PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

MARRIAGE (SAME SEX COUPLES) BILL

Tenth Sitting

Tuesday 5 March 2013

(Afternoon)

CONTENTS

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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

(Afternoon)

[Mr Jim Hood *in the Chair*]

Marriage (Same Sex Couples) Bill

Clause 3

Marriage for which no opt-in necessary

2 pm

Question (this day) again proposed, That the clause stand part of the Bill.

Tim Loughton (East Worthing and Shoreham) (Con): It is good to welcome you back to the Chair, Mr Hood. I think I was approaching a peroration—[Hon. Members: "Hear, hear!"]—but my perorations are not necessarily short, as hon. Members will know. However, let us see if we can take up the batting from where we left off before lunch.

It has been said repeatedly that marriage has been redefined many times before, with the current proposed changes just another instance of that. There have been changes in formalities and changes, as it were, at the other end of marriage—when a couple get divorced—but the fundamental essence of marriage as the union of one man and one woman has never been tampered with until now. Other changes did not go to the essence of what marriage is, but the Bill, and clause 3, does.

It has also been said repeatedly that introducing same-sex marriage will strengthen the institution of marriage. Those of us on the opposite side argue that redefining marriage in this way will have the opposite effect. The Orthodox Churches, from which we have not yet heard, put it this way in their submission in response to the Government consultation:

"The proposed change is not, as is claimed, an extension of the high status and responsibilities of marriage to homosexual couples. Rather, it gives legal recognition to a radical change in the understanding of marriage itself that affects all married couples and hence society as a whole."

Clause 3 is supposed to cater for such religious bodies, but they do not sound terribly enamoured of the Government's proposals, because the Catholic Bishops' Conference's response to the consultation also warned:

"If implemented, the government's proposed legislative changes to the meaning of marriage will permanently diminish the significance of marriage for the whole of society. It will do so by abandoning the innately understood biological and sexual complementarity of the relationship between a man and a woman, and the children their union gives rise to, on which a strong and well-adjusted society is best built."

The Minister of State has already said that marriage means effectively what people want it to mean, but that approach will destroy any common understanding of marriage. At the moment the law is clear; as a result, there is a common understanding of what marriage means in society—the union of one man and one woman. The Catholic bishops say:

"If the institution of marriage is significantly diminished, so will the well-being of children, the family and …society."

The Bill is all over the place. Our consideration of clause 3, alongside clauses 4 and 5, confronts us with the stark reality of what the Bill will do to the institution of marriage. It will take an institution that provides a unifying function and that is clearly understood by all, and clearly understood in institutions and in law, and splinter it into different and relative forms. Far from drawing our society together, it threatens to drive us apart into different communities with different understandings of marriage, which is a recipe for civic and legal dissonance.

The Bill will, for the first time, incorporate confusion into law that would undermine the institution of marriage and drive a wedge between the communities that subscribe to the different supposed understandings. The ensuing confusion serves no one. The suggestion that there are two understandings of marriage—religious and civil—is a false one. Introducing that false distinction in statute will promote ambiguity that is divisive, dishonest and ultimately destructive. Furthermore, we fear it will lend itself to vast amounts of litigation.

Once such a legislative change is made, it will not be reversible, and the Government will not be able to control or predict the consequences of that change. Not a lot of people are happy. Stalwart proponents of same-sex marriage believe that the Bill does not go far enough, while advocates of traditional marriage have deep concerns about the impact of its passing. Many people have warned that the change has not adequately been thought through. The Government were advised to leave marriage alone. This mess is the reason why, which is why it is essential to get far more clarity in the Bill if it is ever to stand up to scrutiny, if it becomes law.

The Parliamentary Under-Secretary of State for Women and Equalities (Mrs Helen Grant): It is a great pleasure to serve under your chairmanship, Mr Hood, and it is certainly very nice to be able to stand up at last and make a contribution in Committee. I have waited quite a while for this moment.

Clause 3 amends the Marriage Act 1949 to extend the provisions of civil ceremonies to same-sex couples. Section 26 of the 1949 Act, as amended by clause 3, will set out marriages that do not require an opt-in. That includes all opposite-sex marriages and marriages of same-sex couples through civil ceremonies in a register office, on approved premises, such as hotels or stately homes, or in certain circumstances, such as in the residence of a detained or housebound person.

The requirements for marriage by civil ceremony will be the same for everyone. The ceremony will be conducted under the authority of two superintendent registrar certificates, which are issued when the registrar is satisfied that the couple are legally able to marry. The clause provides key changes to make same-sex civil marriage a reality by opening up marriage by civil ceremony to same-sex couples on the same footing as opposite-sex couples.

Civil marriages account for some 68% of all marriages, so enabling same-sex couples to marry through a civil ceremony is key to delivering the Government's commitment to extend marriage to same-sex couples. That is fundamental to delivering equal marriage, and same-sex couples will be given the same opportunity to enter into civil marriage as opposite-sex couples.

Hon. Members have raised a number of points over the course of the debate, so I want to pick up on some of them. We have already extensively debated the redefinition of marriage during our consideration of clauses 1 and 2. Indeed, the debate on just that matter lasted five sittings—it will be six if we count this one—so it will not be helpful to the Committee if I take us down that path again. The Bill simply opens up marriage to a group of people who were previously excluded from it. There has never been one definition of marriage; it is an institution with a long history of change.

My hon. Friend the Member for Enfield, Southgate talked about civil unions, but there is no status of civil union in England and Wales; there is only one state of marriage. We want to extend marriage to same-sex couples, which is clear in clause 1, and we do not want to create a new concept of marriage. There is a danger that if my hon. Friend's proposals were taken through, they could undermine and weaken the institution of marriage, which would be the last thing that he would want.

The rights and responsibilities that go with marriage will remain vital to that relationship and will, of course, be extended to same-sex couples. The hon. Member for Rhondda made an inquiry about the use of St Mary Undercroft in the Palace of Westminster. I am informed that it is a royal peculiar and, as such, it is subject not to the bishop but to the Queen. As she is Head of the Church of England, it would be unlawful for same-sex marriage to take place here, unless the Church of England changes its canons and puts forward an amending Measure.

Chris Bryant (Rhondda) (Lab): Her Majesty could decide to allow it to be used as a space for multi-faith purposes. I gather that the House of Lords is about to have a multi-faith space, so I do not understand why the House of Commons cannot have one as well. Perhaps the Minister would like to write to the Queen to ask her whether she would allow that to happen.

Mrs Grant: The hon. Gentleman raises an interesting issue, and I am certainly happy to look into his proposal and consider what action we can take that might assist.

I know that some religious organisations, along with many others, have concerns about the clause. The clause is about civil marriage, and 68% of people who get married in this country have a civil ceremony. If the Bill is enacted, a very high proportion of same-sex couples who marry will do so by way of civil ceremony under the clause, so it is fundamental to the Bill.

During our evidence sessions, the point was raised by the hon. Member for Cardiff South and Penarth, and endorsed by Alice Arnold, that perhaps too much weight had been put on the religious argument. Alice Arnold said:

"Everything seems to centre on the religious objection, but two thirds of people don't get married in a church—two thirds. Yet all the debate seems to centre around religious objection. Loads of us do not have a religion. It is not important to us; what is important to us is the law".—[*Official Report, Marriage (Same Sex Couples) Public Bill Committee,* 14 February 2013; c. 159, Q412.]

Jim Shannon (Strangford) (DUP): Our witnesses included Brendan O'Neill, who is, as I said last week, a self-confessed atheist with no religious views. However, he was clear in his views on the importance of marriage. Will the hon. Lady take those viewpoints on board as well when giving her synopsis of ideas on this matter? Is Brendan O'Neill's opinion equally important?

Mrs Grant: All views are important on such an emotive issue, which is why the Government have listened and consulted throughout. We will go on listening, talking and trying to make sure that we not only provide the protections that are needed to give reassurance, but open up this vital and essential institution to a significant group of people who have been excluded from it up until now.

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

The Committee divided: Ayes 13, Noes 4.

Division No. 4]

AYES

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

NOES

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

Question accordingly agreed to.

Clause 3 ordered to stand part of the Bill.

Clause 4

OPT-IN: MARRIAGE IN PLACES OF WORSHIP

2.15 pm

Mr David Burrowes (Enfield, Southgate) (Con): I beg to move amendment 51, in clause 4, page 5, line 21, at end insert—

> '"recognised" means recognised according to the ordinary customs and usage of the organisation. In the event of a dispute between the members over which person or persons are recognised for the purpose of giving consent for the purposes of this section, the Secretary of State shall consult all members of the relevant religious organisation to determine which person or persons are recognised. This shall include power to order a ballot of members in which a quorum of 66 per cent. shall be required and recognition shall be determined by a majority vote.
>
> "members" means those whose names have appeared on a formal membership roll kept by the relevant religious organisation for a period of at least 12 months prior to written consent being given. If no such roll is kept, then the members shall be

> deemed to be those who have attended worship at the place of worship for a majority of services of worship during the 12 months prior to written consent being given.'.

Welcome back to umpiring our test match, Mr Hood. I welcome the progress that we are making. In his innings, the Minister of State took five sittings to move us to clause 2. The Under-Secretary of State for Women and Equalities has moved us to yet another clause in rapid time—we have now moved to the more free-flowing stroke play of the new Minister.

Amendment 51 is in my name and that of my hon. Friends. It is confessional time. The amendment is somewhat clumsy and may lead to some tedium on the part of some members of the Committee—[Hon. Members: "Hear, hear."] It is amazing to get such endorsement from across the Committee. We are now getting to key elements of the Government's legislation, effectively the nuts and bolts of the lock and how it will be applied. The amendment seeks—somewhat clumsily, I admit—to define terms about recognition of the authorities and the consent that would apply when dealing with issues of registering buildings. I urge the Government to confess their own clumsy attempt to redefine marriage, which by necessity leads to the clumsiness in the Bill of attempting to define how religious premises are registered.

As the Government are intent on redefining marriage, and if they intend to persist in legislating for same-sex marriages in places of worship, they need to make sure that the legal framework they put in place is absolutely secure and clear for everyone to understand. Clause 4, which adds new section 26A to the Marriage Act 1949, provides for the proprietor or trustees of a place of worship to apply to be able to solemnize same-sex marriages.

The Minister and other members of the Committee may well ask what all the fuss is about with clause 4, because the provisions are based on regulations for civil partnerships in churches that have been in force for a year. It is also the case that those regulations were not subject to a debate on this side, despite the outstanding efforts of my hon. Friend the Member for Gainsborough (Mr Leigh). They were dealt with by secondary legislation—later in the Committee we will consider proposals to deal with a host of issues by way of secondary legislation. We now have the opportunity to probe and to consider whether that is a good thing.

When the parallel regulations for civil partnerships were in the other place, Baroness Butler-Sloss, who is much experienced in the family division, supported them, but described them as "sloppy". We have the same sloppiness in the regulations. One also has to understand that those regulations are bedding in. It is still early days and it is appropriate to raise potential problems with the application of clause 4. I also notice that the 2005 regulations state:

> "Nothing in these Regulations places an obligation on a proprietor or trustee of religious premises to make an application for approval of those premises as a place at which two people may register as civil partners".

I have looked high and low in the Bill to see whether there is a similar statement in relation to the clause or schedule 1 and have not found it. Will the Minister explain why there is not a similar statement in the Bill to the statement on the registration of civil partnerships?

I will come to other questions, but I want to flesh out some of the concerns that are out there. Often proprietors or trustees will be different in a place of worship from those with other authorities, such as, in a religious context, spiritual authorities. In addition, clause 4 requires consent from the relevant governing authority. We have to unpack those definitional terms to see whether the Government have themselves unpacked them. Have they decided that they need to package them back into this relatively ill-defined form and leave it to the religious organisations to deal with the issue themselves? Alternatively, it might be appropriate to get this right and clear in the Bill now.

What does "recognised" really mean? What does it mean for members of a religious organisation to recognise an authority that is competent to give consent on something as important and potentially divisive as same-sex marriage? Who are the members of a religious organisation? Some Churches will have a formal, written list of members, who have had to go through a formal process to achieve that status. In other Churches that use an electoral roll, the list of members may not bear much resemblance to those who turn up on a Sunday morning or evening. Some Churches' religious groups have formal systems of membership, but others regard it almost as an article of faith not to do so. The amendment is an attempt, somewhat clumsily, to define "recognised" and "members", and to give the Government an opportunity to respond with their view on the matter.

If no definition exists, that may lead to problems. We are legislating for religious organisations to be able to opt in. The explanatory notes state:

> "Subsection (4) of new section 26A defines what is meant by the 'relevant governing authority'. This definition leaves it open to religious organisations to define their governing authority as they wish for the purpose of giving consent to religious marriage of same sex couples."

That is in the permissive spirit of the Bill—many people would say that it is quite appropriate and proper, and that no legislation should get in the way of such a decision. I would not want us to have a list of approved religious organisations, as some European member states do. That would not be appropriate or right, because the state should not get involved in such matters. It is important, however—not least to give us some clarity in the debate—for us and for the authorities that determine applications to understand what is a bona fide religious authority, so that the authorities are not taken for a ride.

The legislation defines who can give genuine religious consent for the purpose of registering a place of worship for same-sex marriages. That is the only mechanism that a Church or denomination has for allowing or preventing the use of its premises for same-sex marriages, so it is important that we get this right. We do not want to create problems in Churches because the Bill lacks clarity.

A rogue element in a Church might decide to take action in relation to consent and authority if there is limbo. Every Church has its rogue elements, just like most organisations—and, indeed, political parties. For example, the majority of Conservatives do not support same-sex marriage, but there is a minority rogue element in the party that is advancing it in the name of all Conservatives. Similarly, a rogue element in a Church that is in the minority among voting members might want to do something similar.

I have some questions for the Minister on such rogue elements. According to whatever consultation has taken place, does each religious organisation in the country have an authority that is, in the words of clause 4, "recognised by the members"? Do such bodies always have a mandate to make such a decision and provide consent? Has consultation taken place during the rapid passage of the Bill that provides the Minister with full assurance that all angles have been considered? What about trustees of a Church building who disagree with the Church elders about opting in? Who will arbitrate between the elders? Who is the recognised authority of the Church and who the trustees? Who is the recognised authority of the building?

The Government estimate that there are around 30,000 registered places of worship, which belong to some 40 different faith groups, not including the Church of England or the Church in Wales. How many have been consulted specifically on the clause, and what was their response?

The main issue is the importance of governance and ensuring that applications to register a building for same-sex marriages are properly determined by the authority. The local registry office will receive the application, and, as I understand it, it has no legal basis on which to assess or reject an application. If an application is made by the proprietors and accompanied by something that appears to indicate consent, that is apparently enough to register the Church for same-sex marriages.

One might argue that that is appropriate in the permissive world in which we live—the hon. Member for Rhondda has referred to the live and let live Bill. In some ways that extends to the relevant recognised body—the relevant recognised is apparently whatever the applicants say it is. If, for example, they do not like the position of the other religious leaders and authorities, they could cite the consent of a particular splinter group that reflects their own beliefs.

We could argue that it is up to the registered organisations to sort it out themselves, but should we leave that uncertainty in the Bill when we have the opportunity to provide clarity? The local register office at the town hall that receives the application, and the Registrar General himself when it is sent to him, will be none the wiser. If they suspect that the consent is not genuine the statute gives them little scope for rejecting it. If the applicants say, "We are the members. This is the body we recognise," is there any way to assess the applications and say, "You need consent from a different body"? There is as yet no guidance on assessing who the members are and how the religious authority is recognised in that organisation.

An amendment was proposed some time ago to publish the details of those Churches and premises that would be opting in. That would have provided some clarity, not least for the registrar, who could therefore understand who was applying and see that there was an authority and that the matter had been publicly aired. In the evidence session, we heard from the Unitarian Church, which has some several thousand members—

Jim Shannon: Five thousand.

Mr Burrowes: Indeed—it has 5,000 members. Unitarian Church representatives told us that it would be left to individual congregations to decide whether they wanted to register same-sex marriages. Some of them might want to; others might not. It was suggested that many of them would want to. What if a group from within a congregation of Unitarian Churches took a strongly different view from the majority of members? It might be quite a small number given the small membership of the Unitarian Church. What if they cited the consent of the denomination rather than the local church? How would that be assessed by the local register office?

Church structures are complicated and there are probably many examples. The Baptist Union represents many thousands of members. Its decisions over Church buildings involve the Baptist Union Corporation, trustees, Church members and charity trustees who are made up of the minister, deacons and elders. They all have different legal responsibilities in relation to the premises and Church activities generally. Has the Minister consulted the Baptist Union about whether these arrangements take account of the peculiarities of its structures?

One could say the same about the Fellowship of Independent Evangelical Churches and a number of such organisations, and Church-based groups that have a large number of independent Churches and premises. They could help the Government deal with some of these practical issues. Have such conversations taken place? There may well be a Church denomination that has mixed views about a same-sex marriage. How can we be sure that one wing will not give consent for the denomination as a whole, even though such a decision may be unrepresentative?

Jim Shannon: The views of the Baptist Union are closest to my own beliefs as I am a member of the Baptist Church. The hon. Gentleman asked whether the Minister had sought the views of the Baptist Union. We have a written submission from Geoffrey R. Larcombe, a retired Baptist Church minister who—

The Chair: Order. The hon. Gentleman should make an intervention, not a contribution. If he has a question he should ask it. If not we will move back to Mr Burrowes.

Jim Shannon: I am chastised, Mr Hood. Does my hon. Friend feel that this submission is just a small part of the representation from the Baptist Union and that the majority will be overwhelmingly against the redefinition of marriage?

2.30 pm

Mr Burrowes: I am grateful to my hon. Friend for that intervention. He may wish to catch your eye, Mr Hood, to make a contribution on the Baptist Union's submission, but my point is generally on the level of consultation and consideration given to a number of views. Some we heard in the evidence sessions, but there are a whole host more that are coming through every week to the Committee in written form. Others have come to us directly to say that their voice is not being properly heard on issues of real practical concern.

[Mr Burrowes]

I have a few more questions for the Minister on this amendment. What if a group claims to be independent in its application—that does not require consent from the wider body—when that was not in fact the case? Can local authority registrars be reasonably expected to have a sufficient grasp of all the different interests, systems and hierarchies of religious bodies in Britain so as to be able to handle potential controversies without a better statutory framework for doing so? What will constitute sufficient evidence of consent? Schedule 1 says that a letter is enough, but given the internal tensions that could well arise around this controversial and sensitive issue, should there not be some additional requirement to verify the issue of consent?

Clause 4 is the anchoring provision for schedule 1, which we will come to in a moment. The explanatory notes state:

"Schedule 1 inserts provisions into the Marriage Act to deal with the details of registering buildings for marriage of same sex couples according to religious rites and usages".

I am looking for those details in the Bill, but I cannot find them. It may be a case of saying, "Problems have not arisen up to now on the registration of civil partnerships," but the point has been clearly made that we are dealing with a new situation—the redefinition of marriage—that is raising different controversies and issues within Church groups. We cannot compare like with like.

I am drawing towards the conclusion of my remarks. Has any particular guidance been given to the local authority registrars, rather than just to the Church organisations, on the approval mechanism? What will happen if local authority registrars unknowingly approve an application to register a church for same-sex marriages when there has been no proper consent? Will there be penalties for the authority? Will any issues be raised by someone making a bogus application? Will marriages registered under that bogus registration be invalid? Will any other issues arise? Have the Government considered that issue, and is there any guidance on anything else that may flow from that?

In terms of individual religious premises seeking registration, much will hinge on who is considered to be the responsible trustee or proprietor of the property. What about congregations that meet in buildings they do not ultimately control? We will come on to consider the shared building arrangements in some detail, but what do they do when a same-sex couple asks to use their building for a wedding when there are conflicting issues and beliefs among the different denominations in the building? The proprietor will have registered it, but those who use the premises may profoundly disagree. What would happen? Could there be problems affecting the couple who come for that same-sex marriage ceremony? Will there be concerns about a rogue element or a majority side causing problems at the door? That may sound somewhat fanciful, but it is important to know whether the Government have considered it.

Many independent Churches operate in buildings that they do not own, or have trustees from a separate Church building, and that needs to be dealt with in the Bill. The Government have to ensure that those differences are accounted for by the denomination. The Government may well say that they would not want to interfere, but it is important, if we are going to have a place of worship being open for same-sex couples for ceremonies, that we provide a framework that accounts for the different practical issues that may arise.

I ask the Government to provide that clarity so that we can move on and ensure that we have a system that is not simply about local authorities assessing the suitability of a hotel to hold weddings, because this is not in a similar vein. We are dealing with a whole new set of circumstances, and they need to be dealt with. I urge the Government to think carefully and provide reassurances that they have thought about this, that my amendment is not necessary and—I doubt it—that the clause is fit for purpose.

Chris Bryant: I rather loved this amendment: not in the sense that I would vote for it, but because it reminded me of when I was doing my theology degree and we did hermeneutics and epistemology. We got on to definitions and I remember that my theology tutor at Oxford was a man who was Scottish but had studied and worked for most of his life in America. He always used to start his lecture—forgive me, Mr Hood—on that by saying, "Sometimes, people ask me, 'What is the meaning of God?' But maybe we should be asking ourselves, 'What is the meaning of meaning?'" Frankly, that is what this amendment says: what is the meaning of meaning? Talk about rabbit holes to disappear down with Alice in Wonderland, eating cakes and drinking potions and getting larger and smaller.

The irony is that it is not as if we have a straightforward piece of legislation here. The Government have put one element in the clause and another element in the schedule, which means that, to understand what will actually happen, one has to start from clause 4(1)—section 26A(2) of the Marriage Act 1949—to realise that the appropriate system is under section 43A, which is then described in schedule 1 on page 15. That says:

"a certificate, given by the applicant and dated not earlier than one month before the making of the application, that the persons who are the relevant governing authority in relation to the building have given written consent to marriages of same sex couples as mentioned in section 26A"

so we have to go back again. That certificate has to be provided in order for the relevant place to be used.

Of course, that completely and utterly conflicts with the amendment tabled by the hon. Member for Enfield, Southgate, because he has devised, for any Church or religious organisation that there may be out there, a system for deciding on this issue. Omnipotence is not really the word—it is almost a cathedratic, papal assumption that he has taken where he will determine how every organisation in the country, other than the Church of England and those prescribed for elsewhere in law, comes to a decision on same-sex marriages. One could presume that that will apply to every other decision those organisations make, on transubstantiation or the virgin birth or whatever else.

I say to the hon. Gentleman that he is doing a diligent job, but it is completely and utterly unnecessary and, actually, it restricts religious freedom in a way of which he would not be proud if the amendment were carried. So, for his own sake—to save himself from himself—I beg him to withdraw the amendment.

Tim Loughton: It is always a pleasure, a joy and an experience to follow the hon. Member for Rhondda. He always gives a bit of a theology lesson. I thought that I knew a bit about it, but I knew not nearly as much as he has inflicted on the Committee in the last few weeks. We know a lot about his distinguished career at Oxford—we hear about that almost hourly—and his last contribution reminded me of a programme called "The Good Old Days" that expired back in the '80s where Leonard Sachs was the compère of a good old-fashioned musical— *[Interruption.]*

Chris Bryant: Music hall.

Tim Loughton: —music hall and cabaret performance that was on television. He distinguished himself by coming up with a whole load of superlative words, which were often alliteratively put, and not many people knew what any of them meant. The hon. Gentleman is a spangle in the eye of Leonard Sachs; he has excelled himself with the words that he has imposed on the Committee. None of us has the remotest idea of the meaning of half of them.

Mr Burrowes: May I provide some help? Does my hon. Friend know that we have just experienced someone who can be described as a sesquipedalian—someone who uses polysyllabic words? Would he say that the hon. Gentleman is a sesquipedalian, or an ultracrepidarian —someone who does not know what they are speaking about?

Tim Loughton: I did Latin and studied classics at university, but I am a bit lost. It is a great loss to the Committee that the Lord Commissioner of Her Majesty's Treasury, my right hon. Friend the Member for New Forest West, is not allowed to contribute, given his huge experience of these matters in the Prayer Book Society, for which he previously worked, and his huge knowledge of theology. However, we will wade on on our own.

I can see you would like me to move on to amendment 51, Mr Hood. Despite being wowed by the concern that the hon. Member for Rhondda showed for our well-being, we think that the amendment addresses potential problems with the Government's assumptions about how local authorities will know whether someone saying that they represent, and have been mandated by, a Church actually does represent, and has been mandated by, that Church. It seems incredible that the Bill is short on detail about how those things will work in practice, as it is on an awful lot of other things. It does not inspire confidence that this issue has been exhaustively thought through, and that the Government's assumptions have been tested to check that all eventualities are adequately catered for.

The Government's approach to this question is perhaps based on their previous approach to civil partnerships, for which local authorities are provided with access to a list of Churches that have formally given notice of their consent to opt in to the civil partnership registration process. Given the fact that hardly any Churches actually opted in, apart from a tiny number of non-mainstream Churches that represent relatively small numbers of followers, it is comparatively straightforward for local authorities to know who has and who has not opted in, and who in those Churches has the authority to commit the Church to such an opt-in.

However, that is unlikely to be the case for same-sex marriage, and further investigation and questioning is necessary. It can be fairly confidently predicted that the situation over time will become quite controversial and potentially messy, with claim and counterclaim being made about who has the authority to speak for Churches in committing their memberships to opting in to the system for conducting same-sex marriages. The expectation that local authorities will have the knowledge and resources to establish with certainty who exercises the proper legal responsibility for such decisions within each of a vast array of Churches, with their myriad forms and varieties of government and locations, represents a major challenge for local authorities, which will be responsible for policing the Bill. They cannot be expected to verify consents without a clear method of establishing the proper authority in cases of dispute and controversy. The hon. Member for Rhondda started by saying he liked amendment 51, which is an improvement on "I hate it"—

Chris Bryant: I loved it.

Tim Loughton: The hon. Gentleman loved it. Love and hate are the two words that usually start—

The Chair: Order. I am trying to be as lenient as I can, but I will not allow chuntering across the Committee.

Tim Loughton: Thank you, Mr Hood.

The amendment is designed to supply clarity when there are competing claims about who is legally competent to speak for a particular Church or faith organisation. It is unrealistic to assume that such clashes will not occur. My hon. Friend the Member for Enfield, Southgate set out some of the factions within various organisations that have already given rise to disputes. We know that within the small number of Churches that have said that they will carry out same-sex marriages there are voices insisting, "Not in my name." Those voices say that the governing body does not speak for the rank and file. From the opposite perspective, it is apparent that there will be intensive lobbying and attempts to persuade Churches that do not want to opt in to the gay marriage process to change their minds. We may well see in due course claims that the dissenting voices speak for the majority or claims that the leadership of the relevant Churches does not represent the rank and file.

2.45 pm

We are already seeing such things happening. Even in the Church of England, groups who are committed to changing its clear position on the matter have asserted that they will do everything they can to challenge the decision made by the Church, even to the extent of threatening to defy their Church and perform versions of same-sex ceremonies notwithstanding its official position. Indeed, I can think of one member of the clergy in my constituency who is quite adamant that he should be allowed to—and wants to—carry out same-sex marriages within the Church of England.

The response of the Government in such circumstances might be that that is purely a matter for the internal processes of individual Churches and no concern of

theirs. They might say that clergymen who perform same-sex ceremonies in defiance of Church authorities are acting illegally, and that it is up to the Church to deal with them. They might be right, but expecting local authorities to appreciate internal politics and complex structures of Churches when claims and counterclaims are being presented is almost certainly expecting too much.

Consequently, there needs to be some form of fall-back that can be brought into play not only to assist local authorities, but to inform the courts if such disputes become legal battles—something that we can almost inevitably anticipate happening in the future. The amendment would achieve a degree of uniformity crossing the boundaries of the various different local authorities that are expected to police matters. While it would be a shame if legal disputes over such matters were headlined in our courts in the future, the reality is that when the Government decided to legislate for Churches in internal Church systems and politics, they left the matter open to legal challenges.

We are proposing the amendment so that there is a little more clarity in the process involved in ensuring that those who claim to speak for certain Churches or religious bodies have the authority to so commit their memberships. In short, the amendment would clarify how a local authority would go about recognising a Church's mandate to opt into a same-sex marriage system, when that is open to doubt or challenge. It would help to establish whether applications are in accordance with the respective Church's usual and constitutional methods of reaching such decisions.

However, when there is an ongoing dispute between members of the religious body as to which person has the appropriate authority to give the necessary consent, it is possible that the Secretary of State might need to become involved, as it is unlikely that local authorities could investigate and resolve such complex conflicts themselves. Because of the intensely controversial nature of the issue, unresolved disputes are inevitable.

In the event of an ongoing dispute, amendment 51 would require the Secretary of State to become involved because of the associated high stakes and the complexity of the issues raised. That may help to ensure a consistent approach across both central and local government, but there is a real risk of fragmentation and the matter is open to ideological differences of approach by different local authorities. There will always be varying levels of expertise and resources to allocate to such time-consuming and unfamiliar areas. Local authorities that are seen to favour one side or the other—it might be Brighton in such cases—are likely to be challenged, so surely it makes obvious sense to set out a clear statutory fall-back process for when such disputes occur.

In effect, the Secretary of State will have the ultimate responsibility to investigate and assure him or herself that due process has taken place in the Church or religious body reaching its decision, and that the properly authorised persons have accurately communicated the Church's position. When there is doubt over whether due process has been followed and members of the religious body, for example, allege improper activity or manipulation of internal processes, the Secretary of State should have the power to order a ballot of Church members as set out under the amendment.

In such a ballot, a majority vote of two thirds would be required to authorise the religious body either to opt in or opt out of the same-sex marriage registration system. We can debate the merits of requiring a majority of two thirds, but the principle is practical. One argument in favour is that it is necessary to protect situations in which a religious body—perhaps one that is relatively small in numbers—is infiltrated by relatively large numbers of activists seeking to destabilise the Church from its subtle position and take over the decision-making processes by its sheer numbers. I can think of examples of when political parties and local associations have been infiltrated by certain Church organisations trying to overturn the policy and, indeed, the candidate selection of that local party. Although that may seem a bizarre scenario to many people, given how the issue has been so heavily polarised and politicised, it is something that could happen in future. Accordingly, to prevent that happening, it is necessary to define statutorily what is meant by membership of a religious body.

Church membership is an almost infinitely varied category among the thousands of Churches and other religious groupings in the United Kingdom. Some memberships are strongly confessional, well defined and have legal implications. Other forms of membership are relatively loose, open and virtually self-defining by the act of turning up. Accordingly, the amendment seeks to ensure that those entitled to claim membership—

Chris Bryant: The difficulty is that nearly every Church—in fact, I think every Church—accepts that a member of a Church is a baptised member of a Church. In many Churches, baptism comes at birth. According to the hon. Gentleman's definition, recently baptised babies would be allowed to vote. Is that really what he is proposing?

Tim Loughton: No, because, as with any organisation or voting threshold, there would be an age threshold or something like that attached to it—an age of competency, an age of adulthood or whatever.

Chris Bryant: Why is it not in the amendment?

Tim Loughton: We are setting out a principle. That is why I have said that a two-thirds majority or something similar needs to be set out. This is in the absence of any dispute resolution procedure whatever. That is the problem. The obvious thing would be for members of a Church to become voting members when they reach adulthood. In the Church of England—from memory—to become a voting member of a parochial church council, a member has to reach adulthood. They would not be allowed to vote as a child. Such structures already exist in some Churches. It is not as though we are having to create something completely new. It is a question of adapting and building on structures that already exist in some of the larger Churches. The principle remains the same, whoever the voting body is.

We know that there is little that remains sacred and that legal disputes are becoming almost everyday features of the religious scene. If the Bill is enacted, Parliament, as we have said before, owes a special duty of care. In the United States, for example, we regularly see public legal disputes about the direction Churches should follow,

with high profile controversies about ownership of religious buildings and the like. Such scenarios are now starting to be seen in Scotland with high profile disputes affecting the Church of Scotland, where Churches are increasingly being seen as out of step either with their governing bodies or with their memberships.

I am sure that the Government, quite rightly, will be reluctant to become involved in such conflicts. However, they cannot now avoid responsibility when it is the Government who have opened up the whole can of worms that inevitably will accompany the legislation if it is passed. To legislate for the intra-denominational conflict created by the Bill by requiring denominational consent and to then say in effect, "Go and sort it out yourselves" is not responsible, but that is what will arise.

The clause requires amendment to address the inevitable disputes that will arise. We have tabled amendment 51 to address such disputes. I look forward to the Minister's response.

Mrs Grant: Amendment 51 would insert provisions to regulate the recognition of the relevant governing authority of a religious organisation whose written consent to marriages of same-sex couples is needed. It is required to apply for the registration of its place of worship for that purpose, and the amendment seeks, where there is a dispute over the recognition of the governing authority, to impose a requirement on the Secretary of State to consult members of the religious group and provide for the holding of a ballot in which 66% of members cast their votes. Members are defined as people who are on a formal membership roll for 12 months or who have attended the majority of services given over the period of 12 months.

The Government do not believe it is right to seek to regulate the internal governance of religious organisations in such a way. It is probably a matter for the governing body of a religious organisation to determine in its own way. The Bill gives sufficient clarity about what is required, and is clear about whether a religious organisation has consented to marriage of same-sex couples. If there were a dispute about the identity of the relevant governing authority, that would be a matter for the religious group to resolve internally.

If a religious organisation could not agree what was its governing authority, it would not be possible for it to provide the necessary written consent to apply for registration of its place of worship for the solemnisation of marriages of same-sex couples. The religious protections in the Bill ensure that registration of buildings for same-sex marriages can take place only where the proper consent has been given.

Tim Loughton: I think that the Minister is saying that the default position is that, unless someone can prove that their Church is prepared to apply for an opt-in and go through all the hurdles, that opt-in will not happen. What about a Church that has gone through the hoops, has opted in and wants to opt out again? How would the Government recognise such a change of qualification?

Mrs Grant: It is for the religious organisation to decide. I have made it clear that it is not for the Government to interfere. I will say a little bit more about the issue that my hon. Friend raised when dealing with points made by Committee members.

On relevant definitions, I will repeat for the third time that it is not right for the state to interfere in such matters; it is for religious organisations to sort them out. Many religious organisations are content with that arrangement and will use the definition provided to good effect. That came out during the evidence session, when Sarah Anticoni, responding to my hon. Friend the Member for Enfield, Southgate, said of the relevant governing authority that

"currently there are three. We are using now as a good opportunity to clarify them into five".—[*Official Report, Marriage (Same Sex Couples) Public Bill Committee,* 12 February 2013; c. 76, Q194.]

The amendment goes to the heart of the opt-in procedure, and I believe that Committee members will accept that. I have seen and heard general satisfaction with that procedure. In answering my question to Michael Bartlett of the Quakers and Derek McAuley of the Unitarians, Mr Bartlett said that he was comfortable with that and Mr McAuley said that he was happy with the procedure.

Mr Burrowes: The Minister draws attention to the evidence from the Unitarians and the Quakers. Has she had conversations or consultations with the wider church community, which is numerically greater and is not happy with the current provisions? Those organisations have different facets and individual ministers within denominations may have issues about whether they will be forced to do something they do not want to do.

Mrs Grant: We have conducted an extensive consultation and there have been extensive discussions, which are ongoing. I will cover the point raised by my hon. Friend if he bears with me.

My hon. Friend asked where the Bill says that religious organisations are not required to opt in. I refer him to clause 2(1), in particular, which states that there can be no compulsion to opt in.

In relation to the organisations that have been consulted—he is concerned about those—we have had a wide-ranging consultation with religious organisations. We have spoken to and consulted the Catholic Bishops Conference, Unitarians, Methodists, Baptists, the United Reformed Church, Sikhs, Churches Together in Wales and the Evangelical Alliance.

3 pm

On the matter of publication of buildings in the opt-in, buildings registered for same-sex marriages will be published on a list in separate form from the existing list of registered buildings for marriages of opposite-sex couples and the Registrar General will be obliged to publish that list. In relation to the point about guidance, the General Register Office will provide guidance and training for registrars in preparation for the provisions permitting same-sex marriage coming into force.

Returning to the questions about the detail and whether it is sufficient, we believe that the Bill gives adequate clarity on what is required for consent for same-sex couples to marry. I will say—and also cover it in my speaking note—that in the event of dispute or confusion it would ultimately be for members of the Church to decide who is competent for that purpose. Thus, it is for the Church to decide. If it cannot, there will of course be no registration.

Tim Loughton: I still have not received an answer to my earlier question. I think I understand how a Church goes through the procedures set down by the Government in order to qualify to hold same-sex marriages on its premises. I think I understand that it is not just up to the Church. It has to comply with various criteria set down in the Bill and subsequent regulations by the Government. Therefore, Government have a part in this. What I still do not understand is what happens when a Church decides to de-register but there is a dispute within that Church and there is a split. What happens and whom would the Government recognise as to whether that Church has de-registered for same-sex marriages or continues to be able to conduct them?

Mrs Grant: There are often disputes between Churches, as there are between groups of MPs. There are often disputes between groups of people. One has to have a little trust, faith and belief in their abilities to be reasonable and work out such things.

The Chair: Order. The hon. Lady should not stand with her back to the Chair.

Mrs Grant: Forgive me, Mr Hood. I do not think that I can add any more to what I have already said in the speech with regard to the procedure, apart from saying again that it is a matter for those religious organisations to reach an agreement and move forward.

Tim Loughton: May I come back on that?

Mrs Grant: I do not think I can add any more, so I am going to push on. It would not be right for the Secretary of State to have a role in resolving internal disputes within religious organisations, nor do we want to create additional burdens for religious organisations. That would be the exact result of the amendment. I therefore urge my hon. Friend the Member for Enfield, Southgate to withdraw it.

Mr Burrowes: This has been a helpful debate. I did not table the amendment in the expectation of pressing it to a vote: I wished to draw from the Government assurances that would clarify what would happen down the line, as we are moving into new terrain. I am not wholly convinced by the Minister's response. Although there has been some consultation, I am not convinced—the Government have moved from a position in which religious organisations were excluded from conducting same-sex marriages to a new one in which religious organisations are allowed to opt in or out of conducting same-sex marriages—that there has been adequate consultation and consideration of the different scenarios that will arise in local areas, with different denominations and ministers opting in and out and exercising their responsibilities in religious premises. I am concerned that there has not been enough thought or consideration. I urge the Government during the passage of the Bill to continue—as they say they will—to consult different denominations, and to take that seriously. The Government have indicated that they will publish guidance. I urge them to do so before the Bill concludes its passage through the House, so that everyone can see how clear that guidance is for registrars dealing with this new scenario. While there are great reservations and concerns, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 4 ordered to stand part of the Bill.

Schedule 1

Registration of buildings etc

Mr Burrowes: I beg to move amendment 55, in schedule 1, page 17, line 33, leave out paragraph 3.

The Chair: With this it will be convenient to discuss amendment 43, in schedule 1, page 18, line 7, leave out from beginning to end of line 12.

Mr Burrowes: It is my pleasure to move the amendment in my name and that of my hon. Friends, and to share the batting crease with the hon. Member for Rhondda regarding this particular clause, concerning the whole issue of church sharing. Amendment 55 would simply remove provision for church sharing. It is a blunt amendment, and seeks primarily to probe the Government in relation to this issue. This continues the theme of the amount of care with which the Government have considered the particular situations that arise, not least in relation to church-sharing arrangements. As I understand it, the amendment in the name of the hon. Member for Rhondda seeks to leave out the part of the church-sharing arrangements which allows the church with a conscientious objection to same-sex marriage to prevent their premises from being used for registration. We will have to see how that properly accommodates what has grown up over the years in relation to church sharing, and see whether that is really in the spirit of church sharing.

Church-sharing arrangements are important. They are built around principles of unity and co-operation, and I do not think they sit easily—or indeed at all—with the Bill, which is in many ways divisive in terms of church-sharing arrangements. This helpfully illustrates one key area of division that may well arise if this Bill becomes law. These church-sharing arrangements take place between Churches of different denominations which come to an accommodation, where out of mutual respect and attitude of service they share a building. The governing legislation is the Sharing of Church Buildings Act 1969, which provides a legal framework allowing two or more different Churches to enter into a sharing agreement. This agreement enables existing or new church buildings to be used by several Christian denominations which subscribe to doctrines and practices which, in the absence of the sharing agreement, would not be permitted by the Church that owns the premises.

Through amendment 55, and indeed amendment 43, we now see how these arrangements apply to the brave new world of same-sex ceremonies. The 1969 Act does not allow all Churches to enter sharing arrangements, and it is interesting to see which of those Churches are represented in the '69 agreement. There are the governing bodies of Churches Together in Britain and Ireland, the Evangelical Alliance, or the British Evangelical Council, which have indicated to the body concerned that they

wish the 1969 Act to apply to them. It is also worth noting that the overwhelming majority of the Churches represented are firmly opposed to same-sex marriage.

The provisions in the 1969 Act for adding other Churches to this body are important. There may well be new bodies that will want to take advantage of sharing arrangements. The 1969 Act is an important one, because it enables the determination of who will be party to the sharing arrangements, what consents are required, and who keeps a register of sharing agreements. It is interesting that while we have had the debate about registration and consents, there are already carefully laid-out agreements and processes in relation to church sharing. It is complicated, and was considered in great detail and care in the lead-up to the 1969 legislation, which has stood the test of time. This is something which at our peril we seek to get in the way of or divide, or indeed opt out of. There is the example of the Baptist Union, mentioned by my hon. Friend the Member for Strangford. That is a good example of a Church that did not come before the Committee to give oral evidence but is involved in sharing agreements over its premises. It has to consult with regional ministers, the association's staff, the Baptist Union Corporation manager and the staff of the Baptist Union of Great Britain faith and unity department. It is important and instructive to take account of what the Baptist Union says should happen when it considers entering into a church-sharing agreement. We have to see how it applies in particular to the amendment in the name of the hon. Member for Rhondda.

The Baptist Union says:

"The motivation for two or more churches to share buildings may come from a strong desire to work ecumenically and so present a united witness and engage in united mission. The reasons may also be more pragmatic and the sharing may be proposed out of necessity in a particularly challenging situation. It is vital to recognise, however, that the purpose of the Sharing Agreements is to enable two, or more, churches to share the use of the premises belonging to one of those churches. It can create a united church community where all the members are members of only the one local church. However, the identity of each of the participating denominations is retained…They will also remain a constituent part of their own denominational structures".

There is great emphasis on the constituent parts of that sharing arrangement and the integrity of those denominations. It is important that this should stand the test of time and the rigours of this Bill as well, including the challenge posed by amendment 43 in the name of the hon. Member for Rhondda.

The position is that this integrity is considered carefully through a joint constitution and joint council representing the sharing churches to settle questions about the times and use of the buildings, to advise on matters of management, maintenance and repair, and financial questions and organise proposals for raising common funds and facilitating joint action and settling questions of detail. The point of this sharing agreement is to work together to enable funds to be raised, so the Baptist Church will often share with a Methodist Church or guest congregation. I understand this often works very well.

It is important to say that this sharing arrangement is based on trust and sensitivity. The Baptist Union says:

"Sharing Agreements are essentially about relationships"—

it mentions partnership—

"mutual understanding and sympathy, are essential and should be developed both before and after entering into the Sharing Agreement."

It goes on:

"Not every possible eventuality will be covered in the documents - however carefully they are drafted - but it is hoped that they will suggest principles of co-operation and partnership which, when applied to any situation, will allow differences to be resolved with trust and sensitivity".

The reason for looking in some detail at church sharing in schedule 3 is to consider whether the principle of enabling opting into same-sex marriage ceremonies will create division and undermine the sharing arrangements that have developed over time.

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): The hon. Gentleman has talked a couple of times about divisiveness and the threat of integrity to sharing arrangements, but he will recall the comments of Rev. Gareth Powell from the Methodists when he gave evidence to the Committee in an earlier session. He said,

"in some instances where congregations share worship and/or buildings, some level of accommodation has already had to have been made around the questions of the marriage of people who have previously been married and infant baptism"—[*Official Report, Marriage (Same Sex Couples) Public Bill Committee,* 14 February 2013; c. 127, Q324.]

Why is this any different from those questions?

Mr Burrowes: We had a similar type of debate about individual conscientious objections to remarrying divorcees and whether it creates an issue. We are dealing with different situations. One cannot equate a doctrinal issue and the effect it will have on a particular denomination. In fact there may be differences because those have been accommodated. The reason why I am probing and looking into this in detail is that we are in a wholly different situation that may well cause concern. For example, the Methodist Conference has intimated that down the line its governing council may come to the view that it opts into same-sex marriage. It may be able to properly deal with that with the Baptist Union or they may have to part their ways, given that on its current record the Baptist Union may well be fundamentally opposed and unable to countenance it. In the way that doctrine has a greater foundational significance to them—*[Interruption.]*

3.15 pm

Let me use the Church of England to show the difference, because the remarriage of divorcees is not an essential matter of canon law and no change was needed to that. The doctrine of marriage, which recognised the union of a man and a woman, is there, prescribed in canon law. It is distinct on issues such as remarrying divorcees, which shows that there is a difference in terms of how one accommodates different doctrines. However, when it comes to a foundation issue such as marriage, a Church such as the Baptist Union may find it hard to share a building with, such as the Methodists if they had decided to opt into same-sex marriage; that may result in a parting of ways. People may say that that is that Baptist Church's problem, but it is a reality that is different from issues on different doctrinal views and baptism.

On baptism, there are situations where the trust deeds of many Baptist churches provide that the only baptism committed is the baptism of believers by immersion upon profession of faith in the Lord Jesus Christ. An agreement between a Baptist Church and a Methodist Church will allow Methodists to practice the baptism of infants by sprinkling in that building. It is fair to say—hon. Members can ask the Methodists or the Baptists themselves—that one is dealing with a wholly different situation when one considers marriage.

That is my view and understanding from talking to Baptists. It would have been helpful if we had been able to ask the Baptist Union and others that question. Perhaps as the Bill progresses we will get that view, but I make the point that it is important to iron out these matters to see whether there is a foundation issue there, as I say it is, which may affect and cause divisions in terms of church sharing.

Stephen Doughty: I am still struggling to understand the qualitative difference between the issues. What could be more doctrinally significant to the Baptists than baptism? Yet I am sure that there are church-sharing arrangements where Baptists engage with those who believe in infant baptism; I have been in churches where that happens. If we can get over that difficulty, I struggle to understand the qualitative differences that the hon. Gentleman suggests.

Mr Burrowes: The hon. Gentleman raises a good point. I do not want to assert my view on the Committee unnecessarily; indeed, it is a question to ask the Minister, as I am not the one who proposes the Bill and who seeks to redefine marriage. He can answer whether, in the considered and detailed deliberations that have taken place with all these organisations—I say that with some scepticism—they have addressed that point. I will be interested to hear what he says.

Moving to the point of my amendment, amendment 55, and amendment 43 in particular, which was tabled by the hon. Member for Rhondda, I wonder whether the principles that I have outlined of integrity, trust and sensitivity are present, particularly in amendment 43. Effectively, that amendment makes the point that one party can unilaterally register a shared building for same-sex marriages. While they would no doubt want to deal with those matters with sensitivity, trust and co-operation, the measure could ultimately lead to one party expressing a veto over another party to a church-sharing arrangement. I do not believe that that is the essence of the 1969 Act, which provided for church-sharing arrangements. I would urge the Minister in particular to reject amendment 43.

In conclusion, I want to ask the Minister this question: has there been consideration of the risk of serious disagreement between church sharers over same-sex marriage? Has that specific question been asked? I do not believe that that was in the consultation, because when that went out to all and sundry it did not consider the option of religious organisations being able to opt in or opt out of same-sex marriage. I do not therefore believe that we have had that detailed consultation on this issue, but I would be pleased for the Minister to tell me that I am wrong. That would alleviate some of my concerns that formed the basis of amendment 55.

Jim Shannon: I thought that the hon. Member for Rhondda would be called before me, but I am happy to speak now. By now, the cat is clearly out of the bag in respect of my position. I am very much a churchgoer. The Church has been important in my life since I was an eight-year-old when I gave my life to the Lord Jesus. It has been important to me for 47 years. It is important to the people of Strangford, and their importance to me is why I am a Member of Parliament. They have put their faith in me to represent their views in the House.

The introduction of same-sex marriages will have an impact on church-sharing arrangements. The best solution to such a problem is to delete the provisions on church sharing, as proposed by amendment 55 tabled by my hon. Friend the Member for Enfield, Southgate. One thing is certain: the solution will definitely not be found in the approach taken under amendment 43 tabled by the hon. Member for Rhondda. It would undermine the position of the Church and mean that when two or more Churches shared a building and one wanted to register same-sex marriages and the other did not, the Church in favour of the same-sex marriage would get its way. It would be able to register the building for same-sex marriages over the heads and against the wishes of the members of the other Churches who worshipped there, an argument that was eloquently put forward by my hon. Friend the Member for Enfield, Southgate.

Large parts of the Bill were drafted to cater for the fact that the overwhelming majority of religious organisations of all denominations regard marriage now and for ever as the union of one man and one woman. Irrespective of what some members of the Committee believe, the statistical facts are clear in that many members of Churches and religious organisations agree that the union of marriage should be between one man and one woman. We have heard much about the minority of religious views that regard same-sex marriage as acceptable, but we need to hear more about those who do not regard it as acceptable, because they are those whose religious liberty and religious conscience is jeopardised by the redefinition of marriage.

We must not forget that we are discussing the position in which Churches with differing beliefs strive to maintain friendships despite their religious differences. Their members share a building, some of whom will be so close in doctrine that they hold joint services, as was identified by some of our witnesses. Others maintain their doctrinal distinctiveness or indeed differences by holding separate services, but they are holding their distinctive beliefs in a spirit of charity and tolerance by actively entering into a binding legal agreement with another Church over the sharing of a building. I am sure that such action is a delicate balancing act, as hon. Members who represent different parties know. With respect to members of the Committee, under the coalition Government, we can see the difficulties that arise sometimes in the Chamber on policies. There are differing views among parties. We are used to rubbing alongside people of all shades of opinion, while at the same time maintaining our own convictions. That requires give and take and, given that there can be friction, we have a balancing act to maintain.

We received a written submission from Peter Scott, which is relevant to our discussion. He wrote,

"my son in law is pastor of a New Frontiers Church in Devon. The church does not have its own building and over the years has met in a variety of premises, including local schools. Recently the

church started to meet in a town centre hotel which proved to be an ideal venue. However, they were asked to leave because the hotel is used for Civil Partnership ceremonies and the owners of the hotel did not want a church using the same venue because they are known to be critical of homosexual relationships."

That is a small example of what could happen when there is not tolerance.

Same-sex marriage is an important and, in some cases, divisive issue. Differences of conviction over marriage run deep and the approach under amendment 43 to dealing with those deep differences of opinion would be to allow one Church to force the others to go along with something with which they profoundly disagreed. That would mean that their place of worship—their sanctuary, or whatever they would call it—would become a venue for same-sex marriages.

Everyone in the community would know that, but the outside world would not understand the difference between the view of the Church that opposed same-sex marriage and that of the other Church that shared the building. People would think that both Churches approved of same-sex marriages, which would clearly not be the case. The non-same-sex marriage minister might even find himself getting inquiries from same-sex couples who wanted to get married in the building. What is he meant to do? Would the so-called quad locks or quin locks—or whatever numbered locks they may be—protect a minister in that situation? For one Church to register a building against the convictions of the other Church or Churches that share the building would wreck the delicate balance that they had achieved.

Stephen Williams (Bristol West) (LD): I am struggling to understand the objection to the proposal. Is the nub of what the hon. Gentleman and his colleagues in the Government are saying that religious premises will somehow be defiled if a same-sex marriage takes place there contrary to the beliefs of another denomination that simply shares the same physical space?

Jim Shannon: I am certainly not saying that. What I am saying is that religious groups that share a building, which previously had their own convictions respected, will feel under the new legislation that same-sex marriage will impact on their general use of the building. The clear point that I am trying to make—hopefully the hon. Gentleman can take this point on board; if not, we will have to agree to differ—is that the change in legislation will impact on those with different religious views who share use of a hall.

For one Church to register a building against the convictions of the other Church or Churches that share the building would wreck the delicate balance that they had previously achieved. We are concerned that if there has been a successful working relationship between two religious groups that share a hall, amendment 43 might impact directly on that. The hon. Member for Rhondda has been quite vociferous in support of the amendment, but why should one Church be able to veto the religious freedom of another?

Stephen Doughty: Will the hon. Gentleman explain whether he feels more strongly about same-sex marriage occurring in shared premises than he does about other doctrinal differences between religious groups, which, as I mentioned, have been dealt with under sharing arrangements? Such differences are often quite significant, but Churches agree to work together on them in a spirit of ecumenism. Does he feel more strongly about this matter than about other doctrinal differences, or does he have similar reservations about them?

Jim Shannon: There are clear doctrinal differences between different denominations. I was baptised as a baby—I could do nothing about it—in the Church of Ireland, and I was baptised in the Baptist Church at the age when I became a Christian. That is a doctrinal difference between the two Churches. I experienced both, but at the end of the day I am a Baptist, and, more importantly, I am a Christian. As I explained, joint services take place in some buildings, and different religious groups can work doctrinally together, but sometimes it does not work that way. There are differences, which we have to accept, and hopefully we can all understand that.

Unfortunately, I believe that amendment 43 would allow a pro-same-sex marriage Church to veto the objections of other Churches with which, until now, it may have had a working relationship. We have to weigh up the relative losses. A pro-same-sex marriage Church that was prevented from registering a shared building would be frustrated because it could not register same-sex marriages in its own building, and if someone in the congregation wanted a same-sex marriage they would have to go to another church. Given the small percentage of people who are in same-sex relationships and the even smaller percentage who want to get married, I suggest that such a scenario would come up only rarely. If a same-sex couple from outside wanted to marry in the church, they would have to be directed somewhere else. Again, that would happen only occasionally. That is the loss that a pro-same-sex Church would suffer under the current provisions.

However, a knife cuts both ways when it slices. What loss would non-same-sex marriage Churches suffer as a result of amendment 43? The answer is that their sanctuary of worship would become associated with something that they regarded as profoundly wrong, on which they had a clear doctrinal opinion. That would cause great offence to them.

3.30 pm

The witness to the local community would become confused if people assumed that they went along with same-sex marriages. The character of their religion itself becomes muddled and confused in the minds of some of the people in the community, many of whom will instinctively share their view that marriage is heterosexual and may be less inclined to visit a church that appears to think differently. This does not just happen occasionally; it happens day in, day out and it will become the new reality through the change in the Bill. I suggest that their loss is greater than that faced by the pro-same-sex marriage Church. Members of the Committee may not sympathise with those views, but we do not legislate only for those with whom we sympathise: we legislate for everyone. That has to be where we are coming from.

Amendment 43 would greatly upset the delicate balancing act that takes place when two or more Churches share a building. It would give the minority view a veto over the majority view and cause heartache and upset and might

result in Churches parting company altogether. That would be one of the worst scenarios. It would be better to keep the veto in place so that the status quo is maintained. Churches that take a differing view about same-sex marriage but also currently share a building will no doubt continue to do so. If one Church wants to be involved in same-sex marriages, it can find a way of doing so in co-operation with a neighbouring Church without jeopardising the existing arrangement. If the law gives the power to one Church to register its shared building against the wishes of everyone else it would be a recipe for upset and division. I hope that the Minister will confirm that she will not accept amendment 43.

Chris Bryant: The first point relates to the 1969 Act, which unfortunately provides quite specifically that cathedrals and peculiars cannot be available for sharing by Churches. However, in certain circumstances the dean or the provost can, if he or she wishes—we have some female deans and provosts, although not yet bishops—allow, within the cathedral, space for a Church other than the Church of England to worship on a constant basis. But that is not officially termed a sharing.

The same, I presume, could apply to a peculiar. So just to feed the Minister's letter writing to the palace, it might be a good idea to write to the person who is undoubtedly responsible for the peculiar of St Mary Undercroft—Her Majesty—to suggest that there might be some sharing arrangements such as are available to a dean in relation to a cathedral. An area might be set aside as happens in a cathedral, where same-sex marriages might be able to take place under a different religious dispensation than the Church of England's, although preferably not the closet.

The tenor of amendment 43 is quite simply to ensure that nobody has a right of veto over somebody else's conscience. The Minister of State said earlier that he was getting a bit sick of conscience clauses. This is the one conscience clause that we want to assert so that no one can prevent everybody else from exercising their conscience in favour of performing same-sex marriages. It seems odd that this is the only veto that a Church could exercise over another Church where they share a building.

The hon. Member for Strangford believes in the Westminster Confession. The Church of England briefly held it as a view for some 17 years in the 17th century. The Presbyterian Churches around the world believe in it. The Westminster Confession describes the Pope as

"that Antichrist, that man of sin, and son of perdition".

It also says in chapter 29 that the Catholic mass

"is most abominably injurious to Christ's one, only sacrifice"

and that transubstantiation is

"the cause of manifold superstitions"

and "gross idolatries," and that anybody who believes in it is an "ignorant and wicked" man. However, Churches that subscribe to the Westminster Confession share buildings with other denominations, some of which believe in transubstantiation, acknowledge the Pope as the head of the Church of Rome and do not believe that he is a "man of sin" or a "son of perdition." Why would someone not want a veto on those elements of theological teaching, but would want a veto solely on whether same-sex marriages can be conducted?

More importantly, paragraph 2 of schedule 1 to the Sharing of Church Buildings Act 1969 says: "An application under the" 1949 Act

"shall be made by a representative (as hereinafter defined) of a sharing Church other than the Church of England, and, if there are two or more such Churches, the registration shall be deemed to have been made on behalf of the congregations of all those Churches, whether or not their representatives joined in the application."

Contrary to what the Minister says, there was no feeling that there should be some kind of veto, so that Churches could say, "Yes, you may want to be able to conduct a marriage, but we don't want to be able to conduct or solemnise marriages in this building, and consequently you aren't allowed to do it." There is no such veto.

If the matter is of enormous significance to a Church that does not want to conduct same-sex marriages and the other Church sharing the building does want to, I suspect that they may not want to remain sharing that building. To put in statute that the sole veto—the only thing that could divide Christians—is over whether same-sex marriages should be conducted is to misunderstand the ecumenical movement of the past 100 years and put in law something injurious to the long-term regard of Christianity in the country.

Mr Burrowes: The church-sharing arrangements are in the spirit of ecumenical—

Chris Bryant: Ecumenism.

Mr Burrowes: Yes, that is the one. Is it not the case that the scenario the hon. Gentleman tells us about is one where a church-sharing arrangement leads to a membership becoming one membership? The membership is one and they are able to come to a judgment together. In a situation with separate memberships and separate integrity on doctrinal beliefs, the amendment he proposes would reduce liberty and liberty of conscience in a manner that is not in line with the intention of the original statute.

Chris Bryant: I reiterate: even in 1969, they did not believe that one Church in a sharing arrangement should be able to make determinations on behalf of the other part—"thou shalt not be able to conduct the solemnisation of marriages in the building we share". We are not bound by what happened in 1969, however; many things have moved on. We have female clergy in the Church of England and even Cardinal O'Brien now thinks that there should be women priests in the Roman Catholic Church. The amendment is not about limiting the conscience of one set, but about enhancing the liberty of another.

In the end, we come back to what the Minister said earlier about balance. I think that the Government have the balance a tiny bit wrong in this schedule. I do not want any denomination or Church to be prevented from being able to conduct same-sex marriages. As the hon. Member for Bristol West said, there is a sense that somehow or other, if we were suddenly to have same-sex marriages in the building we share, it would defile the building, make it less sacred or invalidate other marriages. That is the argument that, in the end, the hon. Member for Enfield, Southgate and others need to own up to.

Stephen Williams: Does the hon. Gentleman agree that, extending the analogy to civil marriages, if the Bill passes we could have same-sex civil marriage on registration premises where people have to go to register births and deaths? Is the logic put forward to defend this viewpoint that somehow that building will be defiled as well, and that people might not want to register a birth or death there, which is their legal obligation?

Chris Bryant: Absolutely. Similarly, different Churches have different views on suicide, yet there is no provision that states categorically that in a sharing arrangement one Church should be able to specify, "Thou shalt not perform a funeral service for a suicide on the religious premises." That would have been standard for the Church of England and the Roman Catholic Church well into the 1960s. That is why the argument is completely and utterly flawed. I think I heard one member of the Committee—I cannot remember who, but I think it must have been the son of a vicar—say earlier that one had to accept the rules of one's Church.

I hope that the Church is always there to be reformed. I passionately hope that there will be people who campaign for the Church they hold dear one day to perform same-sex marriage. I do not worry about that, just as I hope that many people's campaign for the ordination of female bishops will be successful. Enlightenment comes day by day, and God is slowly working her purpose out.

Stephen Doughty: I support amendment 43, put forward by my hon. Friends the Members for Rhondda and for Stretford and Urmston. I hope the Government will give adequate consideration to it. I am conscious of the sensitivity around such issues and the spirit of ecumenism needed in Churches over all sorts of doctrinal and other issues of practice. For me, the concern is fundamentally the matter of the veto inherent in schedule 1, on page 18, lines seven to 12.

I urge the Committee and the Government to refer back to the remarks made by the United Reformed Church and the Methodists in their evidence. They seemed to me to raise concern; that has been further confirmed by conversations I have had outside Committee with representatives of ecumenical sharing arrangements and others who feel that the provision goes too far in providing a veto in the opposite direction.

I remind the Committee that Dr Augur Pearce of the URC said that

"that section is actually a catch-all that repays careful investigation as to the type of situations where the veto would apply if the Bill as it stands becomes law."

He later said:

"I would like to see, if there is to be any veto provision at all, the whole thing to be dealt with in regulations so that religious bodies can come together and talk about their real concerns…before the law becomes fixed."—[*Official Report, Marriage (Same Sex Couples) Public Bill Committee,* 14 February 2013; c. 127-8, Q325.]

I am quite worried about the possibility of any veto provision and think the issue needs to be handled with respect and agreement at a local level rather than providing a rather tempting stick to be used. As I mentioned in my intervention, that already happens on other controversial issues of doctrinal practice. I refer again to the comments made by Rev. Gareth Powell from the Methodists.

I know of Churches with building-sharing arrangements where one partner has already indicated willingness for civil partnerships on the premises; in due course, if the denomination's governing body agreed, it would want to hold same-sex marriages. However, it shares premises with a different congregation that is likely to take a very different view. It is concerned that that denomination could veto its decision, although it is the host Church, to hold those marriages.

It would be a tragedy if one denomination felt compelled or encouraged to use a veto, as currently provided in the Bill. That would be to use a big stick instead of engaging in careful and prayerful consideration of differing views, which is the purpose of local ecumenical partnerships. That could be used to find a suitable accommodation to allow their building-sharing or a deeper partnership.

There are, of course, six degrees of ecumenical partnership. Obviously, the sensitivities around a single congregation are far greater than those around the sharing of a building. All that has to be considered carefully. As I have said, it has already been done in other circumstances.

3.45 pm

I want the Committee to reflect on some of the information provided by bodies such as Churches Together in England, Cytûn in Wales and others. I found an interesting document, provided by Churches Together in England, which referred to sharing arrangements under the 1969 Act and the principles of ecumenism. It is important to reflect on those at this stage as we discuss the Bill. The document states:

"The journey towards Christian unity is one of repentance and renewal...As Christians join together in a spiritual ecumenism of worship, prayer, study, and service in the community, so together they are confronted by the demands of the Gospel. From whatever tradition each has come, they enter into a deepening dialogue with one another, and so acquire the confidence to be open to each other about their failures to follow Christ as faithfully as they should. Out of that shared repentance comes the will to support one another along the path of renewal, 'with all humility and gentleness, with patience, bearing with one another in love, making every effort to maintain the unity of the Spirit in the bond of peace.' (Eph. 4:2-3)."

It is also important to reflect on the purposes, interpretation and indeed the intent of the Sharing of Church Buildings Act 1969. I found another helpful document, provided by Churches Together in England, which reflects on that in terms of giving advice to Churches that are entering into agreements. It points out a series of advantages in a church building sharing agreement, one of which was that

"marriage services can be conducted according to the rites and ceremonies of the parties to the Sharing Agreement".

That would require full and frank discussion of the visions and prospects for the future of the shared church and indeed a series of other matters. Also, it reflects on the purposes of the Act as a whole. It makes it clear that the aim of the Sharing of Church Buildings Act is that

"in a shared building, each church may do whatever would be permitted in its own building. Since sharing buildings is an expression of ecumenical movement, what begins as two separate congregations worshipping at different times in the same place may develop into a greater visible unity."

However,

"Sensitivity is needed to the different extent to which Christians are ready to worship"

and practise together

" in unfamiliar ways."

That strikes me as a sensible and measured approach to ecumenism and sharing arrangements, but one that I do not feel is reflected by either the Bill as it currently stands or the amendments tabled by other hon. Members.

Mr Burrowes: I am listening carefully to the hon. Gentleman's contribution, which is really welcome. Amendment 55 effectively seeks to take out clause 3. Did the hon. Gentleman say that that was one of the options—to go back to the drawing board and bring it back in secondary legislation? Is he, in a sense, supporting that? If he cannot succeed in his amendment, at the very least he might want to support my amendment.

Stephen Doughty: I was referring to comments made by Dr Augur Pearce. I made it clear that my view was that there should not be a veto provision. He was reflecting on a wider view about regulations. That was his view and not necessarily mine.

The issue requires respect and sensitivity, but that has to work both ways. As I have said many times, overall I am pleased with the Bill. It does not compel any religious institution to do anything that it would not wish to do. At some points in the debate, we have forgotten that. Equally, I do not believe that the Bill should allow one religious denomination to veto the activities of those with whom they share a physical space. Instead, I think we need to promote ecumenism, discussion, mutual respect and practical solutions. Vetoes in such a context would represent a breakdown of relations and that spirit of ecumenism, so I would encourage the Government and members of the Committee to look carefully at the amendment.

Mrs Grant: Amendment 55 would remove all provisions governing the registration of shared religious buildings for the solemnisation of marriages of same-sex couples. Amendment 43 would remove subsection (6) of proposed new section 44A of the Marriage Act 1949, which requires that all religious organisations that share a building under a formal sharing arrangement must consent to the registration of that building for the solemnisation of marriages of same-sex couples.

Paragraph 3 of schedule 1 is an important aspect of the opt-in procedure and forms part of the quadruple lock of protections in the Bill. By providing that all religious organisations that share a place of worship under a formal sharing arrangement must consent to the registration of the building for the solemnisation of same-sex marriage, the Bill ensures that religious organisations can act in accordance with their beliefs. An important feature of this provision is that it enables a sharing religious organisation to consent to the registration of the building for the conduct of same-sex marriage, even when the religious organisation itself, according to its right, does not wish to solemnise same-sex marriages.

Jim Shannon: I just want to remind the Minister of some of the evidence that we heard during our morning sitting on Thursday 14 February. I had asked Mr McAuley of the Unitarian Church about the issue of making someone do something that they did not want to do. The Unitarians were clearly in favour of same-sex marriage and they would let it happen in their churches, but he said in answer to that question:

"I would hope that Parliament will take account of that in the legislation and that no one will be forced to do what they do not want to do, either as institutions or individuals".—[*Official Report, Marriage (Same Sex Couples) Public Bill Committee,* 14 February 2013; c. 113, Q282.]

Considering that that organisation was in favour of same-sex marriage, how does the Minister respond to it saying that no one should be forced to do anything that they do not want to do?

Mrs Grant: I do not think that organisations are being forced to do anything that they do not want to do—that is the whole point of these protections. Under the schedule, the requirement for all to agree ensures that everyone has a say, and that is a part of the religious protection.

The provision ensures that all religious organisations that are party to a sharing arrangement have a say in the use of the building as regards marriages of same-sex couples. It provides a mechanism to help sharing religious organisations to come to an agreement between themselves, enabling them to respect each other's beliefs and thus safeguarding the ecumenical arrangements. It provides protection for those religious organisations that do not wish to conduct marriages of same-sex couples while facilitating such marriages when there is agreement. Not addressing the different position for shared premises, as would be the result of amendment 55, is not an acceptable position. There is already legislation relating to the sharing arrangements between religious organisations, which means we must address this particular situation faced by religious organisations in those agreements.

Amendment 55 would mean that any religious organisation that was part of a formal sharing arrangement could apply for the registration of a shared religious building to solemnise marriages of same-sex couples without the knowledge or consent of the other sharing religious organisations, providing that the building had a proprietor or trustee. If the religious organisation does not have a proprietor or trustee, it would have to apply using one from the other organisation sharing with it. In effect, that would require the agreement of the other religious organisation.

The removal of subsection (6) of proposed new section 44A of the 1949 Act, which would be the effect of amendment 43, would remove the requirement for all the sharing religious organisations to give their consent before a place of worship could be registered for the conduct of same-sex marriages. That would allow any religious organisation in a formal sharing agreement to register the building to conduct same-sex marriages without the consent, or even the knowledge, of the other religious organisations that share that building. The Government do not believe that that is an acceptable position to leave religious organisations in, and we also believe that it would create considerable uncertainty and unfairness.

Hon. Members have made several observations and remarks during the debate, and the nub of the issue seems to be about agreement, or the risk of serious disagreement. The argument of protection versus freedom is always difficult, and the provision certainly tilts on the side of protection. However, these sharing arrangements

can be renegotiated. They can be terminated, changed and left, and new ones can be formed. Of course, if any arrangement or agreement is to work, it requires good will and reasonableness on the part of all those sharing. Other assistance in the Bill will help to meet that agreement. The schedule separates out the distinction between consenting to same-sex marriages and consenting to the use of a building. That important distinction provides for each religious organisation to respect the beliefs of others. Proposed new section 44A(10) also allows regulations to be made, and the Government will be able to consult religious organisations to discuss concerns that they might have.

Finally, I want to pick up on an important point made by the hon. Member for Cardiff South and Penarth. Rev. Gareth Powell pointed out that precedent already exists to help and encourage Churches to reach agreements under the Sharing of Church Buildings Act 1969. The Government do not want religious organisations that disagree with the marriage of same-sex couples to feel no longer able to share their buildings with religious organisations that do agree with it. We need to allow organisations to reach agreement on the use of the building, and that is what the provisions on shared premises in the schedule provide. I therefore hope that hon. Members will not press the amendments to a Division.

Mr Burrowes: I will not take up much of the Committee's time. This debate has been useful because we have come at the issue from different angles, as we have discussed the amendment tabled by the hon. Member for Rhondda as well as that in my and my hon. Friends' names. However, there was a meeting of minds on the fact that the provision is just one more example of where further consideration and scrutiny are required.

I welcome the sharing arrangements, which often bring Churches together for pragmatic reasons. Sometimes, with evolution over time, the doctrine emerges. However, it is also in the spirit of working together that Churches move on.

The Minister said, in that spirit, that the consent of both parties is required to accommodate same-sex marriage. I am with her on that principle, but I recognise that problems can arise. I shall not press my amendment to a Division, but I want the Minister to take note of this issue and understand that there is need for further deliberation and further conversations with the Methodists, the Baptists and others that are involved in important church-sharing arrangements to determine whether the provision can be improved.

We have heard about whether the Queen should be involved in relation to both cathedral sharing and St Mary Undercroft. I will be going to Buckingham palace later this afternoon—*[Interruption.]* The Queen is back from hospital, but I am not sure that she will be there. However, the Duke of Edinburgh will probably be there, and it will be interesting to get his view on same-sex marriage. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 43, in schedule 1, page 18, line 7, leave out from beginning to end of line 12.—*(Chris Bryant.)*

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 9.

Division No. 5]

AYES

Bryant, Chris	McDonagh, Siobhain
Doughty, Stephen	McGovern, Alison
Green, Kate	Reynolds, Jonathan

NOES

Andrew, Stuart	Loughton, Tim
Burrowes, Mr David	Robertson, rh Hugh
Ellison, Jane	Shannon, Jim
Grant, Mrs Helen	Swayne, rh Mr Desmond
Kirby, Simon	

Question accordingly negatived.

Schedule 1 agreed to.

Clauses 5 to 7 ordered to stand part of the Bill.

Clause 8

Power to allow for marriage of same sex couples in Church in Wales

4 pm

Kate Green (Stretford and Urmston) (Lab): I beg to move amendment 2, in clause 8, page 8, line 17, leave out 'may' and insert 'shall'.

The Chair: With this it will be convenient to discuss amendment 3, in clause 8, page 8, line 20, leave out 'may' and insert 'shall'.

Kate Green: We can deal with these amendments with great speed. Hon. Members will recall the discussion that took place during the oral evidence session when we heard from representatives of the Church in Wales in relation to clause 8, which recognises the special position of that Church following its disestablishment in 1929. That position has required certain explicit provisions in the Bill.

We quite understand and accept the need for a specific procedure to enable the Church in Wales to conduct same-sex marriages should it decide that it wishes to do so sometime in the future. However, in keeping with a theme that we have been discussing throughout our debates, it seems right that it should be a matter for the Church in Wales to determine for itself when and whether to carry out same-sex marriages. It would be a matter of regret if, the Church having made that decision, the Lord Chancellor were to then take an opposite view and seek to prevent the Church's decision being given effect.

The amendments are therefore very simple. They would make it so that, should the Church make a decision to conduct same-sex marriages, the Lord Chancellor will not have the option to go through the necessary procedures to give effect to that decision; he will be required to do so. I hope that the amendments will be seen by all members of the Committee as being very much in the spirit of the discussions we have had about its being right for religious bodies to have the

[Kate Green]

freedom to make decisions for themselves. I hope that they will be accepted by the Minister and supported by the whole Committee.

Stephen Doughty: I want briefly to speak in support of the amendments. First, I want to praise the Government for listening to the Church in Wales throughout the development of the Bill. Clause 8 shows that they have listened, and they have got away from some of the more difficult conversations that were had following early announcements about the Bill. I share the fear raised by my hon. Friend the Member for Stretford and Urmston that we seem to be leaving open a tiny possibility that the Lord Chancellor could prevent the Church's decision being given effect. We want to make it absolutely clear that the Church in Wales, as it has itself requested, is able to make its own decisions. Its representatives asked specifically for this measure in the evidence sessions, and have done so in writing as well. Carrying on the position of listening to the Church and allowing it to determine its own affairs is very much in the spirit of the conversation so far. I urge the Government to support the amendments.

Mrs Grant: I am grateful to the hon. Members for Stretford and Urmston and for Cardiff South and Penarth for their amendments. It was a great pleasure to hear the excellent evidence given to the Committee by the Rt Rev. John Davies and his colleagues. I understand why the Church in Wales might need reassurance from the Government that the Lord Chancellor will make an order when requested to do so. I know that my stance will be a disappointment, but I am afraid that I must resist the amendments. However, I am glad to have the opportunity to explain why, in our view, the amendments are not needed and to offer reassurance to the Committee and to the Church in Wales on this issue.

As the Bill stands, if the governing body of the Church in Wales passes a resolution to enable same-sex marriages, the Lord Chancellor must have due regard to the resolution that is made. He cannot simply ignore or refuse it: to do so could be deemed irrational and unreasonable, and would leave the Government highly vulnerable to legal challenge for unjustifiably restricting the religious freedom of the Church in Wales to conduct marriages of same-sex couples when it had chosen to do so.

It could be, however, that the Lord Chancellor considers that the terms of that resolution make it difficult for him to make an order; for example, the terms in which a resolution is expressed might be inadvertently unlawful. In such a case the Lord Chancellor would enter into discussions with the Church in Wales to agree a resolution that enables the Church to conduct same-sex marriages in the way that best meets its needs. In our view, it would not be appropriate for the Lord Chancellor's hands to be bound at the outset, forcing him to make an order even if he was sure for good reasons that that order would not enjoy the support of Parliament.

To provide a little further assurance, we have listened carefully to everything that has been said. We have worked closely with the Church in Wales and have tried to put it in a position in law where it feels protected and provided for, by creating a tailor-made solution. During our evidence session with him I do not recall John Davies appearing in any way to be unhappy with the clause as drafted, although I accept that he expressed a preference for a change of wording, which the Government are resistant to for the reasons I have given this afternoon.

I do not think that there can be any be doubt that the Lord Chancellor will, in practice, be bound, when properly requested by the Church in Wales, to make an appropriate order; he could not properly do otherwise. However, for the technical reasons that I have given, I must resist the amendments.

Kate Green: I am both disappointed and surprised at the Minister's response. It is clear that the Church in Wales had hoped to see the Government accept the proposed amendments. The Church's representatives were explicit in Committee that replacing the word "may" with "must" or "shall" in subsections (2) and (3) would recognise the Church's right to determine its own affairs in relation to this matter.

I am sure that we have all noted the assurances the Minister has offered about the likely intentions and motives of future Lords Chancellor. However, we cannot know that a future Lord Chancellor would act in accordance with the values that we hope he or she would have.

I am surprised that the Minister feels that the amendments to this clause cause a particular difficulty for the Lord Chancellor. It seems as if an extra layer of prohibition is potentially being put on the Church in Wales and I am sure that it is not the Minister's intention to add any more locks than are necessary for any religious body. Indeed, a running theme of our discussion on earlier amendments was that those locks presented in the Bill are recognised broadly, although not unanimously, as sufficient by the Committee. It is unfortunate that in practice an additional lock on the Church in Wales may be introduced.

I am struck by the wording of clause 8(1), which states:

> "This section applies if the Lord Chancellor is satisfied that the Governing Body of the Church in Wales has resolved that the law of England and Wales should be changed".

Clearly, it is unlikely that he would be satisfied if an ultra vires or illegal resolution had been made by the Church. In refusing to accept the amendments in my name and that of my hon. Friends, a further control is being put on the Church in Wales. Even if they pass a perfectly lawful and satisfactory resolution, they would not have certainty that the Lord Chancellor would be obliged to give effect to it.

The Minister of State, Department for Culture, Media and Sport (Hugh Robertson): I thank the hon. Lady for the way in which she is presenting her case. As the hon. Member for Rhondda will know, one always has, when taking decisions as a Minister, half an eye on judicial review. I stand here as a Minister who has been judicially reviewed on four separate occasions. It is a relatively cheap and easy procedure. If the Church in Wales thought that the Lord Chancellor's decision was in any way unreasonable, they could easily judicially review that.

Kate Green: I would certainly not wish to be the right hon. Gentleman, should he be a future Lord Chancellor, making that decision at additional risk of a further judicial review. I note that he argues that it is a cheap

and easy procedure, but my understanding of his Government's intentions is that they are about to make it a bit more complicated, expensive and difficult to access. I am not sure, therefore, that the Church in Wales will draw great comfort from his assurance. Indeed, it feels wrong to assert that the right to give effect to a legitimately taken decision could be achieved only by going through judicial review. That is cart before the horse. If the Church in Wales' governing body has made a valid decision in accordance with how it makes decisions, it would be wrong for the Lord Chancellor to review that, perhaps arbitrarily and thus potentially subject to judicial review. Why do they have to go through that extra hoop?

My hon. Friends and I do not wish to be difficult on the amendment, but I am disappointed and I feel that the representatives of the Church in Wales may feel disappointed too.

Stephen Doughty: Does my hon. Friend agree that the Church has made clear—certainly in conversations with me, and no doubt with her too—that they wish to see this change? I am sorry if that was not clear to the Minister and the Committee, but they have specifically asked for this change. The Church in Wales will be disappointed if the amendment is not agreed, particularly given the spirit created by the clause in the first place.

Kate Green: If the Under-Secretary can give us categorical assurances that the concerns of the Church in Wales will be met on Report, we may consider withdrawing the amendment. In the absence of such assurances—I see no sign that the Minister is in a position to give them—with regret I will press the amendment to a vote.

Mrs Grant: I am quite content to confirm that we will look at the issue very carefully.

Kate Green: I am grateful to the hon. Lady, and I very much hope that that means that we will see an amendment on Report. We will obviously come back to this matter at that time in light of today's discussions. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 8 ordered to stand part of the Bill.

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

4.15 pm

Adjourned till Thursday 7 March at half-past Eleven o'clock.