

3. BILLS FOR SECOND READING

3.1. Marriage (Same Sex Couples) Bill 2016 – Second Reading approved

Mr Bell to move:

That the Marriage (Same Sex Couples) Bill 2016 be read a second time.

The Speaker: We turn to Item 3, Bills for Second Reading, the Marriage (Same Sex Couples) Bill, and I call on the mover, the Hon. Member for Ramsey, Mr Bell.

The Chief Minister (Mr Bell): Mr Speaker, it is now 25 years since homosexuality was decriminalised. At that time, the law provided a possible sentence of life imprisonment for homosexual activity. Lives were ruined, lives were lost and the Isle of Man's reputation was in tatters, as a result of the prevailing social and political attitudes of that day.

Today this Hon. Court has the opportunity to bury that dark history once and for all, and to stand proudly alongside the growing international community in supporting the right of those in same-sex, loving and committed relationships to enter into marriage.

I realise, Mr Speaker, that this is a sensitive and emotive subject on which many Hon. Members will have very clear views, either for or against the idea of two people of the same sex being able to marry. I entirely respect that there is a range of strong personal views, which are held for religious, moral or other reasons, and that is why I am happy for there to be a free vote throughout the proceedings of this Bill.

It is perhaps useful to consider for a moment the debates from that time. Some people both in this House and outside it made dire predictions about the dangerous effects that the decriminalisation of homosexuality would have. It was said, amongst other things, that the Island would become a magnet for gay visitors and the Island's whole way of life would be undermined.

Of course, those predictions did not come to pass. Life continued as before, except for one thing. Those consenting adults who happen to be attracted to people of the same sex could go about their private lives without fear of becoming a criminal because of who they love.

In 2011, the Civil Partnership Act came into operation, and again, were there any great problems? In fact, there have been none, and to date the Isle of Man has celebrated 25 civil partnerships.

What will happen if the Marriage (Same Sex Couples) Bill is approved today and in its subsequent readings? Will it undermine the entire institution marriage or damage the marriages of heterosexual couples? No. Will it undermine the Church of England or other churches and religions? Of course not. The fact that same-sex couples can marry will have absolutely no effect on another person's marriage, and the Church of England and many other religious bodies will continue to maintain their view on what constitutes a marriage as only being a marriage between a man and woman.

It has been said as far as the Church of England is concerned, there is no such thing as a division between religious marriage and secular marriage. This is because the Church has traditionally accepted that the marriage of couple who have, for example, been married in a registry office as being a marriage in the eyes of the Church. If this Bill is passed, I imagine the established Church will maintain its traditional view, as indeed many others will do also, and as in other areas of law, the position under the Island's legislation will be somewhat different from the position under ecclesiastical law. This is already the case in England on this subject.

Although I will deal with what the Bill broadly includes in a moment, I think it is worth emphasising at this point that the Church of England is entirely excluded from the scope of this Bill. Its clergy cannot marry same-sex couples and its buildings cannot be used for same-sex marriage. If the Church's understanding of marriage were to change in the future so that it accepted same-sex

marriage, further primary legislation would be required, and this is exactly the position under the legislation that now applies in England.

As for other religious bodies, their clergy will only be able to participate in same-sex marriages and their buildings will only be able to be used if the governing authority for the particular body has approved such participation. The Bill also makes it clear that no person can be compelled to be present at, carry out or otherwise participate in the religious marriage of a same-sex couple.

There is, however, one exception to this provision, and that relates to civil registrars and the Chief Registrar. As with civil partnerships, they may be required to participate in the same-sex marriage process. This is so that all couples can be treated equally in the provision of this important and, for civil marriage, secular public function.

I have just mentioned civil partnerships and some people may say that if civil partnerships are basically equivalent to marriage, why is the extension of marriage to same-sex couples needed at all? It may be that some Members will say that very same thing today, but I would disagree.

This point was made forcefully when the Civil Partnership Act was introduced. What was being granted to same-sex couples at that time was legal recognition of their relationship. That might be akin to marriage, but it definitely was not marriage. Even though the rights under a civil partnership may be nearly the same as the rights under a marriage, the very fact that the two things are described differently and by many perceived differently means there is discrimination.

As I have said, even just five years ago, the idea that two people of same sex could be married seemed entirely unrealistic in the foreseeable future. So what has changed? Mostly I think that society has changed and same-sex is now acceptable to the majority of people. I know when we consulted on this issue, only a narrow majority of responses were supportive of same-sex marriage, but personally, I do not believe that the outcome of the consultation exercise represents a true picture of attitudes on the Island. I believe that many more people in the Island are supportive of same-sex couples being able to marry than are opposed to it, and as in any consultation exercise or referendum for that matter, the people who respond are generally going to be those who have strong views or a particular interest in the subject matter of the proposals.

And this is why when we consult on something we make clear that the consultation is not a referendum on the issue. It is obviously important for consultation to take place to hear the views of those who wish to respond, but ultimately it is for Government to bring legislation to Tynwald that it considers to be the right thing to do for the Island as a whole. Hon. Members, I genuinely believe that this Bill *is* the right thing to do and that now is the right time to do it.

I know there has been some criticism that the consultation in this case was slightly shorter than usual, and that may be raised again, so I would like to address this point. It was slightly shorter. This was largely due to the pressure of time, but further reasons were set out in the consultation document.

Did the length of the consultation stop people making their views known? From the number of responses and the length of some of those responses, it is clear to me that they did not. Would there have been a few more responses if the consultation had been longer? Possibly. Would those additional responses have significantly changed the overall picture? I do not believe so.

This is, in essence, a simple issue. Do you believe in the principle of allowing two people of the same sex who are in a loving, committed relationship to get married or not? For a great number of those who responded to the consultation, it was a black-and-white issue and the detail of the Bill was not relevant. They were passionate in expressing their sincerely held views about the principle both for and against, with some of the responses being very strongly worded.

The Bill itself is a fairly short and straightforward piece of legislation, which is closely based on the legislation that is now in operation in England and Wales. In large part the Bill amends our Marriage Act 1984 and I know that a copy of that Act as it would appear amended by this Bill has been circulated to all Hon. Members for their information.

I think that I have covered most aspects of the Bill, but for completeness, I will just reiterate the main points.

It will allow same-sex couples to be married in the Island by way of a civil ceremony, and in law those marriages will be equivalent to the marriages of opposite-sex couples. The Church of England and marriage according to its rights is entirely excluded from the scope of this Bill. It will permit the marriage of same-sex couples according to religious rights and usages of other religious organisations if, and only if, the governing authority of such an organisation has opted into that process.

It provides that there will be no obligation or compulsion on religious organisations or individuals to carry out or participate in the religious marriage ceremony of a same-sex couple. It makes some consequential amendments to the Sharing of Church Buildings Act. It allows recognition in the Island of the marriages of same-sex couples that were lawfully entered into outside of the Island. It amends the Matrimonial Proceedings Act 2003 to provide for same-sex couples to be able to divorce. And finally, it amends the Civil Partnership Act, so that couples who wish to do so can convert their civil partnership into a marriage.

Mr Speaker, attitudes in the world around us are changing fast. This legislation is now in operation in England and Wales and Scotland. Jersey and Guernsey have agreed to allow this change by 2017, and last year the landmark referendum in the Republic of Ireland broke new ground by strongly endorsing same-sex marriage in the first referendum of its type in the world. Those events just serve to illustrate how society in the countries round us have changed for the better in recent years.

I genuinely believe that society here in the Island has also changed for the better. Embracing this legislation will reflect our position as a progressive society that takes seriously the rights of vulnerable people and minorities. The message the Isle of Man has to send out in 2016 is that we are a tolerant, inclusive, compassionate and open society; that we reject discrimination and we are outward looking and engaged with the wider world.

I know that some people are and will remain firmly opposed to the marriage of same-sex couples. I may not agree with them but I do respect their views, and that they have the absolute right to hold those views, whether for religious or other reasons. It should be remembered of course, that both freedom of religion and freedom of expression are guaranteed under our Human Rights Act. What is not necessarily guaranteed, though, is for people of a particular faith or a particular interpretation of a faith to be able to decide what is right for others. It is our job here in this House to make law that balances the rights of everyone, and I believe that this Bill strikes an appropriate balance.

Mr Speaker, I believe that the values of fairness and tolerance and compassion are shared by the substantial majority of people in our Island and in this Hon. Chamber. I believe that the time has come for everybody to be able to marry the person they love, whatever the sex of that partner.

Mr Speaker, I beg to move that the Marriage (Same Sex Couples) Bill 2016 be read for a second time.

The Speaker: Hon. Member for Rushen, Mr Watterson.

Mr Watterson: I beg to second, sir, and reserve my remarks.

The Speaker: Hon. Member for Douglas East, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

The mover of this Bill brings it to its Second Reading today backed by his clearly expressed, sincere and strongly held belief in the importance of equal rights.

I fully respect that, but for my part I will be opposing the Bill and wish to explain why I hold such views with what I believe is an equal strength of conviction. I am confident that each side will hear the other out in a calm atmosphere of mutual respect and the right we all have in this Hon. House to hold different views, as he has indicated.

Mr Speaker, I must apologise to Hon. Members because what follows is an expression of my strongly held personal beliefs, which normally remain just that – personal. It is, however, necessary to express them here, if my contribution to this Reading is to have any meaning.

I hope that my views are not misrepresented outside of this Hon. House today – although here I travel more in a spirit of hope, than expectation.

Let me begin by saying how much I welcomed the introduction of the concept of the civil partnership some years ago. In my opinion, nothing has done more than its introduction to create a greater degree of tolerance and understanding in our society. As a consequence, I think we are becoming a more gentle and a far less prejudiced society – something that is translating into a much greater level of empathy, respect and understanding for differences in a whole range of areas that previously some may have found difficult – such as gender definition, mental illness, mental disability, racial prejudice, serious physical disability and profound physical impediment, to name just a few.

I think it is fair, though, to say that many of us have all been on something of a journey in many of these areas over recent years.

Why then do I oppose same-sex marriage?

In the recent presentation given on this Bill by the mover some Hon. Members then present may recall both the question I asked and the reply I received. I asked the drafter of the Bill what the difference in law actually was between civil partnership and a marriage and his reply was very clear – and he is with us today. In law, he said, there is *none*. It is a difference of nomenclature. Put simply, in law it is the same thing but with a different name.

As you may be aware, in the well-publicised court case in England recently, a judge ruled that a heterosexual couple was not entitled to enter into a civil partnership because they already had full and open access to marriage. My understanding of his ruling was that it had the same basis as the explanation given to us by our drafter – that in law the two are of equal value to each other. They need not therefore be an overlapped or interchanged in any way.

If a heterosexual couple have no need to seek a civil partnership, then conversely a homosexual couple have no need to seek a marriage.

Given that to be the case – I have no reason to doubt either our experienced drafter or the judge – then the mover of the Bill must be wrong when he argues that this Bill should be voted through on the grounds of equality of rights in law. Surely that has already been achieved and is now beyond question.

So, if it is not a matter of equality, what, if anything, is the difference between the two? And, given that there is one, why would we be so unwilling to respect that difference in an age when, as I have already said, nothing has played a bigger role in the encouragement of respect for difference than the introduction of the civil partnership itself?

From my understanding of this subject, I am aware that there are a number of leading commentators, who are themselves homosexual, who have asked the very same question I pose here. They, like me, have said this move is unnecessary.

Turning away then from the matter of equality and addressing instead the matter of difference – I believe that this is best identified by looking at where the two forms of partnership find their origins.

Clearly, the civil partnership came into being as a consequence of the long held and totally understandable wish of homosexual couples to have their form of relationship recognised in law.

They sought, and achieved, equality and recognition in the eyes of the law, essentially providing their right to legitimacy and respect.

Marriage finds its origins not primarily in the rights of the couple, but rather in the need to protect the interests of the child or the children of that partnership. That essentially is what heterosexual partnership is about – it is the very nature of sexuality and procreation. Marriage therefore is, at its core, one of accepting a series of responsibilities around the bringing up of children.

Therein, I believe lies the difference. A civil partnership is essentially one designed to acknowledge the rights of the couple. A marriage is essentially about the acknowledgement and acceptance of responsibilities designed to protect the rights and interests of the children.

Great progress has been made in recent decades in the recognition of rights. We only have to look at the emerging authority of the European Court of Human Rights or our own forthcoming Equality Bill to find significant examples of that.

What I personally find disappointing-is that as the pendulum swings ever more towards the capacity of various jurisdictions to enhance the rights of their citizens – as indeed they should – an inextricable and subtle swing is occurring away from the desire to express the continued importance of responsibility.

I believe this emerging mindset – where rights achieve primacy over responsibilities – is having a damaging effect in a number of areas, but here specifically, this Bill will have a damaging and detrimental effect of the institution of marriage.

The Bill before us, if it meets the approval of this Hon. House, will further undermine the institution of marriage because it will help to confuse the two key issues of rights, on the one hand, and responsibilities on the other, and in so doing have the quite unintended consequence of diminishing the importance that is attached to protecting the rights and the interests of children of that relationship.

Mr Speaker, after all we have been through in recent years in the matter of the well being of our children, is that really what we want? Do we not want to reinforce the sense of responsibility in the upbringing of children?

Only by way of example, in the event of divorce: have the mediators not got it right when they say that the preoccupation of the parents must be towards the responsibilities they have for their children; and our judicial system got it very wrong when it, by its very nature, draws the couple into an accusatorial confrontation, setting the *rights* of the two opposing parties against each other – with the consequence that the longer the case lasts the more expensive it becomes?

That is why I told the hon. mover of the Bill some considerable time ago, when I was still a member of the Council of Ministers, if he did choose to bring a same sex-marriage Bill forward, that I would not be able to support it.

I said to him then – and he may recall this – that my stance was not about doubting the rights of homosexuals, but about the defence of the institution of marriage and what it actually means.

Some might say that my argument is undermined by the rights of homosexual couples have to adopt children, (**Mr Thomas:** Hear, hear.) but I would say those holding that view make my case for me. They do not have a right to adopt any more than do heterosexual couples or single parents have that right. *It is not a right.* Adoption is very simply not about rights.

Should any Member believe what I say here is somehow led by a religious conviction, then I would have to firmly correct that misunderstanding. Marriage has been a cornerstone of many religions *and none* – and of endless numbers of states and societies through the ages. Religious bodies simply play their part, where the couples so wish, in solemnising it within a religious ceremony.

Let me turn now to two points the hon. mover made in his presentation, namely: that a number of states have already put same-sex marriage in statute; and secondly, that the Isle of Man would do much to repair its reputation for being, historically at least, seen as homophobic.

Taking his second point first. Through our introduction of the civil partnership, I believe we have already shown very clearly that we have dealt with that and are now in a good place. We have nothing we need to prove with further gestures. This is not about gestures.

With regard to his first point, I do not accept that we should do something just because other jurisdictions have acted – any more than we should *not* introduce same-sex marriage because many other jurisdictions have *not* done so. Surely we must think this through for ourselves – and that is why we are here today.

In conclusion, my contribution to this debate has focused on the rational and the legal and it should do because before us we have a Bill and ultimately clauses and then procedures. But in the final analysis we are talking about deeply emotional things. We are deeply emotional beings. It is those emotions that drive us to form deep relationships, be they homosexual or heterosexual, and both these forms of partnership demand our respect and acknowledgement.

The point of difference, however, is when the state of being a husband and wife turns into that of being a father and mother at the point of procreation. It is when that partnership subordinates itself to that which is greater than itself that the family is created. That is where the true meaning of marriage comes into its own. It has been so for eons before we were born, and it will remain so long after we have gone and it is profoundly important that we continue to recognise that fact. I believe we need more time to reflect on this matter. There is no need to rush to judgement.

Thank you, Mr Speaker.

The Speaker: Hon. Member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker.

I am sure that all Hon. Members support fairness, equality and the respecting of alternative views, and in return expect their own genuinely held views to be similarly respected. I am always ready to listen to the views of others and I hope they would be always ready to listen to those that I express. I would never consider that I can push my opinion onto others or be pressurised into accepting theirs.

People live very different lifestyles, for many reasons, and in my view, if they are not harming anyone else, not breaking the law and they do not abuse me for having a different view, that is a modern world that we should be living in. We should not be condemning the fact that we have our differences; we should be celebrating them.

We live in a modern world of equality, hopefully far advanced and removed from some of the practices we see in countries which are still living in the Middle Ages. We really have to ask if we want to be living in an atmosphere of enlightenment. I hope we have no qualms about answering yes.

On my consideration of this Bill I have my own thoughts and opinions, but taking into account what I have just said, I fully respect that there are others who feel their opinions are equally valid – and they are. So it is an irrelevance what I think.

I have read all the comments on the consultation, and indeed they are very much polarised but every single opinion expressed I hope is generally felt and therefore should be respected. Those who support this Bill believe that two persons of the same sex who wish to confirm their feelings for one another and feel that marriage will strengthen that relationship cannot be said to be wrong. Similarly, those who oppose same-sex marriage, saying it weakens the institution of marriage, which should only be between persons of the opposite sex, also cannot be said to be wrong.

I have considered both arguments long and hard. My personal conclusion is that heterosexuals deciding whether or not they wish to be married, either in a religious or civil ceremony, will not be influenced by legal marriage between people of the same sex. Similarly, the strength of those same-sex marriages will not be influenced by the other.

If two people of the same sex wish to be joined in a marriage ceremony, who am I to say that they should not be able to do so if they feel it strengthens their personal relationship and

commitment? We have accepted the right to a civil partnership for same-sex couples – their joining in marriage will not influence my life in any way and I will be very happy for them if they are happy.

The sad fact – and I am one of those in the statistics – is that 42% of marriages in the United Kingdom end in divorce and there is no reason to believe that legalising same-sex marriages will have any effect on divorce rates. Recent figures from the Williamson Institute in the USA show that the divorce rate during the first year of marriage is 1.1% in same-sex marriages and 2% in heterosexual marriages – pretty similar.

If I can now refer to the religious views, as you would expect from me, I totally respect the followers of peaceful religions who will accept the teachings and are to be respected for doing so, but surely the important word, the important attitude, should be tolerance, the attitude of ‘I may not agree with you but I acknowledge your right to have a different view, as long as you show that tolerance of my views.’

The world is in transition and I think that the wide-ranging media to which we have access now enables us to form our own balanced views. I was very moved by the statement of Pope Francis in July 2013 after his visit to Brazil, when he said:

If someone is gay and he searches for the Lord and has good will, who am I to judge?

– a leader of the modern era bringing a fresh of breath air and equality. Of course, this does not endorse same-sex marriages but I believe it is a statement which brings a sea-change to society.

I acknowledge fully the interpretation of marriage by the established religions and the message delivered to their followers, but not everyone is a member of a religion, and even those who are may have a different view of the meaning of marriage. This is where there is a need to practise tolerance, accepting that as a fact.

Overall, of course, it is essential within this Bill that the views of those who do not agree with the principle of same-sex marriage are fully protected by the law – that they are not ostracised for their opposing few, that they are fully entitled not to take part in any of the matters leading up to and including the marriage ceremony in any way. I think that the way this Bill is written does give that protection, whether it be in regard to the use of religious buildings or the service of the clergy all the way through to caterers and florists. I do note what the Chief Minister said about registrars and I have got one doubt in my mind that registrars also, wherever possible, need to be protected if someone has a strongly held view; and if there is an alternative – for example, another registrar will take the place of the registrar who does not want to undertake the service – I think that should, on every occasion, be able to take place.

It is a case of respecting, not vilifying, those who genuinely hold opposing views. It has been said to me, ‘If we permit this, what will they want next?’ This, to me, is a nonsense argument, and those people should be true to themselves, not scaremongering, and vote according to their personal views, not be hiding behind such a negative excuse.

Hon. Members will be aware that I have raised the subject of civil partnerships for heterosexual couples. The Civil Partnership Act 2011 gives rights to same-sex couples. My personal opinion is that under the headings of equality, fairness and human rights, civil partnerships should be legalised also for heterosexual couples. The view has been expressed that heterosexual couples should be directed to marriage as the rights obtained will be basically the same as in a civil partnership; but denying the civil partnership status to all is imposing the belief of others, which is unacceptable in today’s society. For those who wish to be in marriage it is fine, but some people do not wish to enter a marriage relationship for many personal reasons but they do wish to have a relationship which has protections for them and their family.

I am grateful to Manx Radio, 3FM and the *Manx Independent* for publishing my thoughts on civil partnerships for heterosexual couples and asking for the public to relay their views to me. I thank those who have responded by email and telephone. All the responses to me were positive, with one indicating that they thought there should be no civil partnerships at all for anyone if the same-sex marriage Bill is passed. Therefore, Mr Speaker, subject to this Second Reading being approved, it will

be my intention to introduce an amendment at the clauses stage which will permit civil partnerships for heterosexual couples, therefore righting what I believe has been an omission in the law, and I hope it will receive Hon. Members' support at that stage.

There is one final point that I wish to make. It may be that those who oppose this Bill will try to scupper its progress by sending it to a committee and it would not complete its passage through both Houses by the end of this session. I would say to them: be honest today, and if you oppose the Bill then vote against it.

Thank you, Mr Speaker.

The Speaker: Hon. Member for Ayre, Mr Teare.

Mr Teare: Thank you, Mr Speaker.

At present I cannot support this legislation, and I would just like to give some background.

I am a Methodist, and as Hon. Members might expect, I sought guidance from my Church. We have always regarded marriage as a union between opposite sexes, and this is derived from an understanding of the principles set out in the Bible. However, you should not infer that we have always been reactionary or that our views may not change, and I would draw Hon. Members' attention to our support of anti-discriminatory legislation, including civil partnerships in 1993. I also support the principles of the proposed equality legislation and look forward to having an opportunity to consider the provisions of the Bill in the near future.

In this instance, we have not had enough time to canvass the views of our members, as the period for consultation is only five weeks compared with 12 weeks for similar legislation in the UK. It is difficult to appreciate the reason for the short timescale, as with more time we might have been able to support the proposed legislation. Our position is not set in stone and the Methodist Church in the UK hopes to have its position clarified by June this year.

It is not as if same-sex couples have no provision provided for them to celebrate their love for each other. We have the civil partnership legislation, which is specifically tailored to meet their needs. It is exclusive to same-sex couples and I would argue that, at present, marriage legislation should be the avenue for opposite-sex unions.

Turning to the Bill itself, I do appreciate that there are caveats to religious organisations, but it is silent on the position of suppliers to weddings – for example, caterers, wedding cake makers, hirers of venues, or florists. If this legislation proceeds, then I feel that exemption could be extended, perhaps by an amendment to the equality legislation which has recently been published.

With that, Mr Speaker, I give notice that I cannot support this Bill at this time.

The Speaker: Hon. Member for Douglas South, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

I will be brief, because for me most of it is a very brief matter: it is about equality.

As previous speakers have said, though, marriage is an emotional issue – of course it is; it is not just a legal issue. If it did not involve emotion, we would not fall in love and want to get married. I do disagree that it is primarily about the rights of a child, because, for instance, why would I have remarried? I was certainly past childbearing age, but I fell in love with my husband and I wanted to marry him. It was a signal not just to us but to other people: we were a married couple – we felt that strongly about each other. I do not see why that should be denied to same-sex couples who have the same feelings for each other. So, to me it is not just a legal matter; it is about emotion, fairness and equality in dealing with those emotional matters.

I have to agree with Mr Singer, though – I know this is outside the Bill – and I look forward to seeing his amendment about the equality on civil partnership for opposite-sex couples. Some people do not want to enter into marriage – maybe their feeling towards the very word is different to my interpretation, my emotional feeling for it, and I think we should be looking at ways to make it equal

in that respect as well so that everybody's feelings and rights are respected under the law. So I very much look forward to seeing Mr Singer's amendment and I hope I will be able to support it when it comes along.

Really, that is all I have to say on it. I will be supporting the Bill. I think it is the right thing to do.

The Speaker: Hon. Member for Onchan, Mr Hall.

Mr Hall: Thank you, Mr Speaker.

When it comes to matters of such public importance as the redefinition of one of the most fundamental and foundational institutions in our society as marriage is, it is perfectly reasonable to ask those who seek this change to listen to and give a fair hearing to those who oppose it. A healthy society is one that tolerates a diversity of opinion and viewpoints, and this should be valued.

In opposing same-sex marriage, I see myself as addressing a very fundamental question. Would it be to the benefit of society and of families to make a fundamental change to the definition of marriage? What are the implications for society, and crucially for children, of the proposal that marriage would no longer mean a union between one man and one woman in the kind of indissoluble relationship in which the procreation and raising of children takes place?

You do not have to be a person of faith to value the centuries of tradition which societies the world over have attached to the institution of marriage; and, as has been pointed out, the unintended but glaring inequality resulting from the Marriage (Same Sex Couples) Bill, whereby same-sex couples are still entitled to continue in a civil partnership, to take up a civil partnership or to enjoy the extension of marriage, while opposite-sex couples have only the option of conventional marriage, albeit by a larger range of religious institutions. That is hardly fair. It gives rise to an inequality in what is being billed by the Chief Minister as a Bill to promote equalities, and in my view it does seem to fly in the face of notions of equality.

This blatant unfairness that has been highlighted was recently challenged in the UK High Court by Rebecca Steinfeld and Charles Keidan, who are in a long-term relationship. Logic and all notions of equality would suggest that they had an extremely good case; yet, unbelievably, they have lost. The case was obviously brought to the High Court by this couple to make a very good point, and it is one that cannot be ignored by any government indefinitely. Mr Speaker, the change in the attitude towards homosexuals over the past 30, 40, 50 years has been remarkable and welcome; yet now, most bizarrely, it is heterosexual couples who face discrimination and disadvantage unless this is addressed.

What is even more disturbing in this whole affair, as I understand it, is that under the UK government proposals adults could very soon be able to change their gender by simply filling out an application form. That can already be done in Ireland. It was as a result of pressure from the transgender lobby to end discrimination against transgender and transsexual people.

The message of the Chief Minister and those of the 'yes' side is that this Bill is about equality and whether gay relationships should be offered the same security and the same respect as those of heterosexual relationships. It is as simple as that, no more and no less. If a heterosexual citizen is allowed to marry the person he loves, then why should a homosexual person not be allowed to marry the person he loves? This argument appeals to our sense of fairness and justice, but is it really as simple as this? Is it really as simple as the Chief Minister is trying to make his case?

Equality is something we should all be passionate about. It is a basic human right and we must all cherish and promote it, yet its application does not necessarily give us the freedom to do whatever we would like. The Irish Human Rights and Equality Commission itself acknowledges that:

Equality does not always mean treating everyone the same.

As a value, equality becomes problematic if it is treated separately from other concerns and other values, as would appear to be the case in the same-sex marriage debate. In fact, it is quite mistaken to apply it apart from other fundamental principles such as truth and justice. And it also does something else at the level of conscience. An exclusive focus on equality in separation from other principles distracts us from asking in conscience the absolute critical question: can a relationship between two people of one sex, however loving, however committed, be truthfully termed a marriage? This distraction of one's conscience by appealing to equality without taking into account other values and rights, including the central issue in this debate of the rights of children to a mother and a father, is the first part of what I would term the equality trap.

The second part is that we are told this Bill is not about changing marriage but it is about sharing it, about extending it to others, and this is also profoundly untrue, in my view. For many people who are married, it is abundantly clear in each day of their married lives that the manifold distinctions between male and female define what marriage is. Allowing people of the same sex to marry requires that the traditional and natural institution of marriage is stripped of its very essence: the bonding of man and woman and the begetting and raising of children by their natural parents in a relationship of permanence and sexual exclusivity.

The legal recognition of marriage as a union between a male and a female does not discriminate, but it appropriately differentiates. It is appropriate because only the union between man and woman is open to new life. To try to make marriage something else by simply repeating that it is about marriage equality numbs the engagement of our consciences, which in silence and peace tell us the truth: that we are made male and female, and we are made by a male and by a female. This is the unchanging truth upon which marriage, as the bond between a male and a female, is based.

Mr Speaker, I fear that if this Bill succeeds it will become increasingly difficult to speak in public about marriage as being between a man and a woman, and mention of mothers and fathers will likely be removed, or will have to be removed, from a whole raft of legislation to be replaced with gender-neutral terms.

Because of this, I am concerned about what teachers may be obliged to teach about marriage in schools. Teachers may very likely find themselves being forced to act against their consciences. Even in Roman Catholic schools – which I note that the Chief Minister makes absolutely no mention of; he mentions the Church of England but makes no mention of the Roman Catholic Church – the state generally holds a position of dominance in regard to the curriculum. Therefore, it is reasonable to ask whether, if the Bill succeeds, teachers will be forced to teach the new reality of gender-neutral marriage even if the Roman Catholic parents or the management, the board, the governors have got profound misgivings about it. It is absolutely imperative that faith schools are protected. They must have the right to freedom of thought, conscience, religion and expression, and they must be free to model the teachings, values and principles, in the case of St Mary's School, of the Roman Catholic faith and in the case of St Thomas's, of the Church of England.

What would happen if a man or a woman in a same-sex marriage applied to teach at a religious school, was successful in obtaining a job offer, and then informed the school that they were in a same-sex marriage, which resulted in the offer being revoked? That has happened elsewhere. A court could rule that to be discrimination, but it could also be argued that this would be an assault on religious freedom. Religious schools, in my view, must have the right to govern their internal affairs free from state interference, and I ask the Chief Minister to address this should this Bill succeed and before coming forward.

I would also question whether this will lead to a climate of intolerance and a violation of religious freedom. The cross-denominational group in Ireland pointed out that when Britain introduced same-sex marriages the adoption agencies had to close because they were not prepared to provide services to same-sex couples.

The Inter-Church Group has also said that service providers such as photographers and caterers at weddings would be acting illegally if they were to decline services for same-sex weddings, even

though providing those services would be contrary to their consciences. They are also of the view that chaplains working in publicly funded institutions, such as prisons and hospitals, could face disciplinary action and possible dismissal if they spoke of marriage as being between a man and a woman only.

I would also add a real concern of mine: that if the Bill succeeds, any public servant, teacher, police officer, marriage registrar or member of the judiciary could face legal sanction and possible dismissal if that view were to be expressed in the course of their work.

Looking at other jurisdictions, in one case in the United States the co-founder of Mozilla, the IT company, was forced to resign in 2014 from his position as the chief executive after it transpired that he had personally donated US\$1,000 in support of a campaign to oppose the introduction of same-sex marriage in California some years previously. His modest donation, out of his own personal pocket, elicited global boycotts and protests from the lesbian-gay community and its supporters, and eventually he was forced to give up his job.

Closer to home, in Northern Ireland, the Equality Commission took action against a baking company – a family business run by people who held the view that marriage can only be contracted between a man and a woman – apparently because they refused to bake a cake with a slogan on it promoting same-sex marriage. And even though the judge hearing the case accepted that the owners held deeply religious views, she said that that business was not above the law. They lost the discrimination case and were ordered to pay costs. But then it is interesting to note that this month a high-profile appeal by them was halted by the dramatic intervention from Northern Ireland's top lawyer, the Attorney General, because there was possible incompatibility between the equality laws and the European Convention on Human Rights, and the case continues today. In a free society I do not think that a business should be compelled to assist in the promotion of an idea that it opposes.

In jurisdictions that have legalised same-sex marriage we also hear that Church authorities can find themselves in trouble if they refuse to hire parish halls, for instance, for same-sex marriage celebrations.

Mr Speaker, the intention, I feel, of the Chief Minister and some people supporting this Bill might be to try to create a more tolerant, caring and inclusive society – and, in principle, this is something which we should all be in favour of. However, as I have outlined, there are real fears that if the House allows the Bill to continue it might result in the opposite – in a less tolerant society. This is the risk, the danger, and the responsibility lies with those who want to redefine marriage to show that this will not be the case in the Isle of Man.

It is also important that we all consider very carefully what a fundamental change in the law would mean for society today and for future generations. The Isle of Man prides itself in placing family at the heart of society – so much so that the institution of marriage and the families it creates enjoy a special position and must be guarded with special care. Like the vast majority of countries in the world, marriage in the Isle of Man is considered to be a legally binding union entered into voluntarily by a man and a woman. We are now being asked to consider changing this definition so that two people of the *same* sex might also enter into marriage.

The issue we are being asked to vote on is about more than simply changing a piece of law which may or may not apply to us as individuals; it is about changing the way that we as a society think about family, and enshrining that change in our land.

The proposed redefinition of marriage as a legal contract, without distinction as to their sex, is saying that the special role marriage has had until now in bringing forward and nourishing new human life, only possible between a man and a woman – this, without distinction of sex – will be incidental to marriage.

Moreover, it is saying that it is a matter of indifference to us a society whether a child is raised by a father or a mother, or by two men, or two women – and, more basically, by its biological parents at all. Mr Speaker, Hon. Members, that is what we will be voting into our society.

In due course, Mr Speaker, no matter how carefully the law seeks to regulate matters, technologies that have until now only been used to aid infertile heterosexual couples will be the

ordinary means of reproduction for same-sex couples – who biologically cannot otherwise have children. It is a possibility that children could very well end up with several people that they could properly refer to as their parents: the genetic mother who donated the egg, the surrogate mother who bore the child in her womb, the adopting lesbian mother, the father who donated the sperm, and the adopting homosexual father.

If the proposed law is enacted and our society is changed, all of these kinds of parenting will have to be considered as part of the new 'normal'. Experts have said that in such situations the issue of legal guardianship of children will be very difficult to determine. And in order to conceive a child, a same-sex couple would have to overlook a child's right to be raised by both his or her biological parents.

All of these changes are about adults' needs rather than the needs of children. Are they likely to contribute to a culture in which children are viewed as commodities? We have to remember that our culture predisposes us to value self-fulfilment above virtually everything else.

In my view, the introduction of same-sex marriage will put the needs of some adults before the natural rights of children to a father and a mother. This cannot but be highly damaging to society in general and to the institution of the family in particular, which must be guarded with special care.

Mr Speaker, I appeal to Hon. Members not to be motivated by error or by the pressures of the moment, and not allow any further passage of this legislation as it will, in my opinion, constitute a real and grave anthropological backward step. Something very unique and very precious is in real danger of being lost. Legalising same-sex marriage will lead us down a slippery slope to where anything goes. Once gay marriage itself has been granted on grounds of equal protection or equal benefits, it will be virtually impossible to deny either parental or marital status to any number of adults.

The state is *not* discriminating when it requires there to be a man and a woman for a marriage contract; it merely recognises the natural reality. A marriage made up of a man and a woman is not the same as a union of two people of the same sex.

To distinguish is not to discriminate, but to respect differences. Same-sex marriage is a fundamental threat to marriage and the Bill is trying to tamper with society's DNA and the consequent mutation which will reap unimaginable consequences for the Isle of Man.

There is an abundance of evidence that recognising same-sex marriage will undermine the entire institution; and even when you look at Scandinavian gay marriage, that has driven home the message that marriage itself is outdated and virtually any family form is acceptable. More than half of all the children in Norway and Sweden and Denmark are now born to unmarried parents – and married parenthood has become a minority.

Mr Speaker, changing the legal term of marriage is not about one change in the law, like the Chief Minister is trying to portray, but rather amounts to hundreds of changes all at once. The term 'marriage' can be found in family law, employment law, trusts and estates, healthcare law, tax law, property law, and many others. And these laws affect and pervasively regulate religious institutions such as churches, religiously-affiliated schools and families.

The battle is not between the two ideologies and I do not oppose one ideology with another. But we do need to understand the intention: respect and care for gay and lesbian people on the one hand and opposition to same-sex marriage on the other.

Mr Speaker, looking at the consultation itself – as the Chief Minister has touched on. It was held for five weeks and that lasted until 13th November; and it was, in fact, one week short of the recommended minimum period under the Government's code – a point that did not pass unnoticed. That means that there could well have been people unable to respond.

Nevertheless, there was an unusually high return consisting of 176 responses. Many of these showed a remarkable degree of detail, which at the very least deserve close examination. The very fact that so many people took the trouble to respond – and in some cases devoted a very considerable amount of time and effort – was good news for the very democratic process that underlies our system of Government.

The results of the consultation were not published until 26th January, or thereabouts, by which time an announcement had already been made some three weeks earlier that the Marriage (Same Sex Couples) Bill *would* proceed. Leaving aside all else, this was not only most regrettable and somewhat discourteous to those people who *had* responded, but it could also be perceived as further evidence that the elected representatives do not have a due and proper regard for what ordinary people think. This hardly encourages a greater participation in the electoral process and it may well further exacerbate what may be described as a democratic deficit.

I have already touched on the issue of equality, Mr Speaker; but again, without becoming too technical, there are two particular grounds on which a nullity decree may be sought for heterosexual marriage. The first is on the grounds of a lack of consummation, though by Schedule 2, part 3, paragraph 5(3) this does not apply in the Bill before us.

The second is on the grounds that the respondent was pregnant at the time of the marriage by someone other than the applicant, and that this fact was unknown to the applicant. This is not excluded from the Bill, though without needing to pursue the point further it is very difficult to see how the respondent could ever be pregnant by the applicant in a same-sex marriage. Surely it does not assist a respect for the law to pass provisions whose wording, at least in part, poses a factually impossible proposition.

The second deficiency concerns the dissolution of a marriage by way of divorce. Until more recent times divorce was available solely on the proof of what is sometimes still called 'the marital offence of adultery'. This has always been heterosexually perceived. The Bill retains this perception in Schedule 2, part 3, paragraph 4. In doing so it loses its claim to the creation of equal marriage. Put another way, if the marital offence of adultery is regarded as being capable of being committed only in heterosexual terms, it must imply that this is only how marriage itself can be perceived.

Mr Speaker, in pursuing this question of equality further: if this Bill is passed it has been contended that it would create a further inequality for heterosexual couples and the same-sex couples who have got *two* alternatives open to them, which are either a civil partnership or marriage. And again it has been suggested this could be rectified by the Civil Partnership Act being amended to include heterosexual couples as well.

So two questions arise from this: what, if anything, is the difference in practice between the Civil Partnership Act and the Marriage (Same Sex Couples) Bill? And what would be the practical, legal and financial consequences of having four separate pieces of legislation on essentially the same subject?

On the issue of conscience, Mr Speaker, the Marriage (Same Sex Couples) Bill contains limited provisions concerning conscience with reference to ministers of religion. This is to be welcomed as far as it goes but, as it stands, it also again creates a degree of inequality. Traditionally, religion has been perceived in terms of a belief in deity, but it is notable that the forthcoming Equality Bill defines religion far more widely so as to include a philosophical belief – or even an *absence* of such a belief.

Religion will become one of the protected characteristics, yet in a matter where religious conscience is likely to become particularly active with regard to same-sex marriage, the scope of protection appears to be very narrow and therefore, in my opinion, unsatisfactory.

Mr Speaker, unless the Equality Bill is to become deficient with regard to one of the protected characteristics, the Marriage (Same Sex Couples) Bill requires a careful scrutiny to determine how the conscience on the grounds of religion in the broader legal sense can be truly protected. That might well include, for instance, provisions for registrars and teachers in schools where marriage education is given. Issues could also arise in the sphere of employment where applicants for a job or for promotion are discriminated against because of their religious views on same-sex marriage.

Mr Speaker, the Marriage (Same Sex Couples) Bill is no ordinary piece of legislation. It has ramifications far beyond its actual provisions and I think it requires some greater degree of enquiry and consideration that can even be achieved by the ordinary legislative process. The case for the

creation of a Select Committee to investigate its provisions further in the terms that I have described, and maybe in other areas too, is very compelling and self-evident.

I therefore beg to move that the Marriage (Same Sex Couples) Bill be referred to a committee of this House.

Mr Robertshaw: Mr Speaker, I –

The Speaker: You cannot move that.

A Member: Pardon?

Mr Watterson: What? Why not?

The Speaker: It cannot be moved.

Mr Watterson: Any time after the Second Reading has been moved ...

The Speaker: It cannot be moved in the middle of a Second Reading debate.

Mr Watterson: Can't it?

The Speaker: It can be moved *after* the Second Reading, that the Bill be referred.
Hon. Member for Malew and Santon, Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I will be brief on this; I am only brought to my feet by a comment from the Chief Minister. First of all may I declare an interest? My brother is the Chief Registrar.

I have not actually spoken to him about this point, it is only something that the Chief Minister brought up, which was that the registrar or Chief Registrar must carry out this provision. How would this work with a Civil Service disciplinary if they are opposed to a ceremony that will actually cause an issue with an individual, in forcing them to carry out something which is against their conscious belief?

I am concerned about that point. There does not seem to be anything in the Bill to protect an officer if it is against their religious beliefs and they do not believe in it. I am concerned regarding that.

I would like to make it clear that I have not discussed this with the Chief Registrar and I would seek your guidance regarding this as a declaration, Mr Speaker.

The Speaker: Your declaration ... ?

Mr Cregeen: My brother is the Chief Registrar, so I do not know how that affects my position on voting?

The Speaker: It affects it in no way. You have declared your position, it is open and transparent. I call on the mover to reply. (*Interjection*)
If other Members wish to speak, please ... Nobody else has indicated.
Mr Malarkey.

Mr Malarkey: Thank you Mr Speaker.

I had not originally intended to rise today to speak, but I am rising in favour of the Bill that is before us today. Comments have been made that maybe 30 or 40 years ago I would not have risen

to support this; but as time has moved on and life changes, I think the Bill before us today *has* to proceed. But there are one or two concerns that have arisen in the debate this morning which I am concerned about and, again, it goes back to the Hon. Member, Mr Cregeen's point about criminalising or disciplining somebody for their beliefs.

Much of this has talked about equality and I am very much in favour of equality, and I have made it very clear in all my speeches on equality that I fully support equality; but I will not criminalise anybody for having their own beliefs. And if I cannot find it in the Bill and in legislation – and I certainly will be talking to the Chief Minister afterwards ...

If, like in a recent case in England, where a baker refuses to bake a cake for a same-sex marriage couple and then gets criminalised for not wanting to bake that cake ... His beliefs were such that he did not want to be associated with that!

Well I am sorry, I cannot support the Bill in that instance, because for me equality is all about both sides of the fence. It is all about people having the rights in all directions. So if it was my belief that I did not want to let out a hall for a same-sex marriage, I should not be criminalised for having my beliefs.

From what I can read in the Bill, it will not criminalise any of the churches or anybody in any form, but I want reassurance that the general public – for having their own beliefs – will not be prosecuted or criminalised because they refuse to supply the hire cars ... because a religious person who owns the company has said, 'Well, I do not believe in same-sex marriages and you cannot hire my cars.' I want that reassurance to come from the Chief Minister.

Many of us have been lobbied by lots of people during the last couple of months with regard to this Bill and I have quite an interesting one which was sent to my colleague and myself from a young lad. I actually know the family quite well in South Douglas. And he wrote a very nice letter to us both, and in one comment he came out and said, 'Our Government exists to look after us, where we otherwise would not. For me this is the duty of Government: it provides the Police to keep us safe from crime, streetlights to protect us from the dark, and equality to protect us from each other.'

I think that is very true and very moving from a young lad. He finishes the letter and in his very last sentence, 'Do not let history see us as bigots, as a homophobic Island, as those who did nothing.'

So yes, this is an important debate today, Mr Speaker. I believe life and times have moved on considerably in the last 30 or 40 years. And we have to move on with it. We are the guardians of our children's future and when we get letters like that from this lad who is the same age as my daughters ... we are here to represent them.

But I will *not* criminalise anybody for having their own views, Mr Speaker. And I do want clarification from the Attorney General's office and from the mover of the Bill that is not going to be the case if this Bill goes through in its current form.

Thank you, Mr Speaker.

The Speaker: The Hon. Member for Douglas West, Mr Thomas.

Mr Thomas: Thank you very much, Mr Speaker.

I want to congratulate the Chief Minister and all the officers for working so well on this Bill, because it seems to me that there have been put into it significant safeguards for an individual not to take part in any process with which they are uncomfortable or disagree. There are arrangements made to opt in to various things, which is different from this sort of legislation in other places in certain ways.

The other point is, I wanted to express regret that in this state legislative process, words and phrases like 'anthropological backward step' and 'tamper with society's DNA' were even used, because this is about putting together a three level arrangement for equalising marriage in its various guises and civil partnerships; and so therefore that is what we should be looking at with hearts and with feelings – but also rational – from a state legislative perspective.

The second point I wanted to say on that is that we are obviously going to be asked to move this to a committee after this Reading, if it is successful. But I just wanted to say as it was not mentioned this morning, in the context of the Landlord and Tenant Bill which *did* go to committee, that it was only actually six people in this House ... six Ministers – Minister Teare, Minister Gawne, Minister Quayle, Minister Robertshaw, Mr Ronan and Mr Skelly – who did vote against not continuing with that Bill. And that is because everybody else in this House – 16 of us – were persuaded that that Bill was flawed in legal terms. It was unintelligible in places. And nothing today has in any way persuaded me that issues of flaw, in legal terms, of unintelligibility in legal drafting terms have actually been offered to us.

So the consultation was, unhelpfully, only five weeks – and I have made that point myself in Questions. It could have been done better. But having said that, we have been consulting on Equality legislation since 2014; and the responses about the conscience clause described by some of my colleagues has actually been there for 12 months.

We have taken this seriously. This is a very simple piece of legislation to equalise marriage. I think it is helpful that the Hon. Member for Ramsey, Mr Singer, has brought forward his amendment – I discussed that with the Chief Minister five or six weeks ago, and I think the feeling then was it could be done in two stages. But if we can do it in one wraparound, and end up with a three level procedure to respect the Church of England's beliefs and all other religious entities' beliefs, to respect people to actually come with a tolerant, better place – so be it.

So in summary, Mr Speaker, Hon. Members, I will be supporting this Reading. I think it is such a simple Bill that in this case it is not necessary to go to committee, because no actual legal challenges except for the one identified by Mr Skinner which has already identified a very – (*Interjection*) Mr Singer ... you did that to me once, so I have returned the favour! (*Laughter*).

Only one small amendment has been proposed, so if you can do it all in one Reading so be it. And I believe that this simple Bill will achieve some valuable harmony; and it is regrettable that this debate has actually provided some disharmony. And I believe it is a very consensual social society in which we live.

The Speaker: The Hon. Member for Douglas North, Mr Thomas – Mr Peake! (*Interjections by Mr Thomas*) (*Laughter*)

Thank you.

Mr Peake: I will be supporting this Bill. And it is a shame, I think, that it has expanded so much and a lot of fear has been dragged in.

Personally, I think it should be kept simple, as the Chief Minister has said. Keep it simple, it is a simple subject. I do think it is fairness and I think we should respect each and every one of us. So I will be supporting it.

Thank you very much.

The Speaker: The Hon. Member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.

And I thank the Hon. Members for what I think has been a very good debate, and especially the ones who have got a view that they are going to oppose it, for having the backbone to stick to their beliefs (**A Member:** Hear, hear.) and their consciences.

And I suppose conscience comes down to it for myself, to an extent; I have thought about this long and hard. And I suppose when we look at conscience we go back to Queen Elizabeth I, who was famous for her declaration: 'I have no desire to make windows into men's souls'.

Opinion is still divided over whether that worked, but almost everyone today would subscribe to Elizabeth's intent that no government should intrude into the consciousness of the citizen.

Having thought it through, at the end of the day ... what is this legislation? And I have read this legislation as enabling legislation – it is ‘may’, not ‘shall’. And it does not force religious organisations to conduct same-sex marriage services, it enables them to do so if that is their position. And I would make it clear that if this legislation was to force religious organisations to conduct same-sex marriages I would –

A Member: You would support it.

Mr Quayle: – vote against it totally and actively fight it.

However, I do have one concern and it has been raised by Mr Cregeen, Mr Malarkey, Mr Singer and, to an extent, Mr Hall in part of his speech. And it comes under clause 9, section 4C, page 11 of the Marriage Act 1984, on the definitions of what we would call the ‘opt-out’ activity. And in this section someone who is enabled to opt out is a ‘person’ which:

(a) includes a religious organisation;

– that is (a); but

(b) does not include a registrar or the Chief Registrar;

Now, that is where I have a concern.

I have done some research on this matter and there has been a case in the fourth section of the European Court of Human Rights. It was a group case, made famous by a lady called Eweida. If you remember, she was the British air hostess who wanted to wear a cross and had left work because she could not wear a cross. They changed their mind and allowed her to wear a cross and she was claiming for compensation for the time she had been off work.

Within that case, of the four people, there was also a registrar from London – the late Mrs Ladele ... and my apologies to her family if I have mispronounced her name. She was a registrar in a borough of London who had strong religious views. And for a while she was allowed *not* to have to take same-sex ceremonies, but as a result of a couple of colleagues who complained about it ... and it was sad because, I think, you could say they were activists who felt that she *must* do it. She was forced to do it and as a result she claimed undue dismissal, went to the Court of Human Rights and they adjudicated against her.

But there were sympathies for her, and they said everyone should have freedom of religious rights and I think Article 9 is the key one which she defended herself on. It provides a guarantee of a right to practise one’s religion. But as is the case with many of the rights in the Convention, it is qualified; and the decision went against her on a technicality that it could be argued that she was stopping other people from having their freedom and rights. And that is why she lost.

However, they did state in the European Union ruling that consideration should be given where possible that if you have, say, five registrars and two of them fully support same-sex marriages and three do not, then the three should be allowed to abstain from having to hold the service.

I feel that law is always growing, isn’t it? It is expanding – and we should always look at what has already happened. So to date, the highest court in Europe has decided that you *have* to – but they had some concerns.

So I would like to ask the Chief Minister: would the Chief Minister confirm that, as far as practical, neither the Chief Registrar nor any of his staff will be required to participate in same-sex marriages if they do not wish to do so? And I think if that was stated as a directive ... so obviously, if you have say five registrars who are responsible for wedding ceremonies and all five of them oppose it, then the Court of Human Rights ruled that one of them must carry out the service because they are then taking away the rights of an individual.

So that is one, I think, that would alleviate some of my concerns and I think the concerns of some of the Hon. Members. However, one of the items I had *not* researched and that is why I think the debate has been good – is the case of the wedding providers. I missed that one.

So I suppose whether or not by us making a statement ... I do not think anyone, if they have a deep religious view, should be forced to do something. (**A Member:** Hear, hear.) And therefore whether we need a slight amendment or whether a comment from the Chief Minister during the next Reading would solve the concern of the Hon. Members ... ?

It is one of *my* concerns too that we should never force *anyone* to do something from a religious point of view. And I am a practising Methodist – I do not hold myself up as a particularly good one – (**A Member:** Hear, hear.) but I do practise; and my Methodist community are opposed to this because they have not had time to think about it.

I have decided that my conscience will allow me to vote in favour of this, because it is enabling legislation; and I think the debate in the future for the various churches ... I think it is up to *them* to decide. It is not up to us to decide whether the churches should take part – it is up to the churches themselves and I think that has to be respected.

So, as I say, if the Chief Minister can answer that.

I would just like to draw to our attention Mr Thomas, the Hon. Member for Douglas West, who raised a comment which had me slightly concerned, because I have obviously missed something that he has ... and maybe he could share it in writing to all Members. He said that there were different words in this Act compared with other jurisdictions' legislation, which gave opt-out or opt-in clauses.

I saw this as a simple cut-and-paste from UK legislation and therefore I would be interested to see where he has spotted the differences. And, as I say, if we have developed it as a result of the problems experienced in other jurisdictions – the wedding cake being a classic example – I think all of us would be horrified if our local baker was prosecuted, say Muffins in Peel for example, if they did not want to do it. (*Interjection*) If they were going to be prosecuted then that would be absolutely ... I do not think any of us would want that to be a consequence.

So, I think most of the other Members have raised the key elements. I have tried to think of a phrase to end it with from a religious point of view and I have come up with I Peter, chapter 4, verse 8 which says:

Above all, love each other deeply, because love covers over a multitude of sins.

Several Members: Hear, hear.

The Speaker: The Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder.

I have to say that the situation about backbone, the backbone was 30 years ago watching the horrendous things that were happening to our constituents. Many lost their lives over the unreasonable way things were going. I, as a Member of Home Affairs Department at the time, had to highlight practices that would have been illegal if they were done by somebody living in a council house, but because they were done by the areas as far as the Police were concerned, where they broke financial regulations and all sorts of things in a disgraceful way. So I do not think we should be talking about backbone on the basis of the fact where we are today. What we are talking about today is about justice.

I am somewhat amazed by Members who obviously have not read the Bill because the fact is that what they are talking about is the Equality Act. This Bill is not going to force any baker from Peel to have to go to court if he does not want to do a wedding cake for a same sex wedding. Let us stop the nonsense; this Bill is about enabling legislation.

Now, before I go into the points, because obviously Mr Bell and the former Member for Peel, Mrs Hannan, were the trailblazers as far as this is concerned and some of us had to take a basic Christian philosophy about not allowing to use the Bible as an offensive weapon when it should be about love and compassion. So as far as this nonsense about this Bill forcing the registrar, forcing this and forcing that, the situation is that comes in the Equality Bill.

My personal viewpoint as far as this Bill is concerned is that it is long overdue, but I am concerned about the legislation that the situation should have been done on a more time basis as far as the Bill is concerned, but it is here. It is the process that I object to of executive power, putting the priority up the list as far as the Bill is concerned over other things that are far more important. And I am proud to be associated with gay rights. I have supported gay rights all my career. It cost me my ministership as a Member of the Home Affairs Department over gay rights – over not so much gay rights, but human rights. I do feel that that is an argument but today there is a bigger argument. This Island is known for birching, homophobia and all the other negative connotations that have been made as far as this Island is concerned. (**A Member:** Well said.) We need to stop that nonsense. (**Two Members:** Hear, hear.)

We still have too many people losing their lives. As somebody who dealt with gay rights, and to be perfectly honest with you when I was Member for Social Services, I would not give them funding for a gay switchboard thing because I just thought it was a courting line. When they proved I was wrong, but unfortunately I had been moved on from Social Services, I tried to set them up a funding mechanism from people the likes of myself who were prepared to try and raise money for such a facility, because we were proven wrong on that point.

I would just like to say as far as this Bill is concerned this Bill has nothing to do with the Equality Bill that will come, and that needs to be safeguarded. When we look at the Civil Partnership Bill 2010 I did have a load of drafted amendments but decided not to move them at the 2010 Bill because of the fact that I could see the implications on the issue of heterosexuals being able to have a civil partnership. I believe that this Bill *is* flawed; there should be no need for civil partnerships once we bring this legislation in.

We need to understand – and maybe I am the last person in this House to lecture on marriage! – but, as I say, I have dealt with enough matrimonial problems of everybody else's without having any of my own. But the situation as far as marriage is concerned, there are two types of marriage, there are marriages about the civil part of marriage and there is the religious part of marriage. And what I would like to say as far as that is concerned, what we need to realise is that marriage was not always entwined with religion. The first thousand years of Christian faith marriage was not entwined with religion. If we look back as far as marriage is concerned the situation, the likes of the Member who is not here at the moment, Mr Singer, as a Jew 150 years ago they were trying to get Jewish marriages recognised. It is not that long ago if you were a Catholic you could not be married unless you had a registrar there because they were not allowed to officiate as far as a legal marriage is concerned. So let us get away from this issue that marriage is about religion because marriage was not about religion when the issue of marriage started. That is a misnomer and it is a nonsense.

I have to say that the situation as far as Mr Teare's position on equality as far as legislation must be respected; I actually think it is in the Equality Bill that you are going to have to work out where you draw the line. Do you draw the line at respecting someone's religion as far as same-sex marriage is concerned? Do you draw the line that it is not that long ago that we forced a change in the law so that common-law couples could have an order to prevent a violent partner from being anywhere near them? We have come a long way as far as that is concerned. So I think that the issue that Mr Teare is on about is an issue as far as equality in legislation is concerned. But where do you draw the line on equality legislation?

Some of us fought, and some of us were absolutely horrified when first becoming a Member of this House, where I had a woman with a black eye and when I talked to my senior colleagues about her black eye, terrible ... 'Well, she has made her bed, she is married, if that comes that is her problem', that was the argument of many of the elderly Members in this House.

And what I am concerned about is when we talk about religious freedom I could never support the way of putting women back 30, 40, 50 years on a religious belief. I believe that that would be totally unacceptable. So when people talk about religious freedom there has to be a respect for the common decency. We saw in the previous House the issue of female mutilation and how that is part of a religious belief – we would not condone that sort of nonsense, I would hope not.

When I come to Zac, I am amazed at what you can get ... sorry the Hon. Member for Onchan, (*Laughter and interjection*) what you can get off the internet. As a person who was a Catholic, who went to St Mary's School, I have to say that what he was talking about was not the Marriage (Same Sex Couples) Bill but was the Equality Act (**A Member:** Hear, hear.) and I think we need to stop the nonsense and we stop the pandering to bigotry against this section of society. I may not agree with the Chief Minister, I would not put him where he is, (*Laughter*) but on this issue we are shoulder to shoulder as far as gay rights of people on the Island. Whether he is fit to be the Chief Minister (*Laughter*) I have a different viewpoint as far as that is concerned.

But I have to say, I was somewhat horrified at my friend who was once in the Liberal Party, who once he got elected and we all thought he got elected not on the basis of the Liberal Party. To come out with such situations when he could have gone to Kenyon's Café and asked some of the children – not at the present time, but in the past – about their genealogy, where is their genealogy? They have had five fathers in their short time on this earth; they have had a mother that is a heroin addict who is in and out of Ard Aalin, who has had to have several adopted mothers in their early lives. This idea that somehow same-sex marriage is going to create something of a monster, he really does need to live in the real world and he really does reflect the fact that he does not realise what the true reality of marriage at the present time, and I support marriage. I believe that we should be positively discriminating in favour of people to be married. When we brought the IVF programme up to better than anywhere in the British Isles, one of the things that my right-wing friends were quite shocked if they were not married they did not get IVF. If they could not commit to each other, then they should not expect the taxpayer ... so I do not need any moral lectures on that point.

We heard about what is going to happen. Well we could not even repeat, and I am sure Mr Bell could not either, it was one of the few times when the Governor had to edit the *Hansard* because I could not repeat some of the things that were said in that appalling debate about what gay people would be doing on Douglas Prom. In my opinion they should be auditioning for getting in the SAS if they could have done the things, especially on a winter's night (*Laughter*) as far as that is concerned. They deserved a stamina award, just like the outburst they had, along the road from when people were trying to soil me on the subject as far as Howstrake holiday camp, or we saw in Mec Vannin the other week. I could not care about that. I think it is important that we respect people's rights, as I say. I agree with Members who have had the maturity to respect – I might not agree with you – but I will respect your opinion, even though Vainstyr Loayreyder, I wish you could get a few Ministers to answer a few questions and actually give decent answers that this House should afford.

The situation is I think that Hon. Members need to realise that this is about same-sex marriage; this is not the Equality Bill. Some of us will be looking at maybe amendments to this piece of legislation. I have talked to the legal draftsmen about the issue of the present arrangement we have as far as the gay community is concerned that we should be doing away with that and there should be an automatic right that that civil partnership is recognised as a *civil* marriage.

The second point that I think is important with this piece of legislation is to put in primary legislation so it has to be changed in this legislation that they have to change primary legislation here so that a *carte blanche* Equality Bill will not supersede and force people to have to do same-sex marriages in churches.

There is one thing that I remember and a dear friend of mine said, and she was very much ... In fact I think most of you lot would be classed as liberals compared to her, and unfortunately she used the same very argument, Vainstyr Loayreyder, as my friend that you cannot have children ... 'marriage is about children'. Unfortunately I did not mean to insult her but when she said that I said, 'Well you are past your sell-by date, you can't have children, you can't get married.' (*Laughter*) I used to say, 'So you should not be allowed to be married,' not out of any vexatious, vicious viewpoint or wanting to be nasty to her, but if we are trying to argue that point about having children as far as marriage is concerned, marriage is only for people who can have children, then the fact is that anyone who has been sterilised by whatever, anyone who is passed the age of being to

be able to have children as a woman, should then not be allowed to be able to get married. That sort of nonsense is really something that we should not be promoting as far as this Island is concerned.

Hon. Members, I will be supporting this Bill. I am very pleased that we have had such a sensible debate on this Bill, from what we have seen in the past. So, Hon. Members, I will be supporting, but I will be looking at maybe a couple of amendments that need to be considered with this Bill. But please do not get mixed up as far as the Equality Bill and the Marriage (Same Sex Couples) Bill. The Equality Bill is different and whether we should have some amendments in this one that will be fair enough. There is a legitimate complaint as far as parliamentary process is concerned whether I would put this Bill as far as it is, but the point is it is here now.

There are points about getting rid of the stigma of the Isle of Man as some sort of right wing, fascist backwater against the norms of what modern society believes today, and on that point alone I think we should support the Second Reading of this Bill.

The Speaker: The Hon. Member for Peel, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I am just reminded of a passage that is one of my favourites and basically it goes as this:

Love is patient, love is kind. It does not envy, it does not boast, it is not proud. It does not dishonour others, it is not self-seeking, it is not easily angered, it keeps no record of wrongs. Love does not delight in evil but rejoices with the truth. It always protects, always trusts, always hopes, always perseveres. Love never fails.

The reason I why I am saying that is because grace is bigger than the law. In many respects, I was reminded after, there was a film about the war, and all of the things that came in that and until we actually embrace each other and actually understand each other and accept each other, we can never move forward and that is actually why I do support the Bill.

I have worries about the civil registry, forcing people to do things that are against their conscience and also what Mr Karran said regarding the Equality Bill.

But we do need to move on, we do need to accept that we do not all have the same opinions, the same lifestyle and we need to move forward.

Thank you, Mr Speaker.

The Speaker: I call on the mover to reply, Mr Bell.

Mr Bell: Thank you, Mr Speaker. That is very kind of you.

Mr Watterson: In 50 words or less.

Mr Bell: Where do we start?

Mr Speaker, I really need to start I think first of all by echoing the words of one or two other Members of thanking this Chamber for the balanced debate we have had this morning. The Member for Onchan, who is not in his seat right now, is the only other Member apart from myself who was in this Chamber in the early 1990s and the comparison ... Today's debate in fact bears no comparison at all to the vile levels that that debate sank to before the changes were brought in. So I thank all Members for the balanced way their views have been presented.

It is quite clear though, as we thought from the outset, Mr Speaker, that Members have a very clear view one way or the other which way they would intend to go on that so I do not want really to take too much time up this morning by going through every single point that was raised. I do not think that will be helpful and it certainly will not change Members' minds.

The comments which, naturally, I completely disagree with in many ways from the Member for Onchan, Mr Hall, with his more fundamentalist approach, a religious view of this, to my mind missed one thing, and that one point was raised *very* eloquently by the Member for Peel, and I thank him

for that. We had a long description of the threat to society from Mr Hall, the demolition of the family, everything we hold dear, the one word that was missing in his entire presentation was love, and that is that the fundamental basis of what we are trying to do.

This Bill is not designed to overthrow society. It is not designed to destroy the family. It is not designed to threaten children. It is simply a measure to enable two people who happen to be of the same sex, who are in a committed, loving relationship to commit publicly to themselves through the act of marriage. That is all this Bill is asking for. It is not revolutionary; it is not going to destroy society. The day after the Bill comes through you will wonder what all the fuss was about.

But the other thing that you need to bear in mind is that this Bill is already tried and tested. This has been in law in the United Kingdom for I think two years, or most of the United Kingdom apart from Northern Ireland. It is now law in I think over 22 different countries around the world. The US is now rapidly moving to full endorsement of this law. This is not some new untried, untested change which is being brought in; it is one which is being embraced worldwide. So the Isle of Man today is not being asked to step into the unknown. It is simply being asked to do what we should do to our community, and that is to extend equality to those people who wish to express their love to each other – can that be wrong in the world that we live in today? With the violence and the horrors we read every day through the media in the name of religion more than anything else, are we now saying that love does not have a role to play in that? And if we do, then frankly I do not want to be part of this Chamber any longer. We are talking about two people committing to each other.

Now I do recognise, and I said right at the outset of this I fully appreciate that there are differing views, there are strong religious views which are held, I have to say they are not my views, but I do respect those people who do have those strong views. Mr Robertshaw made very similar points really to Mr Hall – that it weakens the institute of marriage, that it undermines the rights of children, rights have primacy over responsibility and it goes on. How can this Bill possibly undermine the institute of marriage by simply extending the right of marriage to two people of the same sex? How is that possibly going to undermine the strength of heterosexual marriage? No matter how this argument is put to me I cannot follow the logic of this. It is not going to alter the law in relation to heterosexual marriage, it is not going to bring in any extra burden on children.

And if one was honest, Mr Speaker, and I think Mr Karran touched on it briefly, is heterosexual marriage the ultimate that everyone should aim for in terms of perfection? When we hear the high rates of divorce, the high rates of child abuse, almost every day now there is something in the news about child abuse, within marriage often enough. Does extending the right for two people of the same sex to get married actually make the situation *worse* than some of the horror stories we are reading within heterosexual relationships now? I think we have got to be honest about this, it does not in any way undermined the statute of marriage. If heterosexuals wish to get married it does not interfere with it in any shape or form at all, it does not diminish it, it strengthens it, because it extends it and embraces everyone. It brings us into a more inclusive society, everyone has that same right to share that love together.

It does not affect children. There are *many* examples already around the world where gay couples have adopted children *very* successfully. There is no indication at all that it damages the rights of children, it enhances it, especially in this day and age where for example, fostering is being promoted strongly. Gay couples in some areas now can foster children and they do it very successfully, so this is not an argument at all. It is a red herring that is trying to deflect us from what we are trying to do.

Mr Singer makes the point, and I think, again, it is fundamental in this we should be in any community celebrating our differences not accentuating them. It is not something to be ashamed of, it is something we are proud of. We are different, every one of us has different views on life, not everyone will agree with each other. But surely this is what makes life so interesting and a community so strong, to have these differences to provide a rich tapestry of variety for us all.

The Bill, as Mr Singer says, does provide protection for those who disagree. It does provide protection for the church; no church at all is going to be forced to take any action involved in this

unless there is a specific new law brought in, for the Church of England in particular, to allow it. Churches have to opt in, church personnel have to opt in once their governing body agrees to it.

Mr Singer also makes a point which has been raised and I have heard it myself, which frankly I find offensive, 'If we give gay people the right to marriage what else will they want, what will be next?' For those people who have not quite come to terms with the idea, the gay community are not a bunch of aliens that have suddenly landed on the Isle of Man from outer space and therefore are demanding extra rights. All gay people are asking for is to be treated as equals, as human beings, with the same feelings as every other member of the community. I hear this argument, 'Oh, this is the thin end of the wedge – what is coming next?' What nonsense!

What I do support though strongly, and I have said this outside of this debate, and that is that we should in fact, as Mr Singer has proposed, bring in an amendment to allow all to extend civil partnerships to heterosexual couples. I strongly believe that. Indeed, when I brought the Civil Partnership Bill through in 2011 I was very keen to bring it in then, but I was persuaded for various reasons that it was not the time to do it. I think absolutely the time is right now and if we are pursuing equality this is exactly the step we should be taking and I will be supporting, and I hope seconding, certainly supporting his amendment when it comes forward and I am sure it will have strong support round this Chamber.

Mr Singer: You can second it if you want. *(Laughter)*

Mr Bell: I do strongly support it. My argument is we are not looking for special rights for gay people, we are looking for equality. And if equality is to mean anything it has to mean that the heterosexual community has exactly the same rights as the gay community through civil partnership. We also have to recognise, and I know in the UK there is a thought that the UK Government may well in fact do away with the civil partnerships altogether now that the same sex marriages is brought in. But there is still a body of heterosexual and indeed, the homosexual community who do not want marriage; they want civil partnership and so that gives those various bodies the options, and absolutely the right options, to commit to each other but to a different level. I fully support that and I hope other Members will as well.

A number of comments have been made on religious grounds, and I will not go through all of them because we would be here all day. I respect religious views but they are not necessarily mine.

Mr Hall also believes that if this Bill goes through it is going to lead to wider discrimination across civic society. I disagree with that. He says family is at the heart of society: yes, family is at the heart of society. Gay families are at the heart of society. Are we saying that the gay community are not part of society, that they do not have a role to play, that they cannot provide the same love and care and nurture that heterosexual families can? Is that what we are really saying? I do not think so. He also refers to family security relating to children. He focused very much on children: children viewed as commodities. I disagree completely with all that. This has got nothing to do with children being treated as commodities at all.

The other point which has been made, about the registrar, is a valid one. The Bill as drafted at the moment ... whilst everybody has the option, I think within the registrar's office, no more than that, there needs to be someone who is able to carry out the service. If the General Registrar refuses to do it, then there needs to be someone else in there to do it. But we can get greater clarification on exactly how this works and I will come back at the clauses stage, or before the clauses stage, so we get a good understanding of exactly how that works.

And of course there were many other comments about florists, cake makers, candlestick makers and everyone else having the right to ... This Bill does not want to criminalise anyone at all. There will be measures – and I will have to check on this – in the Equality Bill that give protection, but equally ... It is very easy to get caught up in the negatives of this, but you have to also look at what is happening in the UK. We have heard a lot about a cake in Northern Ireland. The people who refused to sell, or make, the cake, I understand are not being criminalised; they are being sued by the

customers, which is a different thing altogether. But since civil partnerships and certainly since gay marriage came in in the United Kingdom it has actually led to a boom industry. There are regular catering get-togethers for gay wedding planners etc. There is a whole new industry opened up there, so do not look at it as a negative – there is an opportunity there for people to make money. So there is an upside to these things as well. Surprisingly enough, gay people actually have some money to spend, *(Laughter)* although not all of us! *(Laughter)*

Mr Speaker, I think most Members have made their points very well. I will not go through all the points. Those who have made strong points will stick to those points; they will not be persuaded otherwise.

I will just finish by, first of all, thanking Members for being understanding in the way this Bill has been treated so far, but I reiterate the point that this is not an attempt to undermine society in any shape or form. It is simply covering a very basic need for gay people, two people of the same sex, who love each other, who are committed to each other, who have compassion for and nurture each other, to commit by way of marriage at the same level as heterosexuals.

Surely in this day and age the Isle of Man is an outward, tolerant, inclusive society. If that is to mean anything, we have to give this Bill Second Reading today and see its safe passage through to becoming law. It is a landmark day for the Isle of Man. It once and for all will draw a line under the dark days that we have had, back in the 1990s, which most of you will not remember or have been part of, but I can tell you it was pretty horrific to go through at that point. **(A Member: Hear, hear.)** This is the end game, as far as that is concerned.

If you support this Bill today, it will send a very strong message out from the Isle of Man: we do care for our minorities, we do care for our people, we do care about loving each other and caring for each other. Hon. Members, I would ask you to support this Bill.

Thank you.

The Speaker: Hon. Members, the Marriage (Same Sex Couples) Bill having been moved, I put the question that the Bill receive the Second Reading. Those in favour, please say aye; against, no. The ayes have it.

A division was called for and electronic voting resulted as follows:

FOR

Mrs Beecroft
Mr Bell
Mr Boot
Mr Cregeen
Mr Harmer
Mr Joughin
Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas
Mr Watterson

AGAINST

Mr Hall
Mr Houghton
Mr Robertshaw
Mr Teare

The Speaker: Hon. Members, the motion carries with 18 votes for and 4 against.