we wait for a larger debate on the Floor of the House—people in a civil partnership will have the opportunity to say that they are in a civil partnership without revealing their sexuality, if that is, perfectly understandably, a sensitive issue for them.

There is great merit in that. The whole basis of the argument for same-sex marriage is that it is in the interest of eliminating discrimination; but in bringing it about we should in some eyes give rise to much greater discrimination, in relation to the 6 million people who choose to cohabit without a formal union, and their opportunity to go down the route in question if they choose. There are some people, as the hon. Member for Bristol West said, who choose not to get involved in a formal partnership, whether for financial reasons, the cost of the thing, an aversion to mothers-in-law or whatever: it is just something they choose not to do.

The provisions will close an important anomaly. They will do something to eliminate discrimination, which will be exacerbated if the Bill is passed in its present form. It is something we should consider properly now. I would be prepared to vote in favour in Committee. That in no way undermines the capacity of the whole House to add its thoughts, and, ultimately, to vote on Report. It is about the parity of esteem, which is the phrase that I think the hon. Member for Bristol West used. It seems fair, it seems sensible, and I really want to know from the Government, if they are still going to take this standpoint, why they would prefer to see this anomaly pervade, rather than at this appropriate stage, closing a clearly unsustainable loophole?

Mr Burrowes *rose—*

The Chair: I call Mr Burrowes.

Mr Burrowes: On a point of order, Mr Hood. I want to make a few comments on clause stand part, but would it be appropriate to hear from the Minister first?

The Chair: It is certainly appropriate for the Minister to speak when he wishes to speak, but you caught my eye, and you stood first, so I called you to speak.

Mr Burrowes: Given my innings and other issues, I would not want to go too far into the new clauses that were moved well by my hon. Friends and supported by my hon. Friend the Member for East Worthing and Shoreham. I wish, however, to emphasise the question I asked: in response to the consultation, have the Government made an assessment of the financial impact of the clause? Has there also been an assessment of the impact in relation to the numbers of people who now would not want to proceed with marriage? It has been mentioned already that a key motivation of the Bill is to extend the numbers who are married; indeed, extending marriage and so allowing the numbers to increase is something that the hon. Member for Rhondda said he has campaigned on for many years. I would be interested to hear whether the Minister has any projection or assessment of the likely impact on the numbers of those who would choose marriage if there was the option of a heterosexual civil partnership.

I would like, however to take the Committee briefly into a wholly different direction, which is part of the point of a clause stand part debate. Part of the principle and policy rationale behind clause 1, which I and other dissenters find objectionable, is to take gender out of marriage as a distinguishing feature. That is something that the LGBT community have campaigned on, and we heard evidence from it. We did not hear evidence from everyone, as has already been pointed out, which was plainly the case given the confines of time, but some of us have had a chance to read some—if not all—of the written submissions made.

If one takes gender out of marriage, the Bill has to respond also to the legitimate concerns of, for example, the UK Intersex Association. It has made a submission and I want to put on record a genuine concern on its behalf, without making comments.

We have a submission from Christie Elan-Cane, who says that she is fighting for legal recognition. There has not been the opportunity to raise this issue, but it is important. I ask the Government both to respond to the submission and to explain their policy rationale given that they want to move beyond the issue of gender in relation to marriage and want the Bill to be on the side of equality. Christie Elan-Cane makes the point that the Bill

"takes no account of non-gendered people who do not define as male or female."

There is a physical ambiguity that they have to deal with. Christie continues:

"If the purpose of this Bill is that every legitimate couple should have an equal right to marry, the government has failed.

The draft terminology is unequivocal in its description of a couple as comprising of one man and one woman, or two men, or two women."

Christie then makes the point:

"Members of society who do not identify as male or female (and do not regard themselves as either men or women) are forced to present as gendered in order to register a marriage, and the Marriage Bill will not change"—

as far as Christie and the UK Intersex Association are concerned—"this unacceptable situation."

Christie makes the point that,

"The Bill serves only to perpetuate injustice on socially invisible members of society who have no legally enforceable rights, but who nonetheless can form relationships and should have the same right to have a relationship recognised by the state."

I ask the Minister to respond directly to those concerns. That call for equality must be responded to by the Government, and they should explain the rationale behind the clause.

We have had a lengthy debate on the clause, and I wish to avoid repetition. In reality, the clause, in my view and the views of many others, is unacceptable in its present form. I do not want to simply return to the debate on the principle that we had on Second Reading. Nevertheless, the clause touches on the important principle at the heart of the Bill. Perhaps there was an acceptance that, as far as the Government are concerned, the purpose of marriage does not need to be defined because it means different things to different people, and we are not in the realms of redefinition. I have made the case that it is clearly a redefinition of marriage. Members do not have to take my word for it; they can take the word of the leading counsel for the Equality and Human Rights Commission, who said in his submission that it is clearly a redefinition of marriage.

It is important to make the point that

"The government's definition of marriage"—

which is at the heart of the clause—

"reduces it to the important but insufficient elements of mutual love and formal public commitment. It omits four key interconnected features"—

which are not mandatory, and not everybody is going to sign up to, but which are central features of the Christian understanding that formed the institution of marriage in this country, and of other faiths that must be given a proper voice. There is

"widespread recognition of these features across space and time in culture and law".

I do not wish to go thorough the millennia of historical characteristics of marriage, because we are at the end of the day. However, it is important that marriage is properly recognised.

The clause plainly goes against the first principle, that

"marriage establishes a new social unit based on the union of two individuals who together embody the fundamental…distinction or 'otherness' within humanity—being male and female."

It also goes against the second, interconnected feature, that

"marriage is expressed and embodied in a physical, sexual union."

That is something that it does explicitly, when one looks at the issue of non-consummation. I move on to the issue of adultery. The third principle is,

"in marriage, husband and wife each commit to give themselves physically to each other in this way exclusively for life."

The clause seeks to set itself against that feature of exclusivity. The fourth principle is,

"the trans-generational good of establishing a legally-recognised and socially-supported context for both the procreation of children and their continued nurture and healthy development to adulthood in a community".

It is not just an issue of the right of individual couples to access marriage. It is also about being part of a community that is based on otherness, recognition, and the respect of both the distinctive value of all in their differences, and the institution that is reflected by a man and a woman who are biological parents committed to each other.

I do not want to rehearse the previous arguments,. However, those are fundamental principles that many of us believe are important, interconnected characteristics of marriage. Given that the clause seeks to go against them and redefine marriage, I do not want it to stand part of the Bill.

5.15 pm

Hugh Robertson: I am grateful for the opportunity to set out why the clause should stand part of the Bill, but, for the convenience of the Committee, it might make sense if I deal with the new clauses first. New clauses 1 and 2 would allow opposite-sex couples to register as civil partners. I entirely understand the arguments behind that idea, but there are five points that balance it.

First, as we have said a number of times today, the fundamental purpose of the Bill is to extend marriage to same-sex couples. Marriage is a hugely important institution in this country. I am not sure I would go as far as to say that it was the gold standard—I would quite like people to be able to opt to do what they want—but it is a hugely important institution. The principles of long-term commitment and responsibility that underpin it bind society together and make it stronger.

The Government believe that people should not be prevented from getting married unless there are good reasons. Loving someone of the same sex is not one of them. The Bill will remove the unfair barrier that prevents same-sex couples from being able to get married and, by doing so, open up the vital institution of marriage to all couples. The Bill points in that direction, rather than back towards opening up civil partnerships.

In that context, it is worth reminding ourselves of how the Civil Partnership Act 2004 came about. That Act had a single objective: to provide access to legal rights, responsibilities and protections for same-sex couples, who previously had none. Civil partnerships are not designed to be an alternative to marriage—their aim is to give same-sex couples rights that are broadly equivalent to those already enjoyed by opposite-sex couples through marriage.

Secondly, the argument put before us in support of new clauses 1 and 2 is that opposite-sex couples should have access to civil partnerships as an alternative for those who do not want to marry, but want to gain the legal rights, responsibilities and protections that marriage brings. However, the institution available for those who want the rights, responsibilities and protections of marriage is marriage.

Chris Bryant: The thing is that that is not always the case. For example, for a couple who have been living together for a long time, if one of the partners was going to die, and they knew that they were going to die, and they were not able to consummate a marriage, full, non-voidable marriage would simply not be available to them, whereas a civil partnership would.

Hugh Robertson: I just want to make sure that I have got that clear. If that couple did not wish to get married in those circumstances—

Chris Bryant: The couple could get married, but physically they would not be able to consummate. The marriage would therefore technically be voidable. Marriage is not available to every heterosexual couple. There are certain circumstances in which a couple might not want to have a full ceremony but go for a civil partnership.

Hugh Robertson: A Minister sometimes gets this wonderful feeling of passing outside their comfort zone. This may be one of those moments.

Having resisted the temptation of getting into all the cricket analogies first thing this morning, the logic there would depend on the basis on which we opened up civil partnerships to opposite-sex couples. I take the hon. Gentleman's point, but I will not go into that discussion. I have made the point that the institution is marriage, except in the circumstances that the hon. Gentleman has itemised. I would not want, in any way, to take away from the importance of civil partnerships. Through the 2004 Act, more than 50,000 same-sex couples were able to celebrate and gain legal recognition of their relationship like other couples for the first time.

Thirdly, as I have said, opposite-sex couples can marry; they have always been able to. They have the choice to do so through either a civil or a religious ceremony. Many Members have said today that they know people who would avail themselves of the new opportunity if it were to come about, but I am not entirely clear what detriment could possibly be suffered by an opposite-sex couple in not being able to register as civil partners. I am not absolutely convinced that there is a group of people campaigning for that. That did not appear until the consultation was published, to which I will come in a minute. As I said in the beginning, the Government believe in the importance of marriage, and we want to encourage people to make the commitment.

Fourthly, it is true that, in our consultation, 61% of those who answered the online response form said that opposite-sex couples should be able to register a civil partnership. However, it is important to distinguish between those who call for the change and those who would avail themselves of it. That is part of the point I made before. More than half of those who answered the question identified themselves as lesbian, gay or bisexual, and we are not entirely convinced at this stage of the demand by opposite-sex couples for civil partnerships.

Finally, I come to what may be the crucial and, I regret to say, dreaded process argument. Attempting to open up civil partnerships in the way new clauses 1 and 2 suggest would fail on its own, because a raft of changes to other legislative provisions would be needed to deal with issues such as pensions, as well as the consideration of all references to civil partners in legislation. The new clauses in themselves offer no means of making such changes, nor would it be reasonable to expect them to do so. Nor would they deal with the complexities of amending legislation relating to a devolved matter that has effect across the UK, whereby any proposal would need to be discussed with the Administrations in Scotland and Northern Ireland, as indeed is the case with the provisions in the Bill. That would then get into the issues of whether such relationships would have legal status in those jurisdictions.

In conclusion, although I hear the argument and understand the case being made, I am not convinced that opening up civil partnerships to opposite-sex couples is necessary. It would risk the central aim of the Bill and would almost certainly delay it while the other legal consequences were worked through.

Mr Burrowes: Will the Minister tell us the likely impact on cost and the numbers projected to marry as a result of the Bill? Has there been any analysis of that during the consultation?

Hugh Robertson: The simple answer is, not that I am aware. If we have any indication I will certainly write to my hon. Friend. The reason we do not have that information is because the basis on which the consultation was done, going back to point one, was to extend marriage to same-sex couples, not to head in the opposite direction. I am not sure that piece of work has been done. If those figures or any estimate are lying around I have not seen them. If they are there, I will write to my hon. Friend on that basis. Just to finish where we were, I urge the hon. Member for Bristol West not to press proposed new clauses 1 and 2, although I suspect we may return to them later in our deliberations.

I do have a speech related to the stand part debate on clause 1. It might be easier just to answer the question, rather than go through something we have already been debating for six hours. [Hon. Members: " Hear, hear."] I knew that would be popular. I will answer the question put by my hon. Friend the Member for Enfield, Southgate about intersex and gender-neutral people who are not helped by the Bill. The Bill indeed does not address issues concerning people who do not consider that they are either men or women. The reason is that that is not the purpose of the Bill.

We are aware of the issue that my hon. Friend raised, but what we are attempting to do is focus on the issue of opening up marriage to same-sex couples. The law in this country has a very binary understanding of gender; rightly or wrongly, that is the case. I acknowledge the issue but do not think that the Bill is the vehicle for opening it up.

Mr Burrowes: Clause 1 is obviously the foundation of the Bill. Despite the fact that we are likely to finish at 5.30 pm, I suggest that it is important to have a response to clause 1, so that we can make a judgment as to whether we conclude that particular part at another date. I would not want us to curtail a response, just for the sake of time, to what is an important clause, notwithstanding the fact that we have debated various elements of it. They have been predicated on the scrutiny that the dissenters have allowed. I would ask the Minister to consider responding.

Hugh Robertson: As my hon. Friend is well aware, a speech on clause stand part goes through the clause and describes why all the various parts in it are necessary. I suspect, with the debate now bordering on six hours, that we have probably been through that in some detail. It is very, very clear—he is absolutely right—that clause

1 is the cornerstone of the Bill. It sets out the fundamental purpose that underlines the Bill by making the marriage of same-sex couples lawful in England and Wales, and removes a significant unfair barrier facing same-sex couples in that regard. The subsections list the legislative routes to achieve that through parts 3 and 5 of the Marriage Act 1949, the Marriage (Registrar General's Licence) Act 1970 and the various Orders in Council that need to be undertaken. They are all the requirements that flow from the clause. Of course, subsection (3) makes particular provision in relation to canon law, as we have discussed.

Tim Loughton: If we are not going to have a proper clause stand part debate, there are certain things that have been left unconfirmed. Will the Minister confirm for the record that he has now established that there is a hierarchy in the public sector equality duty? That is what our earlier debate showed absolutely. We debated the specific example comparing doctors and abortion with registrars. He said that that is different; clearly there is a hierarchy. Will he confirm that one thing that has come out of the debate on clause 1 is that that hierarchy is now in place?

Hugh Robertson: No, I will absolutely not confirm that. I will be very, very clear about this: I do not know what led to the provisions in the Abortion Act 1967 to which my hon. Friend referred. I do not know what the thinking was behind them and I was not part of that debate. What I do know, and what I absolutely believe in personally, is that if the House passes a piece of legislation, there is a duty on public servants to carry it out. That duty is part of a process in a democracy, which is precisely why I would resist new clause 5. Registrars are public servants. If a Bill is passed in this House with a very considerable majority, as was the case on Second Reading—I do not know what will happen in future—then registrars, as public servants, are under an obligation to carry out the duties contained in that Bill, plain and simple. On that basis I commend the clause to the Committee.

Question put, That the clause stand part of the Bill.

The Committee divided: Ayes 13, Noes 4.

Division No. 1]

AYES

Andrew, Stuart	Green, Kate
Bradshaw, rh Mr Ben	Kirby, Simon
Bryant, Chris	McGovern, Alison
Doughty, Stephen	Robertson, rh Hugh
Ellison, Jane	Swayne, rh Mr Desmond
Gilbert, Stephen	Williams, Stephen
Grant, Mrs Helen	

NOES

Burrowes, Mr David	Loughton, Tim
Kwarteng, Kwasi	Shannon, Jim

Question accordingly agreed to.

Clause 1 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(Mr Swayne.)*

5.29 pm

Adjourned till Thursday 28 February at half-past Eleven o'clock.