PARLIAMENTARY DEBATES

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GENERAL COMMITTEES

Public Bill Committee

MARRIAGE (SAME SEX COUPLES) BILL

Ninth Sitting

Tuesday 5 March 2013

(Morning)

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Saturday 9 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 5 March 2013

(Morning)

[Mr Gary Streeter *in the Chair*]

Marriage (Same Sex Couples) Bill

Written evidence to be reported to the House

MB 80 Chris Rogers
MB 81 TUC
MB 82 Dr Clara Greed
MB 83 Peter Scott
MB 84 National Aids Trust
MB 85 Geoffrey R. Larcombe
MB 86 Nigel Whitaker
MB 87 Daniel Moody
MB 88 David Shepherd
MB 89 Michael Hobbis
MB 90 Godfrey Harverson
MB 91 Family Education Trust
MB 92 Christians for Equal Marriage
MB 93 Peter Heywood
MB 94 Society for the Protection of Unborn Children
MB 95 Daniel Hill
MB 96 Gay and Lesbian Humanist Association
MB 97 Sam Webster

8.55 am

The Chair: Before we begin, I wish to notify colleagues that copies of the amendment paper are on their way. I apologise for the delay, but they will be here any moment.

Clause 2

Marriage according to religious rites: no compulsion to solemnize etc.

Mr David Burrowes (Enfield, Southgate) (Con): I beg to move amendment 26, in clause 2, page 4, line 13, at end insert—

"Marriage counselling etc.

25B (1) A person does not contravene section 29 only because the person conducts—

(a) a marriage preparation course,

(b) a marriage counselling or guidance service, or

(c) an agency to help people find a spouse,

and does not extend those services to marriages of same-sex couples.'.

The Chair: With this it will be convenient to discuss new clause 6—*Existing charitable trust deeds*—

'A charitable trust deed which includes in its objects, directly or indirectly, the promotion of marriage or the provision of marriage counselling is not extended by this Act to marriages of same-sex couples.'.

Mr Burrowes: Good morning, Mr Streeter. Welcome to day three, although I note that the Committee has not yet gained its full attendance of members—they must be rushing to our exciting deliberations.

As I was padding up for Team marriage, the words of the Secretary of State for Culture, Media and Sport were again ringing in my ears:

"I would never introduce a Bill that encroaches or threatens religious freedoms."—[*Official Report*, 11 December 2012; Vol. 555, c.157.]

I therefore hope that the Government will welcome the opportunity to support the intentions behind amendment 26 and new clause 6. The Government's proposal to insert new paragraph 25A into schedule 3 to the Equality Act 2010 is properly intended to safeguard religious leaders and organisations that do not wish to be involved or associated in any way with same-sex wedding ceremonies. That welcome provision has support throughout the Committee.

We want to move the Government away from that particular focus. The Minister is very much playing a straight bat on protecting the area around churches and the ceremony, but we want him to play more expansive strokes with his liberty bat and move further into an area that obviously encompasses the whole issue of marriages and institutions. It goes beyond the ceremony, as the means by which a couple enters marriage, into the whole area of recognising properly, as we all do, that marriage is a lifelong relationship, as well as the work of agencies that are active in supporting couples both before and after the marriage ceremony.

The purpose behind amendment 26 and new clause 6 is to allow the Minister to provide assurances to those agencies that are involved in the preparatory work for marriage as well as counselling. They might well have a specific faith base, although they may not. They might or might not have a principled objection to providing support and guidance to same-sex couples. We want to explore the proposition that if we are willing to grant protection to those who are unable, in good conscience, to be involved in a ceremony, it would be consistent to provide similar protection for those who are unable, in good conscience, to provide a marriage counselling service to same-sex couples either before or after the wedding ceremony. Will the Minister clarify whether the Government's policy intention through the Bill is to require individuals who offer pre-marital advice and preparation, or marriage counselling and support, to extend their services to same-sex couples, when providing such a service would go against their conscience?

The amendment also applies to those providing marriage introduction services, of which there are a number, not least those with a Christian base. We want to explore whether protection is needed to allow for conscientious objection for those agencies that would want to maintain an introductory service only for opposite-sex couples.

The source of the amendment comes from an intervention that was made on Second Reading by my right hon. Friend the Member for Lagan Valley (Mr Donaldson), who referred to advice received from the Government Equalities Office that marriage courses run by churches for the community would be affected by the Bill. In response, the Minister stated that the Equality Act 2010 contains provisions that protect non-commercial religious organisations from any requirements

to offer marriage courses to same-sex couples on the same basis that they offer them to opposite-sex couples. In view of that particular response, there seems to be some confusion between what the GEO and the Minister are saying, so the amendment gives him an opportunity to clear that up.

Will the Minister set out the distinguishing characteristics of a non-commercial religious organisation? Are the Government trying to distinguish between not-for-profit and for-profit organisations, between those that operate from church premises and those that do not, and indeed between religious organisations and those that have no religious basis at all—secular organisations that want to offer marriage courses to couples?

There are four aspects to the amendment. First, I want the Minister to assure us that the amendment will not be necessary because organisations that provide marriage preparations will not have their public funding withdrawn if they decide to continue providing classes only to heterosexual couples. The Bill does not provide such protection explicitly. It provides protection for persons involved in religious marriages—or, to quote the clause, "relevant" marriages—but even that protection is limited as it appears to apply only to the original marriage ceremony, so it does not address the provision of services that may be necessary before or after that ceremony.

Clause 2(2) provides protection for those who "conduct a relevant marriage", as well as those who are

"present at, carry out, or otherwise participate in, a relevant marriage, or…consent to a relevant marriage being conducted".

That is an exhaustive list, so the protection is limited only to the activities listed. The setting out of the activities means that there is an end to that protection, and when considering the phrase "or otherwise participate in", a court is likely to interpret it as not going any further than participation in the ceremony itself. If the Minister is saying that that is as far as the protection goes, it would be useful to have that clarified. Plainly, the provision of marriage preparation, even if provided prior to a relevant marriage, would not be covered, and the amendment would provide such protection.

The organisations that provide such services go beyond public servants, public authorities and public bodies. The people performing the service are often not paid—they are often volunteers—so they are in a different situation from those involved in our previous discussions about protections, such as registrars. Will the Minister provide an assurance that funding will not be withdrawn from those organisations if they continue their practice of offering marriage preparation only for heterosexual couples?

Any organisation that has charitable status and provides marriage preparation may be in danger of finding its charitable status threatened if it resolves to continue providing marriage prep only to heterosexual couples. Therefore, it would be helpful if the Minister would assure us—the Secretary of State's statement about protection from encroachment on religious liberty is ringing in my ears—that the charitable status of those organisations will not be affected if the Bill becomes law. Amendment 26 would go some way towards preventing—this debate at least helps to clarify the position—any restriction on marriage preparation to heterosexual couples being considered discriminatory under the Equality Act.

Members of the Committee will be aware that the Charity Commission, following the enactment of the Charities Act 2006, is active in considering what constitutes a benefit to the public. Case law is moving forward, and the Charity Commission is now adopting a new view of what constitutes public benefit, and that may well change over time. If the commission was to make a declaration, I would ask the Minister to give us a clear view, even if this is not in the Bill, of the impact on a marriage preparation service. It is important that Parliament's intention is clear, although the Charity Commission is, of course, wholly independent. If the commission tried to remove charitable status from an organisation that provided marriage preparation only to heterosexual couples, or refused to grant charitable status on the grounds that such an organisation's services were discriminatory, will the Minister make it clear that that is not what he intends from the Bill? We need to be clear about whether the Charity Commission, or any other organisation, would be acting ultra vires if it tried to remove charitable status from such an organisation, or refused to grant it.

Amendment 26 also enables us to explore whether a charitable organisation would fall foul of section 193 of the 2010 Act if it decided to continue to provide marriage preparation classes only to heterosexual couples. As the Committee will no doubt know, that section states:

"A person does not contravene this Act only by restricting the provision of benefits to persons who share a protected characteristic if…the person acts in pursuance of a charitable instrument"

and the provision is

"a proportionate means of achieving a legitimate aim, or…for the purpose of preventing or compensating for a disadvantage linked to the protected characteristic."

In other words, a person will contravene section 193 if that person restricts the provision of benefits and that restriction is not the proportionate means of achieving a legitimate aim, or does not prevent or compensate for a disadvantage linked to a protected characteristic. To put it another way, it can be lawful for a charity to discriminate by limiting the group of people it helps, but that discrimination must pursue a legitimate aim in a fair, balanced and reasonable way.

The Charity Commission has, quite rightly, put guidance regarding the Equality Act on its website, making clear that a legitimate aim will have a "reasonable social policy objective", will be

"consistent with the lawful carrying out of the charity's stated purpose"

and will not be discriminatory. That guidance says that, for any restriction, there needs to be

"strong justification that shows that the restriction is appropriate and necessary in order to achieve the aim",

and that trustees must be able to show that applying the restriction

"is justified although it excludes people with other shared protected characteristics"

and that that is the only effective way of carrying out the legitimate aim.

Plainly, marriage preparation and counselling are considered to have a legitimate aim. The Committee will recognise that it is helpful if couples are properly prepared for marriage. There are many good organisations doing that job, which benefits the couples as well as

[Mr Burrowes]

wider society, and many such marriage preparation services have charitable status. If the Bill is enacted, will there be a limiting of marriage preparation classes? Will the test that we have, which the Charity Commission is implementing, be affected? The Charity Commission's guidance states:

"Where the charity restricts its benefits to a group that shares a protected characteristic such as…sexual orientation…and the restriction is not justified on the basis of disadvantage or need…this can only be justified by particularly convincing and weighty reasons."

There is concern that there is a genuine risk, based on section 193 of the 2010 Act and the existing commentary from the Charity Commission, that an organisation could face accusations of discrimination if it restricts the benefit of its services to heterosexual couples, because it could fall foul of section 193. That could happen even if the organisation provided a service for same-sex couples that was different from its marriage preparation classes. It is therefore important that we have some clarity on the issue so that charitable organisations and the Committee are reassured that continuing to provide marriage preparation courses will not go against either the Equality Act 2010 or emerging charity law.

Amendment 26 also highlights concerns about some organisations falling foul of section 29 of the Equality Act 2010. Clause 2(5) provides exemptions to section 29 through proposed new paragraph 25A of schedule 3 to the 2010 Act, but the provision echoes almost exactly the activities listed under clause 2(2) which, as I have said, involve only the marriage ceremony. Section 29 deals with services, and there is little doubt that the provision of marriage preparation courses will be deemed a service for its purposes, so organisations and individuals providing the courses may well immediately fall foul of section 29 by providing services only to heterosexual couples. We must make sure that organisations do not fall foul of the Act. The Minister and the Government want to provide the necessary exemptions in terms of any ceremony or church service, and such exemptions should extend to preparatory work and to other matters.

New clause 6 approaches the matter from a different direction. It is a probing measure, because I would not want the Government to get involved in charitable trust deeds, many of which are of long standing. However, if the Bill becomes law, marriage will mean something very different for many organisations and charities that were set up in the context of marriage being between a man and a woman. I was contacted by a charity that was formed to promote the family, founded on marriage, and its trustees expressed concern that its founding principles would eventually fall foul of equality legislation and that it would risk losing its charitable status. Many organisations and charities do great work supporting marriage. Will there be an impact on those that are fundamentally based on recognising only the traditional definition of marriage? Through our exploration of the amendment and new clause, we hope to get some assurances from the Minister.

Chris Bryant (Rhondda) (Lab): Good morning, Mr Streeter. How are you?

The Chair: Well.

Chris Bryant: Good.

Of course, I disagree with everything that the hon. Member for Enfield, Southgate has said, so I will not delay the Committee long. He never bothered to point out what he wants the organisations he mentioned to be able to do in the context of the Equality Act 2010. Section 29 of that Act prevents a service provider from discriminating against, harassing or victimising a person, so I can only assume that he wishes to allow

"a marriage preparation course…a marriage counselling or guidance service, or…an agency to help people find a spouse"

to victimise, harass and discriminate.

I do not know whether many other members of the Committee are trained counsellors, as I am—I did a three-year training course with WPF Therapy. The hon. Member for East Worthing and Shoreham, with his clerical background, looks as though he might have trained as one—*[Interruption.]* No, he has not. He does have a sort of councillor—not counsellor—look to him.

Proper counselling does not determine the end of that counselling before the session has even started, so amendment 26 and new clause 6 fall short in their understanding of counselling and marriage guidance. They equally fall short of what the hon. Member for Enfield, Southgate seems to want to achieve, which is more harassment and victimisation of, and more discrimination against, homosexuals. This seems a rather bizarre thing to want to put in the Bill. The amendment and new clause are completely unnecessary and they deal with a problem that does not really exist, so we should oppose both of them.

Tim Loughton (East Worthing and Shoreham) (Con): Welcome to the Chair, Mr Streeter, on this joyous spring morning. I did not quite follow the hon. Gentleman's contribution, but let me add a few points in support of my hon. Friend the Member for Enfield, Southgate. Amendment 26 and new clause 6 are probing measures to try to achieve clarity, which I hope the Committee is united in seeking. The more we discuss the Bill, the more questions seem to arise, and they deserve answers.

I have always believed in putting more detail in legislation for the avoidance of any doubt, and people with concerns about the Bill have a lot of doubt. We will not agree on whether there is a need for this legislation, but we must agree on the need for clarity and for the sorts of protections that the Government are trying to assure us are inherent in the Bill. That is why we need to think through the implications of the proposed redefinition of marriage, and particularly, in this instance, those for what I would call the paraphernalia around marriage, as distinct from the marriage ceremony itself, which is clearly addressed by the Bill. That includes preparation courses, marriage counselling, guidance services and agencies to help people to find a spouse. My hon. Friend referred to the intervention on Second Reading by the right hon. Member for Lagan Valley, who asked whether Members were

"aware that the minister of Holy Trinity church, Brompton approached the Government equalities office to ask whether marriage courses run by churches for the community could be affected by this legislation and was advised that they will be…Therefore, the Bill does impinge on the work of Churches and their beliefs on marriage." [*Official Report*, 5 February 2013; Vol. 558, c. 199.]

That was the advice given by the Government's own equality office, so it was a little surprising when my right hon. Friend the Minister's response to the debate included his answering the question of whether marriage courses would be affected by the Bill by saying "no".

9.15 am

The Minister of State, Department for Culture, Media and Sport (Hugh Robertson): Correct.

Tim Loughton: That is the sort of clarification that I seek in the amendments.

Hugh Robertson: I shall say it for the record and save my hon. Friend any further trouble or need to detain the Committee. Where a church offers a marriage preparation course or counselling services, the existing exemption in the Equality Act 2010 would permit it to restrict those services to opposite-sex couples with the condition that exemptions are made clear.

Tim Loughton: That is helpful. Will the Minister explain why his Equalities Office is giving out different advice?

Hugh Robertson: No, because I am not responsible for the Equalities Office. I did not hear the conversation and do not know if that is an accurate representation of what was said.

Tim Loughton: The Minister may not be responsible for the Equalities Office but he is responsible for certain parts of Government and this is a part of Government. Therefore, in putting forward this legislation, the Government need to be consistent in the advice—

Hugh Robertson *rose—*

Tim Loughton: Hold on.

The Chair: Order. If the Minister wishes to intervene he should go through the usual process. This is not a fireside chat between two Members. Tim Loughton has the Floor and, if the Minister wishes to intervene, no doubt he will ask and the Member will decide whether to allow him.

Tim Loughton: Thank you, Mr Streeter.

Hugh Robertson: Would my hon. Friend allow me to intervene?

Tim Loughton: Oh, get on with it.

Hugh Robertson: We are now getting to very dangerous territory, because we are having a debate on the basis of a conversation that is reported to this Committee between two people who are not here. We have absolutely no way of working out whether that is an accurate representation of what was said. If my hon. Friend would like to provide me with the exact details of the Minister in question and the member of the Equalities Office we will certainly chase it down for him. Otherwise, we are slightly straying into the realms of fantasy.

Tim Loughton: The Minister highlights the problem that the amendments try to address. That was not just a conversation; it was reported on Second Reading of the Bill on the Floor of the House by a right hon. Member, to which the Minister gave a one-word reply, in effect. Subsequently, there has been no explanation of that apparent contradiction with what the Minister has said. He may well be right. I hope he is, because that is the sort of assurance we want.

Yet another arm of Government apparently gave out conflicting advice and the right hon. Member raised it on Second Reading. It is incumbent on the Minister, I would have thought, to go to the Equalities Office, to speak to the right hon. Member who raised the matter and get to the bottom of why conflicting views were given. I am surprised the Minister has not done that, and clearly that now needs to happen. Without that clarity as to how the conflict came about, doubts remain on the Committee whether the assurances—which I am glad the Minister has given—hold up when dealing with arms of Government responsible for the interpretation and enforcement of some of the legislation.

Hugh Robertson *rose—*

Tim Loughton: The Minister has been refuelled, so I look forward to hearing about it.

Hugh Robertson: The refuelling simply allows me to place on the record that, after that remark on Second Reading, the Government Equalities Office tried to locate in its records any evidence of that discussion having taken place and found none.

Tim Loughton: At which point I would have thought that the Minister, for clarification of all Members, would have gone to the right hon. Member for Lagan Valley to ask for his recollection of that conversation to determine how it came about. Did that not happen? I offer the Minister the opportunity to intervene to answer my question.

Hugh Robertson: I did answer the substantive issue at the time. I have re-answered it this morning with the relevant legislative backing. If Ministers of any party in government responded to every single completely ridiculous point—there is clearly no substance to the matter—no Government work would ever get done. The assurance is clear, and, with luck, I suspect we do not need to detain the Committee further.

Tim Loughton: It is slightly alarming that a right hon. Member—who has the right to raise such points on the Floor of the House, having spoken to Holy Trinity church, Brompton and having taken advice from the Government Equalities Office—says that the church was given conflicting advice, and that needs to be addressed. I gently suggest that a conversation with the right hon. Member for Lagan Valley, who has made a specific

[Tim Loughton]

claim, would be helpful in getting to the bottom of whether there is any validity to that claim and whether the Minister's clarification is entirely appropriate.

That is what these amendments and this Bill are really about: there are many unanswered questions that give rise to perfectly legitimate concerns. The Committee's job is to try to nail those concerns. Certainly on a Bill with a quadruple lock as its main characteristic, which is an acknowledgement of serious concerns that need to be addressed, it is even more incumbent on the Minister to close down any potential lines for further inquiry and concern. Those problems suggest that the various ministerial assurances that have been given lack complete water-tightness and substance.

In the first instance, the protection in the Equality Act to which the Minister referred applies to non-commercial religious organisations. However, the Home Office document "Equality Act 2010: What do I need to know? A quick start guide on religion or belief discrimination in service provision for voluntary and community organisations"—I am sure hon. Members will agree that that is a snappy little title—makes it clear that charities

"can restrict benefits to people of a particular religion or belief if their 'charitable instrument' (the document that set up the charity) requires or permits them to do so."

In other words, the protection to which the Minister referred is not for religious charities per se but only for those that restrict benefits to people of a particular religion or belief in their charitable objects. Moreover, what of charities that have a Christian ethos but are defined in terms of the promotion or advancement of marriage, rather than the promotion or advancement of religion? Many charities rooted in Christian principles and understanding are clear that marriage is the union of one man and one woman.

If hon. Members dig around the Charity Commission website on a wet afternoon, as I have, they will find some interesting examples that helpfully illustrate the problem. As one would expect, there are many similarities among organisations that conduct, for example, marriage courses or more widely seek to educate the public on marriage.

The first charity I came across describes its activities simply as:

"The teaching and promotion of Christian marriage principles".

The charity's charitable objects clarify and expand on that:

"To advance the Christian faith particularly (though not by way of limitation) through the teaching and promotion of relationships generally and especially those of Christian marriage."

A second charity describes its activities as:

"Teaching courses to married couples and those preparing for marriage about how to live their married lives in accordance with the principles, standards and doctrines of the Christian faith."

The charity's charitable objects note that its reason for doing so is:

"to advance, strengthen and support marriage and family life in the United Kingdom of Great Britain and Northern Ireland and elsewhere through the world based on the principles, standards and doctrines of the Christian faith."

The charitable objects of a third charity, the name of which makes clear its Christian ethos, make no reference to the promotion of religion but specify that the charity aims

"to educate the public concerning the institution of marriage".

Interestingly, a fourth charity's charitable objects specify that its raison d'être is

"to educate the public concerning the union of a man and a woman within the institution of marriage".

Those are some interesting examples of the different approaches of different legitimate, bona fide charities, registered with the Charity Commission.

It would be useful at this point to comment more generally on the clause. Subsection (5) would change the Equality Act 2010 in a way that points towards larger questions about the Bill as a whole. The subsection is concerned with wedding ceremonies according to religious rites, and not, as we would be led to conclude by the title of the new part 6A which is to be inserted into schedule 3 of the Act, "Marriage according to religious rites".

We could say that the draftsmen, who have done a skilled job, have dropped the ball slightly in this case. However, it is not unreasonable to say that it is equally likely that the confusion came about as a result of a fundamental error by the Government in conflating two completely different things and treating them the same—in this case wedding ceremonies and marriage itself. The wedding ceremony comes at the end of preparations that are often lengthy and detailed, perhaps including a marriage course. To put it another way, the Government seem to have failed to grasp the complexity and detail of what they are doing in rewriting the law on, and ultimately redefining, marriage.

To continue in general terms—although with reference to amendment 26, new clause 6 and the examples of charitable objects that I mentioned—it is interesting that Relate, the largest national provider of relationship support, which receives public funding and does a good job, offers different programmes for same-sex and opposite sex couples. Clearly, there is at the very least some tacit understanding that different content and/or approaches are needed for same-sex and opposite-sex couples. That is not a value judgment. It is just a recognition that a difference in service provision, and different sensitivities, may be required, so as best to meet the needs of different-sex and same-sex couples. Many charities and organisations that currently provide marriage courses or counselling do not have the capacity, expertise or foundation-level backing from their charitable objects or volunteer workers to meet such a need.

I should be grateful if the Minister would answer some questions in the light of the points I raised about charitable objects. First, given the concerns about the applicability of the protections in the Equality Act 2010, which the Minister outlined on Second Reading, will a charity that aims to educate the public about the institution of marriage, based on its charitable objects, be open to an accusation that it is not fulfilling its charitable objects if marriage is redefined and it continues to educate the public from its faith viewpoint? Will he answer with respect both to a charity that specifies in its charitable objects that it exists in part for the promotion

of religion, and to one rooted in a Christian ethos but whose charitable objects do not specify that part of its raison d'être is the promotion of religion?

Secondly, will a charity that currently explicitly states in its charitable objects that its aim is to

"educate the public concerning the union of a man and woman within the institution of marriage"

be protected by the Bill from having to change its charitable objects if marriage is redefined? Those are practical questions, which many charities may already be asking because of the Bill.

Some of the charities to which I have alluded would certainly not, on a practical and pragmatic level, be able to withstand a challenge questioning their charitable objects. They simply do not have the resources. Will the Minister, bearing in mind the Government's desire to address family breakdown and promote the big society, accept the view that protecting charities that provide support to married couples at the beginning of and during married life is vital to the national well-being?

If so, will he consider accepting amendment 26 and new clause 6 as sensible, clarifying measures that provide assurances? They would provide clarity in the Bill and full protection for those providing welcome services to our communities in the form of marriage courses and counselling. I therefore hope that the Government will look on them sympathetically.

9.30 am

Jim Shannon (Strangford) (DUP): It is a pleasure to serve under your chairmanship, Mr Streeter. I am pleased to support my hon. Friends the Members for Enfield, Southgate and for East Worthing and Shoreham. I adhere to the point of view that they have put forward, as do many others outside this room.

I am pleased to speak in support of amendment 26 and new clause 6 because they are important—that is why we have tabled them. We feel that these issues need to be fully addressed by the Committee, as well as at later stages of the Bill in the Commons and the House of Lords. We believe that the provisions highlight a major problem with the Government's approach to religious liberty in the context of the Bill. We are deeply concerned about that, hence our amendments.

The Government have made so much of how their regard for religious freedom moved them to introduce the Bill—many of us suspect that that may not be the only reason why they did—but have never really squared up to the fact that the three religious bodies that requested the change in the provisions constitute a very small proportion of our religious bodies. When proving their commitment to religious liberty, the Government must have regard for all the religious liberty concerns of faith organisations in this country in the round.

The witness statements submitted to the Committee came from small groups. By no means do I want to disregard their opinion, but they represent small groups in favour of the change. There are many other Church groups that are concerned, and they amount to large numbers, if we can base this on numbers rather than commitment. There are millions of people in Great Britain who are concerned. As I have told the Committee before, I have been overwhelmed by the faith-based concern expressed about the Bill that I have received in my post bag. I suspect that the post bags of many of my colleagues in Northern Ireland have been similar, and for members of the Committee likewise. I have not received even one letter that sets out a faith-based request for this Bill. Every letter or email that has been expressed in terms of faith has been against it.

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): Does the hon. Gentleman not recall that we heard from major denominations, such as the Church in Wales, that they wanted to be left free to make their own decisions on whether to opt in at a later stage? I appreciate what he is saying about the smaller denominations, but there also those—the United Reformed Church, the Methodists and others—that indicated that they wanted to make their own decisions at a later stage, according to the procedures of their governing bodies. The Bill allows them to do that—it is permissive.

Jim Shannon: The hon. Gentleman is keen on the word "permissive," but many of us feel that the legislation is not permissive. That is why we are speaking against it. The Methodist Church represents some 250,000 people—I think that was what the witness said—and there are Roman Catholic denominations and all the other Churches, and they have very clear concerns. Those concerns have to be taken into account by the Government and the Committee to ensure that the opinions of a small minority do not overrule those of the large majority with concerns.

To the extent that the Government have acknowledged a faith-based opposition to the Bill and sought to provide protections, such protections relate narrowly to weddings, not to marriages. I find it extraordinary that the Government should think they can allay faith-based concerns in this country by advancing protections that relate only to wedding ceremonies—and, I might add, only to wedding ceremonies in religious contexts, as if no registrars have religious or other conscientious objections. I have great respect for the Minister and the Government, and the task before them is not easy, but I find it difficult to understand why they are advancing this policy and legislative change and basically ignoring the opinions of a large number of faith-based organisations and those with religious views.

It may come as a shock to the Government, but faith-based concerns about weddings are fairly peripheral when compared with faith-based concerns about marriage. One cannot provide meaningful protections to Churches in relation to same-sex marriage merely by referencing same-sex weddings. I sometimes feel, with respect, that the Government should go on a religious literacy course. That might enable them to understand the great depth of feeling among those in faith-based organisations. From the perspective of faith-based marriage service provision, marriage preparation programmes, marriage enrichment programmes and marriage guidance counselling are all absolutely central, in addition to wedding ceremonies. Preparation for all marriages is necessary before the actual ceremony takes place. Moreover, increasingly today, it is important to be clear that both on and offline faith-based services are provided to help people find a spouse.

As my two hon. Friends have already outlined, amendment 26 addresses the challenge by plainly stating on the face of the Bill what should have been there from day one—had the Government properly appreciated

[Jim Shannon]

the key role played by faith communities in relation to marriage as opposed to wedding ceremonies—namely that:

"A person does not contravene section 29 only because the person conducts…a marriage preparation course…a marriage counselling or guidance service, or…an agency to help people find a spouse…and does not extend those services to marriages of same-sex couples."

Chris Bryant: I do not understand—this seems to be a grossly exaggerated problem—why a homosexual person or couple would want to go to a Church that does not perform homosexual marriages, because that is already precluded by the law, for marriage guidance services. The amendment is about preventing somebody from claiming that they are being discriminated against by a Church. There is no requirement for the Church to perform a same-sex marriage, but the amendment suggests that somehow it might be forced to provide marriage guidance for people who it is not going to marry.

Jim Shannon: I cannot say that I thank the hon. Gentleman for his contribution. Obviously, it would be contrary to what I believe. None the less, we are trying to provide protection for Churches so that they do not find themselves in a situation in which the proposal suggested by the hon. Gentleman could come into play. We are protecting the Churches. If the hon. Gentleman has no fear in relation to this issue, there is no reason why he and also the Government cannot support the amendment. We are proposing protection for Churches, which we feel is important. Hon. Members might not like that, but it will not stop me making my point, and it will not stop other hon. Members doing likewise. As matters are fully expressed in Committee and as all the issues are taken forward, we need to ensure there is protection for everyone.

New clause 6 states:

"A charitable trust deed which includes in its objects, directly or indirectly, the promotion of marriage or the provision of marriage counselling is not extended by this Act to marriages of same-sex couples."

Again, many of us feel that protection for Churches and faith-based organisations is important. When we come to vote on the matter, we will know how important everyone feels it is and whether they are of the same mind.

If the Government really want to recognise the huge concerns of faith communities about the Bill—until now, I have not heard anything that gives comfort or provides proper protection—they must have the decency to recognise that faith communities' interest is in marriage, not a narrow conception of weddings, and that any credible exemptions must relate to same-sex marriage and not merely same-sex weddings. Amendment 26 and new clause 6 are absolutely imperative—I hope that the Government will accept our valid and sincere point of view—and I commend them to the Committee.

Hugh Robertson: I thank my hon. Friend the Member for Enfield, Southgate for the amendments. As he has already said, amendment 26 seeks to introduce a limited conscience clause into the Bill—I am becoming less and less keen on conscience clauses—to enable the providers of services related to marriage who have an objection to same-sex marriage, for religious reasons or otherwise, lawfully to refuse to provide their services. I recognise that some providers of marriage services—marriage counsellors, for example—might have concerns about or principled objections to the concept of same-sex marriage.

Equally, and like so much else in the Bill, there is a balance. The public has a right to expect that services generally available to the public are provided on a non-discriminatory basis. That was a principle strongly reaffirmed by Members of all parties during the passage of the Equality Act 2010. As I said, it is a balance. Under the provisions of the Act, providers of marriage services will already be required to provide their services to both opposite-sex and same-sex couples, unless they fall into one of the exceptions provided by the Act. That is because, under the Equality Act, individuals in a civil partnership should be treated no less favourably than married people.

However—this is where we will provide the reassurance that my hon. Friend the Member for Enfield, Southgate seeks—there are two exemptions. First, under paragraph 30 of schedule 3, if the service is generally provided only for people who share a particular protected characteristic, for example heterosexual people, the service provider is permitted to continue to provide that service in that way, if it would be impracticable to provide the service to people who do not share that protected characteristic.

Secondly, and equally importantly—this is the crucial point—paragraph 2 of schedule 23 to the Equality Act 2010 enables a religious organisation to restrict access to services because of religion, belief or sexual orientation, either because that is necessary to comply with the organisation's doctrine, or to avoid conflict with the strongly held religious convictions of a significant number of the religion's followers. That is the point that is covered with the marriage counselling course.

For the avoidance of doubt, I will read this into the record a third time. Where a church offers a marriage preparation course or counselling services, the existing exemption in the 2010 Act permits it to restrict those services to opposite-sex couples if the conditions of the exemption are met. I am sorry if my hon. Friend the Member for East Worthing and Shoreham feels we were a little cavalier on that issue on Second Reading, but I genuinely thought we answered the question in the wrap-up at the end by saying that the provision did not apply. I thought that that was sufficient in that instance, and I am sorry if he feels that was not the case.

The exemption does not apply to an organisation whose sole or main purpose is commercial, and we do not think it appropriate to extend it to them in the way amendment 26 envisages. The definition of "commercial" in this context is exactly the same as it is in any other area of the law. That position is entirely consistent with that laid out in the recent case involving Mr McFarlane before the European Court of Human Rights, which engaged similar if not identical issues.

I do not pretend—I have said this a number of times—that these issues are particularly easy, but the law needs to strike a balance between the rights of those with deeply held religious or philosophical beliefs and equality for those with a particular sexual orientation.

New clause 6 would exempt charities that have as key objectives the promotion of marriage between a man and a woman, and the provision of associated counselling, from having to provide services to same-sex married couples after the Bill is enacted. The key point appears later in the Bill. Paragraph 1 of schedule 4, which we will consider later if we get that far, provides that the introduction of same-sex marriage will not affect the meaning of private legal documents drawn up prior to the Bill coming into force. That means that instruments that govern charities and contain a reference to marriage would not be altered in their meaning in any way. Marriage would continue to mean what it was held to mean in law when the instrument was made. I hope that that provides some reassurance to hon. Members.

Furthermore, the 2010 Act contains a particular exemption for charities, which permits them to provide benefits only to people who share the same protected characteristics, such as sexual orientation, if that is in line with their charitable instrument. Charities will therefore already have considered whether any benefits provided only in relation to the marriage of opposite-sex couples are justified and therefore lawful under the Act, or whether they must also provide those benefits to those in a civil partnership.

Once again, the existing position in the Act strikes a fine balance between the rights of charities to operate in accordance with their underpinning objectives, which we all recognise, and the right of the public to access services, including those provided by charities, without being discriminated against. On that basis, I would ask my hon. Friend the Member for Enfield, Southgate to withdraw his amendment.

Mr Burrowes: I am grateful for the useful debate that we have been able to have, and particularly for the Minister's considered response to, and care for, our legitimate concerns. Certainly, it is the Minister and the Government who are taking the Bill forward rather than the Opposition, as shown by the dismissive attitude of the hon. Member for Rhondda. Plainly, the fact that clause 2(5) provides an exemption to section 29 of the 2010 Act means that the Act is in play. We therefore need to explore the extent and clarity of the Act, and existing exemptions, which the Minister has quite properly recognised.

9.45 am

The Minister has answered the question of whether a person does not contravene section 29 if they conduct a marriage preparation course, a marriage counselling service or a service to help people to find a spouse and do not extend those services to marriages of same-sex couples. Effectively, he answered that proposition in the affirmative. The Minister also provided clarity on schedule 4. The Bill, if enacted, will not impact upon existing private legal documents and their intention. On that basis, I do not propose to take much more of the Committee's time.

On the Government Equalities Office, I would urge that the way to clear the matter up would be to contact Holy Trinity, Brompton and speak to Nicky Gumbel. Apparently, it has received the advice—in fact, I will ask it to write to the Government Equalities Office to clear that up.

What really matters is what we have heard today. It is crystal clear in *Hansard* that the Bill will not have the impact and problems that some organisations have identified. It is also crystal clear that the Government have answered yes in relation to amendment 26. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Burrowes: I beg to move amendment 27, in clause 2, page 4, line 13, at end insert—

'Marriage according to religious rites: Opt-in and opt-out activity

25B (1) A person does not contravene section 29 only because the person—

(a) refrains from undertaking an opt-in activity, or

(b) undertakes an opt-out activity.

(2) Expressions used in this paragraph and in section 2 of the Marriage (Same Sex Couples) Act 2013 have the same meaning in this paragraph as in that section.'.

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

Amendment 28, in clause 2, page 4, line 13, at end insert—

'Religious premises: Trustees

25B (1) A person who is the trustee of a trust for the advancement of religion does not contravene section 29 only because he refuses to consent to premises owned or controlled by the trust being used for marriages of same sex couples.'.

Amendment 29, in clause 2, page 4, line 13, at end insert—

'(6) For the purposes of section 149 of the Equality Act 2010, no regard may be had by any public authority to any decision by a relevant governing authority or relevant religious organisation to give any consent or to refuse to give any consent provided for in sections 2, 4, 5, or 7 of this Act'.

Amendment 30, in schedule 7, page 52, line 26, at end insert—

'Human Rights Act 1998. (c.42)

42 The Human Rights Act 1998 is amended as follows.

43 Section 6: after subsection 3 insert—

"(3A) A "public authority" for the purposes of this section does not include a relevant governing authority or relevant religious organisation in respect of functions relating to giving any consent or to refusing to give any consent provided for in sections 2, 4, 5, or 7 of the [Marriage (Same Sex Couples)] Act 2013."'.

New clause 16—*Withholding of funds*—

'No award of public funds for which religious organisations are otherwise eligible shall be withheld on the grounds that those faith groups refuse or are prohibited from conducting same sex marriages.'.

Mr Burrowes: We are getting through clause 2 at great pace. This group of amendments and the new clause is a final medley—*[Interruption.]*. I know that the hon. Member for Rhondda does not like analogies that are not his own, so if he wants to get into dessert analogies, I will talk about soufflés another time. We are getting there. [Hon. Members: "Soufflé?"] It was the over-baked soufflé—remember that? I will not stir that particular dessert pot, but get back to the amendments.

Amendment 27 is in my name and that of my hon. Friend the Member for East Worthing and Shoreham and the hon. Member for Strangford, but I would also like to speak to amendments 28 to 30 and new clause 16.

[Mr Burrowes]

Amendment 27 would provide protections for religious organisations when deciding whether to undertake an opt-in activity or to refrain from undertaking an opt-out activity under clause 2(1). That takes us back to where the Government want us to be: the religious protections—the quad locks—and how secure they are for religious organisations.

It is important to recognise that the Government are holding on to the qualified right of article 9. They see the importance of article and say that the measure will not be readily challengeable on the basis of it. They also recognise that the European Court of Human Rights has said that Parliament, and the nation state in the wide margin of appreciation, need to take the opportunity to be clear on how they will balance the competing rights, which the Minister has said that he, too, is trying to do.

Clause 2(5) provides the exemption, which we have spoken about at some length on various occasions, to section 29 of the Equality Act 2010. The activities listed in the Act echo those found in clause 2(2). The intention is that individuals are to be protected under the Bill from the section 29 requirement when carrying out, or refusing to carry out, any of the activities in subsection (2). Clause 2(5) needs to be amended—this is the purpose of amendment 27—to cover the activities in clause 2(1) as well as those in clause 2(2).

When choosing the activities listed in subsection (2), the drafters no doubt looked at matters carefully, but, unless the Minister can tell me otherwise, I believe they have neglected the activities listed under clause 2(1). It is therefore unclear—there is a lack of clarity at least, and I would be pleased if it could be corrected. Why has that happened? Perhaps the Government consider that the activities listed in clause 2(2) involve the provision of a service, while those listed in clause 2(1) do not. Even if the Government are correct in assuming that a religious organisation is not technically a service provider for the purposes of the activities listed in clause 2(1), the religious organisation, when deciding not to opt in, could none the less be considered to be exercising a public function. The issue of the function that is carried out when a service is conducted is at the heart of the amendments.

Section 29(6) of the 2010 Act states:

"A person must not, in the exercise of a public function that is not the provision of a service to the public or a section of the public, do anything that constitutes discrimination".

Religious organisations that decide not to opt in, or decide not to opt out of same-sex marriage—activities listed under clause 2(1)—are at risk of successful discrimination claims by virtue of section 29(6) of the 2010 Act. Amendment 27 would clarify that.

There are many questions left unanswered about organisations that see a claim coming down the track under section 29. This moderate amendment seeks to apply the same exception to section 29 for the activities listed under clause 2(1) as it provides for those listed under clause 2(2). That would provide helpful clarification and the security that the Secretary of State has told us about—the 100% guarantee—which I believe the Minister also wants.

Chris Bryant: I do not follow the logic. Which of the three elements—discrimination, victimisation or harassment—in section 29 could be provided by a church deciding to opt in to the provision of same-sex marriage?

Mr Burrowes: The Government have already put in the Bill an exemption to section 29, covering clause 2(2). The amendment seeks to provide a catch-all exemption to cover both the decision to opt in or out and the activities themselves. The hon. Gentleman looks perplexed. If he will be patient, he will see that, when the measure is applied to public equality duties and more widely in terms of favourable treatment, it is important we ensure the quad locks apply to the whole of clause 2.

Before I move on to amendment 28, I want ask whether the Government have thought about Church of England clergy. Some clergy—conservative evangelicals, for example—are out of fellowship with their bishops. For example, they could be appointed overseas but come to administer services in this country. I wanted to check that they are properly covered by the full ambit of the protection for Anglican clergy.

Chris Bryant: Hang on; will the hon. Gentleman give way?

Mr Burrowes: I want to make some progress. The Committee will be pleased to hear that I will deal with amendment 28 quickly. It simply raises the question about trustees who control church premises, which was put to us by Dr Augur Pearce of the URC. Does the clause properly protect trustees' control of their premises, or do we need to seek further clarification?

Amendment 29 aims to prevent any possibility of religious organisations being treated less favourably by public authorities as a result of the decision not to opt in to the decision to provide same-sex marriages. It seeks to answer the concern of the hon. Member for Rhondda. The Committee will be aware that under section 149 of the Equality Act, most public authorities, such as local authorities, are under a duty to have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not. In particular, public authorities must have due regard to the need to

"remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic".

However, the Bill does not do anything—it may not want to do anything—to prevent public authorities from penalising religious organisations for deciding not to opt in to same-sex marriage. Clause 2(1) does not appear to protect religious organisations that do not opt in to same-sex marriage from being treated less favourably by public authorities. For example, public authorities can use the discretion given to them under section 149 of the Equality Act to refuse to award public contracts or grants to religious organisations. We will come on to that in new clause 16.

There has been extensive litigation since the enactment of the first public sector duty in 2001, which has expanded the discretion of public authorities in relation to their duties. The courts have consistently interpreted the duty of due regard as a duty to further equality of opportunity and not just as a duty to avoid discrimination. It is a

positive duty. It is a continuous journey. Public authorities have in practice used their discretion to pursue broad equality aims and the courts have been reluctant to second- guess the discretion of public authorities, quite properly in many ways. We now have an opportunity in Parliament to address the matter and provide some clarity.

Authorities have denied public contracts to organisations that they regard as unsuitable to be associated with, and the courts have deemed that to be entirely lawful. I now wish to race ahead to new clause 16, which seeks to make a clear point about that. Public funding has been withdrawn from faith groups in certain situations, and the new clause seeks to address the issue of faith groups that refuse to conduct same-sex ceremonies by asking whether that is sufficient basis for public funding to be withdrawn. My hon. Friend the Member for Brighton, Kemptown may know about this, as he knows very well the ins and outs of Brighton council. Pilgrim Homes lost funding for an old people's home because it would not comply with the local authority's demand—I do not fully understand that, but this is from a report that I have received— that it question elderly residents about their sexual orientation once every three months. I just have the report and I do not have any more evidence.

Barnabas House, a Christian-run shelter for the homeless in King's Lynn in Norfolk, had previously received a grant of £150,000 as part of a Government programme. The council looked into the fact that it also had bibles in the rooms and that grace was said before meals, and was concerned that that might upset non-Christians. The council spokesman said that there was no objection to an organisation having an underlying Christian ethos provided that it met quality standards and promoted equal opportunities and fair access as required for all organisations receiving public money for the Supporting People programme. There are other examples I could give, but I will not delay the Committee too much: the issue is about public funding and lottery funding and whether that will have an impact on organisations.

The public sector equality duty has multiple aspects in relation to the duties covering sexual orientation and religion, so it is a relevant concern that needs to be addressed. There are issues of significant discretion and of balance, which the Minister has discussed. If it were established that the actions of the public authority were ultra vires, a clarification about this from the Minister would be helpful. He has already given a clarification about unfavourable treatment. It would be time consuming and expensive for an organisation such as a Church to seek judicial review and the Government have not sought to provide any indemnity on costs until now. The provision would enable organisations to avoid some of that time-consuming and expensive litigation and provide clarification. It is a narrowly drawn amendment and would resolve the problem without adverse consequences for the public sector equality duty more generally.

Amendment 30 aims to prevent challenges to decisions by religious organisations not to opt into the provision of same-sex marriages under the Human Rights Act 1998. There is an argument that the discretion accorded to religious authorities not to opt in involves the exercise of a public function for the purposes of that Act. This is where lawyers divide. Some lawyers argue that exercising the discretion to opt in, or not to opt in, will breach the European convention on human rights, or could lead to a challengeable case. Given that the Bill would permit religious authorities to discriminate on the grounds of sexual orientation, if the decision to opt in or not opt in is held to involve the exercise of a public function under the Human Rights Act, religious authorities will be liable to claims arising under ordinary judicial review and section 29 of the Equality Act 2010.

10 am

I support not only focusing on what will happen when this gets to the European Court, but also dealing with what will take place in our domestic courts, both in judicial review and in the application of the Equality Act. Plainly, it is unlikely that most religious organisations would be regarded in total as public authorities for the purpose of the Human Rights Act. They may be regarded as hybrid bodies that exercise some public functions and are therefore subject to the Human Rights Act. In such cases, this exercise of the public function could be subject to the Act and to its consequences.

When an organisation conducts a marriage, that is both religious and civil: Churches up and down the land are performing both a religious and a civil function. The organisation is deemed to be a hybrid public authority, because it carries out a public function, which could lead to a challengeable situation. That is all the more likely give the provisions that we shall discuss when we come on to clause 11. The amendment deals with the significant risk of decisions made by Churches being considered a public function. The Government have made it clear that they do not intend that religious organisations should be considered public authorities or hybrid public authorities. They have already spelled out how the locks apply, but without a statement in the Bill I believe the door is open to—at least—claims and challenges.

The reason why this issue is relevant goes all the way back to the passage of the Human Rights Bill. I draw attention to the words of the then Home Secretary, the right hon. Member for Blackburn (Mr Straw), during the passage of that measure, as we are picking up some of the pieces and consequences in Committee today. The right hon. Gentleman stated:

"On the occasions when Churches stand in place of the state, convention rights are relevant to what they do. The two most obvious examples relate to marriages and to the provision of education in Church schools. In both areas, the Churches are engaged, through the actions of the minister or of the governing body of a school, in an activity which is also carried out by the state, and which, if the Churches were not engaged in it, would be carried out directly by the state. We think it right in principle—there was no real argument about it on Second Reading—that people should be able to raise convention points in respect of the actions of the Churches in those areas on the same basis as they will be able to in respect of the actions of other public authorities, however rarely such occasions may arise."

The right hon. Gentleman went on to state:

"There was a time when one could get married only in church but, these days, marriage is a matter of civil law—it is the exercise of a public right."

He then said these crucial words:

"The Churches are standing in the stead of the state in arranging the ceremony of marriage, which is recognised not only in canon law, but in civil law. In that instance, the Church is performing a function not only for itself, but for civil society." — [*Official Report*, 20 May 1998; Vol. 312, c. 1017-18.]

Even in the early days, the intentions of the Human Rights Bill were made clear: the civil function of Churches when conducting ceremonies had a public aspect. It is therefore important to explore with the Minister whether that should be spelled out in the Marriage (Same Sex Couples) Bill, and whether there should extra clarity in relation to the protection of Churches.

The Joint Committee on Human Rights is exploring this issue. It has stated that there is a problem—it is not just me or the dissenters sounding off. The Joint Committee stated:

> "We are concerned that, as the law stands, the only guidance that can be given on the important issue of whether a body should be considered a functional public authority for the purposes of the HRA is to seek further 'specialist legal advice'. It is currently impossible for the Government, or any other body, to provide comprehensive and accessible advice on the application of the Human Rights Act. We consider that this represents a serious failure to achieve the aspiration of a human rights culture in which Convention rights are secured for individuals without the need for formal legal proceedings or the involvement of legal advisers."

That is the point of the amendments: to allow the Minister the opportunity to support them and make it crystal clear that we do not have to rely on specialist legal advice and searching high and low for that advice. Some of these organisations have very little money to defend themselves and we should take the opportunity in the Bill to ensure that the quadruple locks are secure.

Chris Bryant: I disagree with this lot as well. The hon. Member for Enfield, Southgate did not respond satisfactorily to my question, but as far as I can see amendment 27 seeks in essence to change the Bill so that Churches that opt into the provision to offer same-sex marriages would not be caught by the Equality Act, and would be able to discriminate in other measures. That seems a rather remarkable line of argument, unless the hon. Gentleman is arguing that they should not be caught further by the Equality Act. Either way, the amendment does not stand up.

The hon. Gentleman then made a series of arguments about how funding should be provided from public bodies to Churches in a wide variety of settings. My grandfather, for instance, was in an old people's home run by the Roman Catholic Church. He was not a Roman Catholic—he had no religion of any kind whatsoever—but he had no objection to their going to prayers, just as they had no objection to turning a blind eye when he went off to the pub, which was not something one was meant to do at this old people's home. It was quite a pleasant arrangement.

Tim Loughton: Discriminatory.

Chris Bryant: Yes: horribly discriminatory. However, I can see circumstances in which the way an old people's home operated would be overtly discriminatory to people because of their race, gender or whatever. All that the law requires is that public authorities should have due regard—not an absolute determination, but due regard. A degree of common sense and balance needs to apply. There are circumstances in which I would want to say: "No, I do not want a Church that preaches hellfire and damnation for all homosexuals to receive large amounts of money to pursue its own discrimination". There are times when it would be wholly wrong for a local authority to say: "You can receive public money, which has been provided by straight people, gay people, all sorts of different people, to pursue your own ends". That is not say that the Church should not be allowed to continue to have its freedom, but the amendments tabled by the hon. Gentleman restrict religious freedom rather than extend it.

Mr Burrowes *rose—*

Chris Bryant: I will give way to the hon. Gentleman only if he is prepared to admit that the instance he gave us of the old people's home was a story in the *Daily Mail* and might not necessarily be gospel truth.

Mr Burrowes: I do not know whether it is from the *Daily Mail* or not. I am sure the *Daily Mail* picked up on it as well as others, but it was not from the *Daily Mail* that I got it. It is a genuine report. My hon. Friend the Member for Brighton, Kemptown may have picked it up in *The Argus* or another local journal. The hon. Member for Rhondda is concerned, quite properly, as the public duty is important and we need to avoid discrimination. However, he always talks about extremes: hellfire and damnation, and intolerant and intemperate language. Is he willing to stand up and defend the right of an organisation or charity to pursue carefully and sensibly its aim and objectives in relation to supporting the view of traditional marriage?

Chris Bryant: I would want to use words from the Bible:

> "Let your moderation be known unto all men…And the peace of God, which passeth all understanding",

and all the rest. Yes, of course I believe that people should have the right to express their religion, but there are limits. If someone simply claims a religious basis for inciting people to violence or hatred—*[Interruption.]* I am not saying that everyone does, but if someone were to do so, we would have a problem. Undoubtedly, one sometimes wants to suggest quite gently to the Church that its inability to live up to what it preaches might lead to the charge of hypocrisy. This, however, has nothing to do with the amendments and, since we now know that the hon. Gentleman has no source for his story—

Simon Kirby (Brighton, Kemptown) (Con): Unusually, the story was reported in 2008 in the *Daily Mail*, before the Equality Act 2010, under which the sexual orientation equality covered in section 149 came into force in April 2011.

Chris Bryant: Whatever the synoptic gospels of the different presentations of an individual story in different newspapers, and whether one gets to verifiable truth at the back of some of those stories, I am conscious that there was a great deal of scaremongering in the run-up to the Equality Act. Some newspapers were trying to argue that every organisation in the land would suddenly have to ask everyone every three months, "Are you straight? Are you gay?", because that was the only way in which they could determine whether a local authority was having due regard to the provisions of the Act. That proved to be completely and utterly fallacious, and

I suggest to the hon. Member for Enfield, Southgate that it is not a wise course to go down to regurgitate stories from the *Daily Mail* in that way—*[Interruption.]* He says that he is not regurgitating it from the *Mail*, but it has been regurgitated from the *Mail* by some other newspaper and hence to him, a bit like St Mark's gospel going into Matthew and Luke. None of the amendments does what the hon. Gentleman thinks they are going to do. Furthermore, they would be injurious to a fair and proper allocation of our public moneys.

Tim Loughton: I support amendments 27 to 30 and will speak briefly to new clause 16, but I can first be of help to the Committee. I had no idea that my hon. Friend the Member for Brighton, Kemptown, was going to mention this, but coincidentally I have the article from *The Argus* of Brighton. It is dated February 2009, so I am a little confused that my hon. Friend did not know that it was news in his newspaper.

Chris Bryant: Is the hon. Gentleman eating a mint?

Tim Loughton: I am crunching a mint for medicinal purposes—to help with the stress caused by some of these ridiculous and judgmental interventions. The hon. Gentleman seems to base his whole case on a newspaper article that he does not know the origin of, although he claims to, and he claims it can have no substance of truth in it whatever because it is in a particular newspaper. As I am about to demonstrate, everything he said is complete nonsense. The story appeared in the Brighton *Argus* on 9 February; whether it was covered in the *Mail* subsequently I do not know.

Simon Kirby: Will my hon. Friend give way?

Tim Loughton: I would be delighted. Great; we are going to have a Sussex ding-dong.

Simon Kirby: In an attempt to be helpful, may I ask my hon. Friend whether he would be interested to know that the story was covered in the *Daily Mail* on 28 December 2008?

Tim Loughton: I am going to—[Hon. Members: "Ah!"] My hon. Friend the Member for Brighton, Kemptown may want to take up with the editor of his local newspaper the question of why it was behind the game, but the point is that it is a true story. I will give the details, which might be of help to the Committee, given that the hon. Member for Rhondda was so quick to condemn an example about which he knew absolutely nothing.

Let me say what actually happened in Brighton, which I am delighted that my hon. Friend the Member for Brighton, Kemptown represents, as one of the three MPs in that city, which neighbours my constituency. Brighton and Hove council

"had demanded that Pilgrim Homes, run by a 200-year-old Christian charity, asked its elderly residents for details of their sexual orientation every three months, so it could meet the needs of Government equality guidelines.

When the home in Egremont Road, Brighton, refused to put the question to the 39 single Christians who lived there, all over 80 and some former missionaries, a £13,000 annual payment to provide a warden was cut.

The council also wanted the home to use pictures of homosexuals in promotional literature and give a presentation on gay rights to staff."

Chris Bryant *rose—*

Tim Loughton: Now that the hon. Gentleman is confronted with the facts, would he like to vary—

The Chair: Order. It may help the Committee if I encourage hon. Members to focus on the amendments, rather than on a particular source for a particular story. The story is relevant to the amendments, but let us focus on them and make some progress.

10.15 am

Tim Loughton: I was going to come on to the "official" response of the council, which showed why it decided to climb down after the Christian Institute had brought legal action and the good sense and good services of the predecessor of my hon. Friend the Member for Brighton, Kemptown, one Des Turner, were brought to bear. This is not some apocryphal, hyped-up story that the *Daily Mail* may or may not have concocted; it is true. In fact, the solicitor who acted in the case is not a million miles from where I am standing, so various witnesses can bear out what I have said. It is a real example of a wrongful interpretation of legislation by a public authority, which resulted in funds being taken away from a care home and had to be challenged through legal process. Fortunately, for a combination of reasons—probably not least because some sense struck the councillors responsible—the case reached a satisfactory conclusion, but that might easily not have happened. It was a real situation.

The Committee's scrutiny and the probing, and hopefully helpful, amendments that this side has tabled are designed to resolve such anomalies. That case is a good illustration of what might happen, and by dismissing it in such arbitrary terms, the hon. Member for Rhondda does not help the Committee. If he wants to intervene and rearrange his story, I would be delighted to give way to him.

Chris Bryant: My only point—well, I have three points. First, I am not entirely sure that those are the full facts and the truth, as everybody in the room might acknowledge. Secondly, just because somebody is over 80, that does not mean that they do not have a sexuality. Thirdly, clearly, if that was what the local authority had done, it would have been absolute nonsense. Fourthly, in fact, I do not know what a photograph of a homosexual looks like. I imagine it would look remarkably like a photograph of a heterosexual; they are just people.

Tim Loughton: From that, I think I can conclude that the hon. Gentleman is casting aspersions on the veracity of the editor of the Brighton *Argus.* I am sure that my hon. Friend the Member for Brighton, Kemptown, will want to take that up, because it is a fine newspaper. I was quoted in it only yesterday, and I have no complaint with the account that was relayed of the facts—on a completely different story, into which I will not go at this stage.

Chris Bryant *rose—*

Tim Loughton: I will not give way, but will turn to the amendments, Mr Streeter, before the furrows on your brow become unredeemable, even by Botox.

The Government have made much of the quadruple lock, or the quad lock—whatever one wants to call it—to protect freedom of religion. They claim that the Bill will provide adequate protection for religious freedom, but scrutiny of the detail of the Bill, particularly in conjunction with existing legislation, increasingly reveals that that is a rather optimistic view. That is particularly significant because, as hon. Members will be aware, there has been great concern in the House and throughout the country about the impact of the Bill on religious freedom. Many hon. Members have been persuaded to support the general provisions of the Bill only on the basis of reassurances given by the Government that adequate protections would be enacted. Hence the quadruple lock has been absolutely at the heart—understandably—of the Government's case.

To assess whether such measures have been successfully incorporated into the Bill, it is vital to recognise that, broadly speaking, the overall strength of the so-called quadruple lock is not simply the sum of the strength of its constituent parts. With the possible exception of the peculiar provision that is made for the Church of England and the Church in Wales, the locks do not come one on top of another, such that the first one, then another, and another, have to be systematically broken for the overall protection to fail. Rather, the locks are arranged in a series, such that the unpicking or breaking of one would render the overall protections meaningless.

In general terms, the quadruple lock is only as strong as the weakest link in the chain. It is vital that we are absolutely clear on this, and are not lulled into any false sense of security by a repeated mention of the fact that there are four locks, as though the number of locks is of itself securing greater safety for genuine religious freedom. Indeed, some have already questioned how great a degree of confidence the Government really have in the strength of the locks if they feel it necessary to use no fewer than four of them. If it were possible to deploy a truly secure lock that could be relied on in all circumstances, surely there would be no need to introduce additional locks.

If we go to someone's house and they have four locks on the door, we think, "This must be a fairly vulnerable or perhaps dangerous place to live." Perhaps it is a sign of the Government's private awareness of the complexity of the issues, the probability of attack and the vulnerability of the locks that they have chosen to make so much of their attempts to create multiple locks. Others have certainly raised that question. However, that is not my point at this juncture. We could have a discussion about how many locks the Bank of England mega-safe has, and I do not think even that has four. My point instead is to underline that it is essential that each of the proposed locks is investigated and tested separately and discretely for its own internal robustness.

For the reasons I have outlined, it is essential that we undertake such a process if we are to have confidence in the security of the whole package. We would be failing in our duty of scrutiny if we did not do so in an ordered, meticulous and systematic manner. Although we must focus on each of the locks in turn, we cannot consider them in isolation. Instead, we must place them against the backdrop of existing legislation and ask how effective the lock will be when taken in conjunction with the existing statutory framework. That is especially important in the case of the lock that is most obviously under scrutiny in relation to the amendments, namely the one relating to the Equality Act 2010.

The issue of how the provisions of the Bill relate to the Equality Act and the Human Rights Act 1998 seems to expose some of the greatest vulnerabilities and weaknesses in the lock mechanism. I will speak to the principle behind the amendments. However, it will also be necessary to consider the detail of each amendment and to demonstrate how each is absolutely necessary in its own right if we are to stand any chance of properly safeguarding religious freedom.

Amendments 27 to 29 relate to amendments to the Equality Act, while amendment 30 relates to amending the Human Rights Act. I will come back to new clause 16 later. Since the amendments relate to the Equality Act and the Human Rights Act, it is worth reminding ourselves that although in principle those Acts seek to safeguard freedom of thought, conscience and religion, in practice the courts' interpretation of them—and similar legislation that was effectively rolled up into the Equality Act—has often been to restrict religious freedom. Over the past decade there has been a plethora of cases in which the sexual orientation rights of one individual have been held to trump the right to freedom of religion and conscience of another.

Most obviously, I think of the two cases, with which we are all familiar, in the European Court of Human Rights last year, and on which a first judgment was handed down only a few weeks ago. I refer to the cases we have spoken about already in this Committee, namely those of Lillian Ladele and Gary McFarlane. As we know, Ms Ladele sought an exemption from performing civil partnership ceremonies on account of her Christian faith. Islington, her council, was not obligated by law to designate Ms Ladele as a civil partnership registrar. Indeed, other councils in similar situations chose not to designate all their marriage registrars as civil partnership registrars, yet Islington chose to do so. Moreover, there was no need for Islington council to require Ms Ladele specifically to perform civil partnership registrations in order for the council to meet its obligation to provide the service.

Ms Ladele's conscience and religious identity could have been easily respected without there being any danger of anyone being denied a service to which they were legally entitled. Indeed, for a period of time, informal arrangements were made, and the rota was constructed in such a way, to ensure that an efficient civil partnership ceremony service was offered while, at the same time, Ms Ladele was not compelled to act against her conscience. The council described the service it provided to same-sex couples at that time as first class, so no one lost out. It was a win-win situation; in other words, common sense prevailed.

However, as we know, following a complaint from a colleague, Islington's position changed and Ms Ladele was forced to choose between keeping her job and infringing her conscience. I reiterate that had Islington continued to accommodate Ms Ladele's conscience,

there would have been no risk that anyone would have actually been denied a civil partnership. That is an important point.

None the less, in spite of the very strong protection for freedom of thought, conscience and religion under the European convention on human rights, as incorporated in principle into our domestic law through the Human Rights Act, in January this year, the European Court of Human Rights found that the UK had not failed to protect Ms Ladele's religious freedom. Islington lost an experienced civil registrar and Ms Ladele lost her livelihood, despite the provisions of equality legislation that allegedly safeguarded religious freedoms and although no one was in actual danger of being denied a civil partnership ceremony.

At the same time, the European Court of Human Rights ruled that the UK had not failed to protect the religious freedom of Gary McFarlane. As hon. Members may recall, Mr McFarlane was an experienced relationships counsellor working for a private organisation. He indicated during a training course that, on account of his Christian faith, he might have a conscientious objection to providing sex therapy to a same-sex couple, if the situation ever arose. He was subsequently dismissed for gross misconduct due to discrimination on the grounds of sexual orientation, despite the facts: first, that the issue involved a hypothetical scenario; secondly, that no one had ever requested this service; and, thirdly, that even if someone did, there was no realistic risk of their being denied the service, since there were plenty of other counsellors who would be prepared to provide it.

Many other such cases have been heard in the UK courts and, if present trends continue, we will see yet more in the Strasbourg Court. In light of our limited time, I will not catalogue the many other examples, but hon. Members will understand the point that I am trying to make: although, in principle, recent equality legislation might appear to uphold and strengthen the protection of religious freedoms, the experience of many individuals in practice has been quite the opposite. That is especially so in scenarios when religious rights are perceived to clash with sexual orientation rights, and obviously that is my reason for raising those two particular cases, on the back of the amendments to the quad lock that is supposed to protect religious rights from being trumped by the right of same-sex couples to get married.

Many would welcome an opportunity to revisit the Equality Act and to consider how it might be improved in light of recent experiences, but that is not what is before the Committee. Our opportunity is to consider how we can ensure that the Bill can be most effectively framed to reflect most accurately the Government's intention. We may benefit from a consideration of recent history by being realistic about the current legal framework and, secondly, by learning from the oversights or mistakes of the past. We need to be realists. We may not have intended—or even expected—the Equality Act to be interpreted by the courts in the way that it has and for it to have produced the results that it has, but we must face up to the outcome.

The Chair: Order. I am reluctant to intervene while the hon. Gentleman is in full flow, but he is referring briefly to the amendments but not applying his arguments specifically to them. He is basically making a Second Reading speech on the back of the amendments. Will he please now address his mind to the amendments expressly, and then we can make some progress?

Tim Loughton: Of course, I shall abide by your rulings, Mr Streeter. I will come specifically to amendment 27, which is a vital addition for all the reasons that I have mentioned and few more that I was going to but now will not.

As it stands, the Bill will amend the Equality Act to introduce some explicit protections for ministers of religion who conduct traditional wedding ceremonies but would have a conscientious objection to conducting same-sex wedding ceremonies. However, they are too narrow. There are a number of more general activities involved in the opting-in process that will result in a church being able to conduct same-sex wedding ceremonies. Although more general, they are none the less intimately concerned with the principle of facilitating wedding ceremonies. They go beyond consenting to, being present at or conducting a ceremony.

10.30 am

In fact, the Bill recognises that and earlier in clause 2 lists several activities that are defined as "opt-in" activities. They include activities such as:

> "Applying for the registration of a building"

and:

> "Giving a certificate, giving a copy of a consent, or certifying any matter".

The Bill recognises that those activities are closely connected with the provision of same-sex wedding ceremonies and that a person with a religiously motivated objection to conducting a same-sex wedding ceremony should not be placed in a position where he might have to undertake the wider activities detailed earlier in clause 2. It is perverse that the Bill should seek to safeguard the freedom to opt in or out of those wider activities but that that freedom should not be explicitly safeguarded within the Equality Act. Amendment 27 would correct that imbalance and mirror what is understood in the Bill in the protections of the Equality Act. I hope that that is now clear.

Amendment 28 offers protection for those involved in the administration and oversight of a religious charity or trust that has responsibility for a place of worship. My hon. Friend the Member for Enfield, Southgate, referred specifically to the very good testimony on this issue—to which there has been a subsequent addition—that we heard from the United Reformed Church's Dr Augur Pearce in our earlier deliberations.

Without the explicit extension that the amendment would put in place, there is danger that a trustee who withholds his consent to the use of premises owned or controlled by the trust for same-sex wedding ceremonies could place himself in contravention of the provisions of the Equality Act and therefore be liable for legal challenge. We heard from Dr Pearce that many of the buildings used for various ceremonies are effectively owned by the trustees, not the organisation, so the trustees are legally responsible and challengeable.

The amendment could prove particularly important where trustees of a charity take different views on the issue. It would reduce the possibility of equality legislation being used to compel reluctant trustees. More generally,

however, it is intended to ensure explicitly that the role of a trustee of a religious organisation is not considered to be a purely administrative function, but is rather one in which it is valid to exercise religious convictions in the exercise of one's duty. That also relates to Dr Pearce's testimony. We are talking about members of a Church who are taking on a trustee role that is not purely about safeguarding the finances and the fabric of a building. They are doing it from religious perspective and are only there because of their membership of a particular Church or faith organisation. They personally hold that faith as well—this is not just an accountancy-type function.

Hugh Robertson: I understand the point that my hon. Friend is making. I think that I can provide him with the reassurance he seeks, and I am very happy to read this into the record. A person who was a trustee of a trust for the advancement of religion, and who refused to consent to the use of a building owned or controlled by that trust for the marriage of same-sex couples, would already fall squarely within an existing exemption in paragraph 2 of schedule 23 to the Equality Act. There is no doubt about that at all.

Tim Loughton: That is helpful to hear from the Minister—he has pre-empted the response that I hope he is going to give on all these amendments and all the points that I have been making. Just that sort of clarification on the detail of how the provisions affect individual trustees rather than organisations is important to the concerns held by many people for whom these practical, real, factual happenings and challenges—not, as the hon. Member for Rhondda said, *Daily Mail*-type stories—are likely to arise as a result of the legislative change.

Amendment 29 would mean that no public authority—as defined by the Equality Act—may take into account an organisation's willingness or unwillingness to undertake same-sex weddings as part of fulfilling its obligations under the public sector equality duty. Without the amendment, it is possible that Churches and other religious organisations that do not carry out same-sex ceremonies could find themselves indirectly discriminated against through, for example, the loss of access to grants, premises or service contracts offered by public authorities. I will come back to that in a minute in discussing new clause 16.

It is possible that public authorities could decline to offer such services to Churches and other religious organisations that do not conduct same-sex wedding ceremonies, on the basis that the refusal to do so amounts to discriminatory behaviour, hence giving them grants or whatever would fall foul of the public sector equality duty. Amendment 29 would protect against such a scenario by ensuring that, in meeting its public sector equality duty, a public authority should pay no regard to a Church's position on same-sex wedding ceremonies.

Amendment 30 would ensure that the Human Rights Act, and its incorporation of the European convention on human rights into domestic law, could not be used to compel organisations, including Churches and religious groups that offer wedding ceremonies, to offer same-sex wedding ceremonies. As it stands, the Human Rights Act places an obligation on bodies providing a public function to act in a manner consistent with the European convention.

Without the amendments, the Human Rights Act could be used to construe that a Church or other religious organisation is to be considered a public body when exercising its statutory power to provide wedding ceremonies. If it were deemed a public authority, it would be obligated to act in accordance with the European convention on human rights, which, taken together with the case law of the European Court of Human Rights, would prevent the Church from treating same-sex couples any differently from opposite-sex couples. The result would be that the Church would have either to give up providing wedding ceremonies at all or to be ready to conduct both same-sex and opposite-sex ceremonies.

Moreover, being deemed a public authority in this regard would prevent Churches and other organisations from enjoying the limited exemptions afforded under the Equality Act to religious organisations. Indeed, because the Roman Catholic adoption agencies were classed as public authorities, they were prevented from enjoying the protections afforded to religious organisations under that Act, which could have allowed them to continue to operate. The result of that, as many hon. Members will no doubt recall, was the closure of the Roman Catholic adoption agencies—the last closed recently in Scotland—with the consequent loss to society of a service that was widely appreciated and praised. It had a fantastic track record and a very low disruption rate. It placed particularly problematic and challenging children, including older children, into safe, stable and successful family homes.

Chris Bryant: The particularly bizarre thing about the Roman Catholic Church's attitude was that Catholic adoption agencies were perfectly happy to place children with single homosexuals, but not with couples, and that seems a bizarre route to go down. That is why many people who worked with the agencies were furious with their hierarchy. In the end it was the hierarchy that decided to close the agencies, because they refused to place with couples.

Tim Loughton: The way in which adoption agencies worked before the Adoption and Children Act 2002 was full of anomalies in whether agencies, Catholic or not, placed children with single people rather than couples. There was a preference for married couples being adopters, but children were being placed with single people who were gay. We will not relive the infamous debate we had over that in 2001.

The practical point about the Catholic adoption agencies—this is a tragedy in the interpretation of the Equality Act—is that they were perfectly happy to say to a gay couple who wanted to adopt, "Sorry, we cannot accommodate you here, but we know several people who can", and then passport those prospective adopters on to someone who was able to deal with them. At the end of the day, the purpose of adoption and adoption agencies is to find homes for children, not to accommodate the rights of adults. What was so damaging about the impact of that Act on adoption agencies was that it was children who lost out, but that argument is for another day.

Amendment 30 is vital in protecting religious organisations under both the Human Rights Act and the Equality Act by ensuring that they are not classified as public authorities in decisions regarding same-sex marriage.

Finally, there is new clause 16, tabled by me and other Members, which deals with public finance. It states:

"No award of public funds for which religious organisations are otherwise eligible shall be withheld on the grounds that those faith groups refuse or are prohibited from conducting same sex marriages.".

This is a bit of a hoary old chestnut because there have been a number of cases, going back many years, where certain faith-based groups have effectively been excluded from the bidding process for lottery funds, for instance, because of their faith-based ethos, even though they might be fantastic organisations doing just the sort of activity that the lottery is trying to promote or that a local authority is trying to promote within its area.

To take the example of my own constituency, my excellent council of Adur in West Sussex, which is Conservative-controlled, devised a brilliant scheme called the Adur pot of gold whereby a certain amount of capital funding is put aside for local council tax payers to bid for. In a sort of "X Factor"-type talent contest, they come up with good causes that can put together a bid for money for work to do with their organisation. I will cite one example from last year. One of the winners was a church in Lancing which, as a result of the successful bid, was able to refurbish the kitchen in the church hall, which is used for a whole range of community activities—everything from pensioner lunches to folk music. That organisation put forward its bid and, ultimately, the good folk of Adur were invited along to a meeting and given a voting machine and they voted on which bids they liked.

Those organisations were receiving public funds. It was up to the council to vet their suitability and whether they qualified to be put forward for those grants. However, in some cases—we saw this in the case of Brighton, which we voted on earlier—a rather too zealous interpretation of Government regulations and equality laws could lead certain public bodies to exclude certain faith-based organisations from qualifying for something like Adur's pot of gold. I am sure it would never happen in my council, because my councillors and council officials use a form of common sense that too often flies out of the window in other parts of the country. However, the point is that it could happen. The new clause is all about is making it crystal clear in the Bill—many of us have wanted to see this in the past in other areas of public funding, and I have had faith-based organisations coming to me to complain that they do not get a look-in for some public funds—that faith-based organisations should be treated on an equal basis when it comes to applying for lottery funds and local authority funds of whatever description. They should not be told "Sorry, you don't qualify, so don't apply" on the basis that their faith-based ethos does not permit them to perform same-sex wedding ceremonies or accommodate same-sex weddings.

That clarification in the Bill would be helpful, and it would also send out a helpful signal and a message of clarification on other instances in which faith-based organisations appear to be excluded from applying, and therefore qualifying, for various public funding rounds, simply on the basis that they are faith-based organisations and somebody does not like the cut of their jib. That is what the new clause is all about. It would be particularly helpful in ensuring that all voluntary organisations, both faith-based and non-faith-based, are able to compete on a level playing field, which too often has not been the case in the past.

Overall, the amendments offer helpful clarification, and, as such, I look forward to a favourable response from the Minister.

10.45 am

Hugh Robertson: I will address the four amendments and the new clause in turn, thereby hopefully providing the necessary reassurance.

I am the Minister with responsibility for the lottery, and I have examples such as my hon. Friend cites, but he is clearly concerned. I will make him an offer that once the Bill, in whatever form, receives Royal Assent, I will be perfectly happy to write to lottery distributors to remind them that they are to carry out their duties in accordance with the letter of the law, although it is unlikely that any would not do so.

Amendment 27, as my hon. Friend and others have said, would protect persons who opted out of, or who refrained from opting into, activities described in clause 2 from an action for breach of section 29 of the Equality Act. For convenience, I will address the amendment with amendment 30.

Crucially, a religious organisation's decision whether to opt into conducting same-sex marriages is neither a service to the public or a section of the public, nor a public function. For that reason, the decision is not within the scope of section 29 of the Equality Act, nor is it within the scope of the Human Rights Act—I am happy to read that into the record—contrary to some views that have been expressed. The fact that undertaking an opt-in activity would enable a religious organisation subsequently to offer services to the public does not make any prior conduct also a service. Furthermore, the fact that undertaking an opt-in activity would enable a religious organisation subsequently to conduct same-sex marriage, which has legal effect, does not make any prior conduct a public function.

The decision to opt in or not to opt in, or, having opted in, subsequently to opt out—that is a great line, is it not?—is clearly a matter for the religious organisation concerned. Such decisions are therefore not susceptible to claims under the Equality Act or the Human Rights Act. Indeed, our problem with the amendments, which we have considered carefully, is that, in other contexts, they would risk creating doubt about whether decisions made by religious organisations are also services or public functions.

Amendment 28 is intended to clarify the position of trusts for the advancement of religion. I gave this reassurance to my hon. Friend during his speech, and I am happy to confirm that a trustee of a trust for the advancement of religion who refuses to consent to the use of a building owned or controlled by that trust for the marriage of same-sex couples would already fall squarely within an existing exemption in paragraph 2 of schedule 23 to the Equality Act.

[Hugh Robertson]

The amendment, of course, reflects a concern expressed in the United Reformed Church's written evidence about whether those who under the trust of any building are entitled to give directions to the trustees, but who choose not to direct an application to be made in relation to same-sex marriage, would be protected under the Equality Act. Again, such a person would already be protected under paragraph 2 of schedule 23 to the Equality Act if they were acting under the auspices of a religious organisation, and I am happy to be able to draw the Committee's attention to that.

Amendment 29 is intended to ensure that Churches or other religious organisations do not suffer detriment at the hands of a public authority simply because they have exercised their right under the Bill not to offer same-sex marriages. New clause 16 would provide specific protection a specific form of detriment, the withholding of public funds. It is absolutely right that religious organisations should be free to exercise the choices offered by the Bill on whether to offer same-sex marriage without fear of repercussion.

I am therefore happy to be able to clarify for hon. Members, to address a question asked earlier, that as the law stands, a public authority would in fact be acting unlawfully—again, I am happy to place that on record—if it attempted to treat a religious organisation adversely simply because that organisation refused, as is explicitly allowed in the Bill, to conduct same-sex marriages. If, for example, a local authority withdrew meeting facilities from a Church only because it did not offer same-sex marriage, that would be likely to be unlawful direct religious or belief discrimination. Once again, I am happy to read that into the record and provide reassurance.

Finally, contrary to the concern implicit in amendment 29, the public sector equality duty could not make an unlawful action lawful or justify an otherwise wrong or oppressive decision by a public authority. It is important to remember that the equality duty is a duty to have due regard. It does not require that a particular action be taken, nor that any specific objective or outcome be achieved. We must also bear in mind that, further, it provides various protected characteristics, including not just sexual orientation but religion or belief, and we should note that the belief that a marriage should be between a man and a woman would be a protected belief.

Further confidence can be taken from the evidence given to the Committee by of Lord Pannick QC. He made it clear that a decision to penalise a religious organisation for holding such a lawful and protected belief would be likely to be the subject of a successful legal challenge. I therefore hope that, given those reassurances, the hon. Member for Enfield, Southgate, will feel able to withdraw the amendment.

Mr Burrowes: We are almost there; this is the final part of our consideration of clause 2. I welcome the Minister's assurances—he is very reassuring. He said earlier in our deliberations that the Church is happy about the religious protections in clause 2, and the amendments seek to extend that happiness. Although he is the Sports Minister and, after the Olympics, must know a lot about happiness, I question his interpretation of the Church's happiness, given that we already heard from the Church of England that although it recognises that the locks as drafted deliver what the Ministers say they do—obviously, the Church outright opposes the principle of the Bill—it is concerned about the European Court dimension, and that there are issues that go beyond the ability of Ministers to reassure us, as they have done again today.

We heard from William Fittall during an evidence session:

> "The only area where we have a worry that I think is unique to us is whether in due course the Strasbourg Court might take a view because we act as a public authority…such discrimination by a public authority might be contrary to Strasbourg jurisprudence. There is nothing to go on at the moment, and we flagged that risk. We think the Government have sought to do what they can in the Bill to mitigate that, but the simple fact is that if you change the law on marriage, there is a risk and we shall see what happens."–[*Official Report, Marriage (Same Sex Couples) Public Bill Committee,* 12 February 2013; c. 25, Q67.]

That is helpful to the debate because the Church of England recognises that risk. The Catholic Church takes it a lot further; it does not think that the provisions adequately protect individuals and religious organisations. The public sector equality duty in the amendments has not been properly addressed. The Church is concerned about safeguards, and says that we should take the article 9 protections that we rely on with a large pinch of salt.

Those are the reasons for tabling the amendments. I have heard the Minister's reassurances, and I welcome the fact that he is being proactive about, for example, the funding lottery issue by writing to the lottery. I know that he does not write off the amendments, and that he has given us some assurances, but will he be proactive, assuming that the Bill is enacted, in inviting the following organisations to speak? They include the Fellowship of Independent Evangelical Churches, CARE, the Christian Institute, the Evangelical Alliance, Affinity, the Baptist Union of Great Britain, Vineyard Churches, Newfrontiers, Black Majority Churches UK, Reform, the Sikhs, the Muslims, the Chief Rabbi and others. Those are just some examples of organisations that did not appear before the Committee but continue to say that they are not convinced by the locks in the Bill. Such an invitation would ensure that their concerns are properly addressed. They say that they are not happy; the Minister should extend some of his happiness to them.

I have heard assurances on a number of the amendments that we have tabled. However, regarding amendment 27, there is increasing concern—I am increasingly unhappy—about the fact that the Government do not want to include in the Bill an explicit protection for the activities in subsection (1) in relation to the Equality Act 2010. The fact that they do not want to do so raises the greater question of why they are not willing to do with regard to subsection (1) what they have done—indeed, perhaps going further than the opposition to the clause—with the exemptions in subsection (5). Why can those exemptions not properly encompass subsection (1), to ensure that it is crystal clear that religious organisations will not be deemed to be exercising a public function in relation to any decision to opt in or opt out? On that basis, I wish to press amendment 27 to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 12.

Division No. 3]

AYES

Burrowes, Mr David	Shannon, Jim
Loughton, Tim	

NOES

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

Question accordingly negatived.

Question put forthwith (Standing Orders Nos. 68 and 89), That the clause stand part of the Bill.

Question agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 3

MARRIAGE FOR WHICH NO OPT-IN NECESSARY

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

Mr Burrowes: I welcome the Minister for Equalities, who is taking over the batting; the Sports Minister can now have a welcome rest and take his trusty bat of religious liberty back into the pavilion.

We now move into the arena of civil marriage. The clause is a significant one, and takes us once more to the redefinition of marriage. It replaces section 26 of the Marriage Act 1949, which sets out the marriages which may be solemnised on the authority of the superintendent registrar's certificate. Proposed new section 26 of the 1949 Act authorises religious marriages between a man and a woman in registered buildings; civil marriages for all couples in a register office; civil marriages for all couples in, for example, a hotel or other approved premises; religious marriages between a man and a woman by the Quakers or the Jewish religion; marriages between a man and a woman one of whom is housebound or detained; civil marriages of a same-sex couple, one of whom is housebound or detained; and, finally, marriage between a man and a woman in a chapel or church of the Church of England or the Church in Wales. Paragraph 35 of the explanatory notes deals with the purpose of proposed new section 26.

11 am

Without wanting to repeat previous debates, we need to return to the territory of the meaning and purpose of marriage, because again that is where the rubber meets the road. The Minister gave us an illuminating view—whether he is happy with this particular definition, I do not know—which takes the revisionist view of marriage, in relation to emotional bonds and commitment, to a whole new level: away from the traditional conjugal view of marriage. Effectively, that view is that marriage means whatever you want it to mean, where autonomy is everything and the results try to find our current reality, rather than what was previously the absolute definition of marriage: bringing together a man and a woman. Understandably, because the Government want to redefine marriage, clause 3 speaks interchangeably about

"the marriage of a man and a woman"

and

"the marriage of a same sex couple"

and

"a marriage of any couple".

Millions out there believe that we are straying too far from what marriage really means in terms of the particular words, to give marriage proper description.

We are now moving into the civil context, but we have not totally left religion behind; given the effective marriage between church and state in terms of the united concept and understanding of marriage. In clause 3, we have what has been described as a wholesale redefinition of marriage. When the Church of England was asked whether clause 3 amounted to a redefinition of marriage, it said that by amending the Marriage Act 1949, which governs all existing and future marriages, the Bill is effectively stripping out all the references to marriage in section 26 of the 1949 Act, as those references no longer need to be qualified with the words "a man and a woman". We now effectively have a substitution of section 26 with tortured language: that language being

"a marriage of a man and a woman"

and

"a marriage of a same sex couple"

and

"a marriage of any couple".

The Church of England briefing, which no doubt we all received and devoured carefully, says that we need to be cautious in distinguishing between the realms of civil marriage, which is dealt with in the Bill, and religious marriage:

> "Talk of 'civil' and 'religious' marriage is erroneous and mistakes the wedding ceremony for the institution. The effect of the proposals would be that everyone who wished to marry—irrespective of the form or ceremony by which their marriage was solemnised—would be required to enter into the same new statutory institution of marriage. That institution would be one that was defined gender-neutrally as the voluntary union for life of any two persons. English law would as a result cease to provide or recognise a legal institution that represented the traditional understanding of marriage as the voluntary union for life of one man with one woman."

The Church goes on to say:

> "The established institution of marriage, as currently defined and recognised in English law, would in effect have been abolished and replaced by a new statutory concept that many inside and outside"—

crucially, it mentions those outside—

> "religious organisations would struggle to recognise as amounting to marriage at all."

I invite the Minister to help us to understand the basis and meaning of the purpose of marriage underlying clause 3.

The Archbishop of York has also commented on this matter:

> "We must not torture the English language. Marriage is a relationship between a man and a woman and that's marriage…I don't think it is the role of the state to define what marriage is. It is set in tradition and history and you can't just change it overnight, no matter how powerful you are."

Many out there would say that clause 3 is an example of how we are torturing the English language to try to fit the idea of same-sex marriage into the 1949 Act. Those concerns are out there and they should not be ignored. It is important to remember that, despite the fact that we have moved on in the Bill and dealt with issues around the quadruple lock, concern still remains.

I am reminded by clause 3 that the Bill is redefining marriage for everyone. My marriage certificate says "Marriage Act 1949" at the top, and the Bill is seeking to rewrite that Act retrospectively.

Stephen Gilbert (St Austell and Newquay) (LD): Will my hon. Friend give way on that point?

Mr Burrowes: Yes, I welcome my hon. Friend's contribution. Previously, I have seen his contributions only in tweets.

Stephen Gilbert: I am grateful to my hon. Friend for giving way. I wish that I could welcome his contribution to the Committee in the same way that he has pre-empted my remarks. Can he tell us how allowing me to marry my partner fundamentally changes the nature of the relationship that he and Mrs Burrowes have, or changes her gender—or makes any change of any substance in their relationship?

Mr Burrowes: I am grateful. We are, as a coalition, generous to each other, and I want to be generous to my hon. Friend.

The point that I am making is that the impact on individuals is not the whole thing. The underlying concerns about the Bill are not just about the right of individuals to have access to marriage and the marriage ceremony, but about the institution of marriage and how it affects us all; not about me individually, or, indeed, Mrs Burrowes, but about the understanding of marriage, for us all. Effectively, clause 3 changes, as we shall see, the understanding of marriage itself.

I do not want to rehearse the clause 1 debates. The objections to the principles of the Bill are established. However, I want to go into another realm of the issue, which the Government will no doubt have dismissed in examining all the policy options underlying clause 3. I hope that we shall have an opportunity under amendment 51 to debate in more detail whether the word "marriage" should be effectively owned by the state in any way, or prescribed by the state—whether it has any reason now to have any hold on the word "marriage".

I say that because, as we have heard, the definition of marriage is pretty thin and does not mean too much. Perhaps we should recognise the situation we are in. The state is quite properly concerned to support commitment and relationships, and people staying together as long as possible, and it has an important role to play. Perhaps clause 3 should take things a stage further and get the word "marriage" out of the whole context; it has traditionally been formed and influenced by Christian tradition and the Churches, but can now be adopted by others without the state's involvement.

I am not sure whether other members of the Committee have seen Lord Coleraine's submission:

"Now may be the moment, after the second reading…for the Government to consider whether the Bill achieves its objectives in the best and, at the same time, the least divisive way. As I understand it, the Government's intentions are to give to same sex couples in committed relationships akin to marriage a ceremony which joins them in exactly the same way that marriage joins heterosexual couples.

I take it as axiomatic that the existing Civil Partnership legislation does not begin to satisfy the Government's criteria. It may, and does, provide valuable and valued benefits for homosexual couples; but it simply does not begin to create a 'bonding'"—

in terms of ceremony—

"akin to marriage. Might it not be possible for the Bill to be amended to provide a new ceremony for homosexual unions? The ceremony would mirror a marriage ceremony in all respects but one. It could include all the formalities of a marriage ceremony, including a vow of faithfulness until death; with only such modifications as are made necessary by the fact that the parties are not a man and a woman.

The one significant difference between this ceremony and a marriage would be that the word 'marriage' would not appear, either in the legislation or in the wording used in the ceremony."

That is his suggestion: that clause 3 should be worded differently, around unions rather than marriage, and that there should be proper consultation with the Church about how it would reflect that in its settlement.

The Minister has great experience, from her practice, in family law, and great understanding of what rights affecting couples and relationships are and are not established in law. So that we can be clear about the issue, will she identify with reference to clause 3 what new legal rights are established by the Bill? What legal injustice has been remedied by clause 3?

There is concern that as far as relationships are concerned there is a hierarchy. I do not believe that the Minister who has retired on this clause wanted to adopt this language, but we have the gold standard of marriage—*[Interruption.]* The hon. Member for Rhondda refers to platinum, and I will come to that in a moment. First, we have the gold standard of marriage that the Secretary of State wants everyone to be able to apply for. There is the silver standard of civil partnerships, and it has been said that there is a platinum standard that should be looked at in other ways. The reality is that there is a danger of a hierarchy. I am not suggesting that there should be, but it is being been put in place by the state. Where do unmarried couples fit into that? Are they the bronze standard?

I make this point because a constituent at my surgery on Friday asked what Parliament is doing for her rights. She later wrote to me saying:

"The law should create financial equality between unmarried and married women, so that the former can have provision for security for themselves and any children from the relationship."

That issue has been considered by the Law Commission. Dame Elizabeth Butler-Sloss and others have made representations on co-habiting couples: whether proper rights should be established for them and whether Parliament should take the opportunity to deal with other areas where there is injustice and rights have not been properly enshrined. My constituent continued:

"As the law stands now I have to return the money to the father when my child finishes full time education…Why should women like me not have the same rights as married women?"

She concludes:

"The law should all be more equitable and fair in 21st century society"—

I understand that equality is the spirit and intention in the Bill and in clause 3—

"women like me should be treated the same financially as married women. We have the same responsibilities and time constraints towards our children. Why should it be different for us just because we are unmarried mothers? The law appears to say that if you are unmarried you do not have a right to retain your home after your child turns 18, even though you are still looking after the child; it appears not to care that people such as us will eventually be homeless."

The Chair: Order. I am reluctant to intervene, but this has very little to do with clause 3. In fact, it has nothing to do with the clause. Will the hon. Gentleman return to clause 3? He was doing extremely well until he went on to the unmarried point.

Mr Burrowes: Mr Streeter, you make the point that this has nothing to do with clause 3, and it does not. There is a recognised concern about injustice and lack of legal rights affecting families and children, and clause 3 has not properly addressed inequalities and injustices. Will the Minister help us to understand the Government's rationale for redefining marriage, and whether their goal really is to provide established rights and equalities? If so, should they not look beyond the provisions in clause 3?

Chris Bryant: The hon. Gentleman misses the point. That was a Second Reading speech about the whole Bill, which could be said about almost every speech that has been made on amendments.

The language about a gold standard, bronze standard and so on is not exactly offensive, but it is wholly inappropriate. People live their lives in many different ways, and we should not judge between one and another. However, since the 1949 Act the law has allowed two tracks down which people may be married. One is through the Church of England after banns, with a common licence or with an archbishop's special licence. Such a licence normally provided when people have special reasons for being married in a place where they do not normally reside, such as here in the Houses of Parliament, or are being married according to the rites of the Church of England but in someone's else's church or chapel, which then comes under the registrar's responsibility.

The second route is the superintendent registrar's certificate, and is in a register office or approved premises, such as a Quaker meeting house or according to the rites of the Jewish religion. It might relate to what in the 1949 Act was a "housebound marriage", when someone is prevented from accessing any of the other places we are talking about because they are housebound. The Bill terms that a "residential marriage".

Clause 3 is just part of the machinery of the Bill. It provides, in essence, what clause 1 allows for. If one disagrees with clause 3, one fundamentally disagrees with clause 1, which is why the hon. Member for Enfield, Southgate, was dragged down the route of a Second Reading debate.

11.15 am

I to congratulate the Minister on the redefinition of housebound or residential marriages. It is better than in the 1949 Act. That is not material to the rest of the Bill, but it is a better definition.

I also want to ask about St Mary Undercroft, here. Would it be possible at any stage for a same-sex marriage to be conducted there under proposed section 26(1)(e)?

Tim Loughton: I am not entirely sure why the hon. Gentleman's contribution was any more relevant than the previous contribution on clause 3, but at least it was shorter.

The Lord Commissioner of Her Majesty's Treasury (Mr Desmond Swayne): Keep yours even shorter.

Tim Loughton: I am sure that *Hansard* will report what my right hon. Friend said.

On the subject of gold standards, the hon. Member for Rhondda either was not listening or deliberately misinterpreted what my hon. Friend the Member for Enfield, Southgate, was saying. He was not supporting any gold, bronze, silver or platinum standard hierarchy. The term "gold standard" came from the Secretary of State in the evidence sessions. Many of us on the Government Benches have been at pains to stress this point: I said in the four minutes that we were limited to on Second Reading that I regard my conventional church wedding as no less equal in the eyes of the law than a civil partnership. There is no gold, silver or any metallic standard at all there. They are equal and different.

There will be an interesting answer to the question about St Mary Undercroft. We should all declare an interest. My daughter was baptised there by my father, but we will not go into that as it is completely off the beaten track of clause 3. Clause 3, if I can mention it occasionally and certainly more than the last speaker did, raises issues of fundamental constitutional significance, which is why it is important that we have the clause stand part debate that you have generously granted, Mr Streeter. It will have far-reaching and unintended consequences. Over and over again in the Committee, questions have remained unanswered on this clause and its consequences. We are entering uncharted territory here.

The Bill means that the way in which we have understood marriage in law, with all those hundreds of references in English law going back to the 14th century, will be intrinsically altered. A simple clause defining marriage will be replaced by three clauses, replacing a single institution with at least two only partially related sub-institutions. We therefore see the first step in the erosion of marriage as what many of us would hold as a single unifying institution for the whole of society. It sets us on a course for what some might term the privatisation of marriage, whereby the institution means only what two people choose it to mean rather than a public institution that society itself uses as a basis for its language and its prosperity. This is perhaps a further step towards the state withdrawing from marriage as we recognise it today, washing its hands of any preference for particular forms of relationship as being in the interests of the common good.

I do not believe that is progressive. It is a form of disinterest that promotes individualism at the expense of community. It is a lowest common denominator approach and a recipe for the unravelling of social institutions because the glue, the fundamental understanding of norms that bind them, is removed. The clause raises more questions than it answers. The

[Tim Loughton]

Church of England has stressed the need for exceptionally careful drafting if any change is to be made to the statutes on marriage. The Catholic Bishops' Conference of England and Wales also urges careful thought and analysis in its response to the Government's consultation on equal civil marriage. I am afraid that the wording of the clause does not meet that requirement. Rather, it introduces confusion when we desperately need and should be seeking clarity.

The explanatory notes on the clause speak of civil marriages and religious marriages. Since when has that been a valid distinction? I accept the civil/religious distinction for weddings. The law allows couples to choose what kind of venue they would like when they get married. However, whether a couple get married in a registry office or a church, the result is the same: they are legally married. It is not that a couple who get married in a registry marriage are civilly married, and a couple who get married in a church are religiously married. In the eyes of the law, both couples are simply married.

As the Catholic Bishops' Conference put it:

"Currently, in British law there is only one institution of marriage. For the purposes of civil law, it is the same legal commitment that takes place in a registry office as in a Church. The civil legal status of marriage is only conferred because the priest has been authorised by the Registrar General to conduct weddings in the absence of a Registrar. So, in completing the Register of marriages, the priest carries out a civil function."

It is a recipe for disaster to authorise those different kinds of marriages under different provisions of the Bill. It introduces two kinds of marriage and puts us on the road to privatising marriage. Marriage will be subjectively defined by the persons involved rather than objectively defined by the statute book. Some may say, given the evidence we had from the Quakers, that that is the line of thought behind Quaker weddings. It is entirely about the state of mind of the two celebrants actively involved in the ceremony. Everybody else is just a witness; they do not officiate or have a ceremonial role.

As Jennifer Morse of the Witherspoon Institute argued in "Privatizing marriage is unjust to children", the logic of marriage privatisation at the expense of children is a concept developed by adults that will benefit only adults. The Catholic Bishops' Conference added:

"The government's proposal risks initiating a social change which, perhaps inadvertently, places the best interests of children to one side in focussing only on the relationship of the couple. The reality of this risk is eloquently expressed by the simple fact that children are not mentioned even once in the government's consultation document. Policy should be guided by the desire to promote justice, preserve freedom and serve the common good for all, especially the vulnerable, over the long term."

The irony of the clause is that the state is using its power to force through a redefinition of marriage but will end up privatising the institution. Many people believe, with good reason, that that will have negative consequences for the whole of society. It is not without good reason that marriage between a man and a woman has been described as the fundamental building block of society—although the Secretary of State described it as the "gold standard". A great deal of research has shown that children do best with a mother and father in a committed marriage relationship and that a stable future for society rests on preserving marriage as between a man and a woman. The Catholic Bishops' Conference said:

"Unmarried couples, single parents and adoptive parents provide loving homes, devoted care and a good upbringing for children, often in difficult circumstances. However, the distinctive legal recognition given to marriage by the State arises primarily because the institution of marriage in general brings unique qualitative benefits for the children and to society. A substantial body of research shows that the best outcomes for a child are most likely to be found where a child has two parents…That is where children learn about what it is to be male or female, and how each sex relates to the other. The best structure suited to raising the next generation is therefore a stable marriage."

That may not reflect the view of a majority on this Committee—*[Interruption.]* In clause 3 or any other part of the Bill. However, it is a legitimate and respectable view. It is based on reason and experience, not just on religious teaching, although that religious teaching—Christianity—has served this country rather well for a rather long time, so we should not be hasty about questioning it.

The state rightly has an interest in marriage, and clause 3 goes to the heart of that—

11.25 am

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

Adjourned till this day at Two o'clock.