

6. CONSIDERATION OF CLAUSES

6.1. Marriage (Same Sex Couples) Bill 2016 – Consideration of clauses commenced

Mr Bell to move.

The Speaker: Hon. Members, we turn now to Item 6, consideration of clauses of the Marriage (Same Sex Couples) Bill.

Before I call on the mover to move clauses, I shall just clarify how we are going to deal with the amendments. I will shortly call Mr Singer to move his amendment to the long title. If the House agrees his amendment to the long title we will be able to consider his amendments at the proper place; if not, then his amendments fall.

Clause 27 and Schedule 3 will be moved together; all of Mr Houghton's amendments relate to clause 27 and Schedule 3. I propose that he move his amendments as a block and they be debated together. The question will be put on the first amendment, which is a paving amendment; if that falls, then his other amendments fall automatically as they are linked and the House will have by then indicated that it rejects all the amendments. On the other hand, the House may accept the initial amendment and agree to all or some of the others.

I hope that is clear, and unfortunately Mr Houghton is not here to hear that; I trust it will be noted.

I now call Mr Singer to move his amendment to the long title.

Mr Singer: Thank you, Mr Speaker.

When I looked at the Civil Partnership Act 2011, which at present makes provision only for same-sex couples, it seemed very simple to make civil partnerships possible for the opposite-sex couples by taking out the four words 'of the same sex'. In fact, I have made the drafter of the present Bill a very happy person in that those four words had become 2½ pages – he really must get out more!

Can I, however, assure Hon. Members that my intentions, which I presented at the Second Reading, have not changed. I received about 30 responses by letter, phone calls and emails commenting on my proposal and these were from single persons, married heterosexual couples and the gay community and the positive support was overwhelming with only one person saying they favoured the abolition of civil partnerships to same-sex couples. The reasons for support were wide-ranging: equality, fairness, tolerance. Some people did not believe that marriage was the right thing for them and their beliefs are genuine and deserve respect.

I thank you for your permission, Mr Speaker, because I intend to speak to the content of all the amendments in my name in one contribution, and then obviously as each part is moved I am very happy to answer questions. These amendments, if approved, will mean that civil partnerships will be legal for same-sex and opposite-sex couples.

When civil partnerships were introduced on the adjacent island they were created explicitly so as to confer on a same-sex couple all the rights they would have had if they had been married. So they have got two separate concepts: one for the heterosexual community and one for the homosexual community, both conferring broadly equal rights and protections. However, on the introduction of the same-sex civil partnerships *here*, I think it was realised at the time that inequalities were being introduced into heterosexual relationships – but I can understand that the step being taken was so big that one step at a time was the correct decision. The introduction of the Civil Partnership Act in 2011 has been a success and I believe that this is the right time to grasp the opportunity to make things equal.

I hope Hon. Members will realise that many people do not wish to enter into the traditional institution of marriage, but choose to live together in a loving relationship, but without any real rights – and this is the time to recognise and support their choice. By doing this we would not be

weakening the institution of civil or religious marriages because people would choose what they feel is right for them according to their beliefs and values.

Referring to the detail of the amendments and in particular amendment 1, on the advice of both the legal drafter and the Clerk of Tynwald, it is necessary to extend the long title of the Bill so that it covers the proposal. The long title would now include a reference to making a provision for the civil partnership of opposite sex couples 'amongst its purposes'. As has already been said by Mr Speaker, this needs to be approved by Hon. Members for my civil partnerships proposals to continue.

Amendment 2 will change the Bill's short title to reflect its extended coverage.

Amendment 4 removes the same-sex requirement in civil partnerships by removing the references to that requirement in two of the key sections of the 2011 Act.

Amendment 3 and amendment 5 to the extent that it inserts a new paragraph 4(16) into Schedule 3 to the Bill, which in turn amends the Civil Partnership Act 2011, make consequential amendments in relation to the concept of a partner for the purposes of the small premises exception in the Disability Discrimination Act 2006. The reason for the duplication is that, at present, the amendment to the 2006 Act which is made by the existing provision in the 2011 Act has not been commenced; and as the sequence in which the amendments made by the Bill and that Act will come into operation is not yet known, the advice I have received is that we have to cover both possibilities.

The remainder of amendment 5 deals with consequential changes to the structure of the 2011 Act to adapt it to include opposite-sex civil partnerships. Some of these reflect the fact that as heterosexual people can form civil partnerships, the possibility of adultery as a ground for dissolution becomes a real one; similarly the grounds for nullity have had to be extended. Also included is a respondent having communicable venereal disease as a ground for dissolution to ensure there is parity of treatment between heterosexual civil partners and heterosexual married couples.

The new paragraph 4(10) to be inserted in Schedule 3 of the Bill imposes the same procedural requirements in relation to a petition for dissolution of a civil partnership on the grounds of the respondent's adultery, as already apply in the context of a marriage.

The new subparagraphs (11) and (14) deal with the recognition of overseas relationships in the light of the two new concepts of same-sex marriage and opposite-sex civil partnerships. And as adultery is now a ground for dissolution of a civil partnership it is defined for avoidance of doubt in subparagraph (15).

I apologise to Hon. Members that the explanation for all the changes is so convoluted but I am assured that they are all necessary to the implementation of civil partnerships for opposite-sex couples.

Therefore, Mr Speaker, I wish to move that the amendment before us in my name to the long title, as printed, becomes part of the Bill.

AMENDMENT TO THE LONG TITLE

1. In the long title, after 'same sex couples,' insert 'for civil partnerships of opposite sex couples,'.

AMENDMENT TO CLAUSE 1

2. Page 9, for line 6 substitute —

'The short title of this Act is the Marriage and Civil Partnership (Amendment) Act 2016.'

AMENDMENTS TO SCHEDULE 3

Insertion of new paragraph

3. After paragraph 3 insert the following paragraph —

4 Disability Discrimination Act 2006 amended

For the definition of 'partner' in section 8(7) (exemption for small dwellings) substitute —

“ ‘partner’ means the other member of a couple comprising two persons who are neither married to each other, nor civil partners of each other, but who are living together as if they were married to each other;”..

Renumber the following paragraph of the Schedule accordingly.

Amendments to paragraph 4 of the Schedule (amendments to the Civil Partnership Act 2011) as printed in the Bill on introduction.

4. On page 38, after subparagraph (1) insert —

“(2) In section 1(1) omit ‘of the same sex’.

(3) Section 4(1)(a) is repealed.”.

Renumber the following subparagraphs of paragraph 4 accordingly.

5. For everything after subparagraph (3) (as numbered in the Bill on introduction²) substitute—

2 This subparagraph becomes subparagraph (5) by virtue of the previous amendment.

“(6) In section 42 —

(a) in subsection (3) after ‘subsection (5)’ insert ‘(za),’;

(b) in subsection (5) immediately before paragraph (a) insert —

‘(za) that the respondent has committed adultery and the applicant finds it intolerable to live with the respondent;’;

(7) In section 43 at the beginning insert —

‘(A1) One party to a civil partnership (P) is not entitled to rely for the purposes of section 42(5)(za) on adultery committed by the other if, after it became known to P that the other had committed that adultery, the parties have lived with each other for a period exceeding, or periods together exceeding, 6 months.

(B1) If the civil partners have lived with each other after it became known to one civil partner that the other had committed adultery, but subsection (A1) does not apply, in any proceedings for dissolution in which the applicant relies on that adultery, the fact that the civil partners have lived with each other after that time is to be disregarded in determining for the purposes of section 42(5)(za) whether the applicant finds it intolerable to live with the respondent.’

(8) In section 44(3)(a) after ‘of any’ insert ‘adultery,’.

(9) In section 48(1) after paragraph (c) insert —

‘(ca) in the case of a civil partnership between persons of the opposite sex, it has not been consummated owing to the incapacity of either party to consummate it;

(cb) in the case of a civil partnership between persons of the opposite sex, it has not been consummated owing to the wilful refusal of the respondent to consummate it;

(cc) at the time the parties became civil partners the respondent was suffering from venereal disease in a communicable form;’.

(10) In section 62 at the beginning insert —

‘(A1) If, in an application for a dissolution order or separation order, or in any other pleading applying for either order, one party to a civil partnership alleges that the other has committed adultery, he or she must make the person alleged to have committed adultery with the other party to the civil partnership a party to proceedings unless excused by the Court on special grounds from doing so.

(B1) Rules of court may, either generally or in such cases as may be prescribed by the rules, exclude the application of subsection (1) where the person alleged to have committed adultery with the other party to the marriage is not named in the application or other pleading.

(C1) If, in an application under subsection (1), a person is made a party to proceedings for a dissolution order or separation order, the Court may, if, after the close of the evidence on the part of the person making the allegation of adultery, it is of the opinion that there is not sufficient evidence against the person so made a party, dismiss him or her from the proceedings.’.

(11) For section 79(2)(a) substitute —

'(a) who under the relevant law are recognised as capable of registering such a relationship at the time that they do so,'

(12) In section 81 after subsection (1) insert —

'(1A) Marriage is not a specified relationship.'

(13) Section 84 (the same-sex requirement) is repealed.

(14) In section 96(2)(b) for subparagraph (ii) substitute —

'(ii) any case where two persons (A and B) are civil partners and A is domiciled in a country or territory whose law does not recognise a legal relationship as being capable of subsisting between A and B;'

(15) In section 138 at the end add —

'(4) Only conduct between the respondent and a person of the opposite sex can constitute adultery for the purposes of this Act.'

(16) In Schedule 14, for paragraph 121(3) substitute—

"(3) For the definition of 'partner' substitute —

" 'partner' means the other member of a couple comprising two persons who are neither married to each other, nor civil partners of each other, but who are living together as if they were married to each other;"

The Speaker: The Hon. Member for Castletown, Mr Ronan.

Mr Ronan: Thank you, Mr Speaker. I beg to second and reserve my remarks.

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

Mr Bell: Mr Speaker, I very strongly welcome this amendment. I brought in the Civil Partnership Bill in 2010, or 2011, and this issue was a live issue that was discussed at the time; and although we did consider extending it to heterosexual relationships as well it was felt, at the time, it would have unduly extended the Bill. And the issue of heterosexual civil partnerships was also under some scrutiny in the United Kingdom, where there were strong concerns about the financial implications of such a move.

Mr Speaker, the purpose of the Same-Sex Marriage Bill is fundamentally one of equality, and I think by bringing Mr Singer's amendment it just continues the theme of equality across this Bill, which now presents equality for heterosexual and homosexual couples in civil partnerships.

As the Hon. Member rightly says, Mr Speaker, there are many people of both persuasions who do not want to get married, but they do want to have civil recognition of their relationships and the legal protections which go with that. I have worked with Mr Singer to bring this amendment forward. As I said, there was a concern first time round about the financial implications of this move; my office has, though, consulted with Treasury and they are comfortable that there are no undue financial implications in bringing in this amendment in this way.

So I would strongly urge Hon. Members, please, in the nature of providing genuine equality on the Island in these areas, please support the amendment.

Thank you.

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

Mr Robertshaw: Thank you, Mr Speaker.

I fully respect the fact that there is a very strong feeling in the House that this Bill as a whole should go through; and clearly I think there is going to be strong support for this amendment; and I have no wish to rehearse again my reasons that I expressed in the Second Reading of the Bill about why I will be voting against. But just to very quickly pick out the nub of it, my argument was that civil partnership and marriage are, effectively, already equal in law and therefore this is not an issue of

equality at all – it is a matter of perception. Members will not be surprised as I stood against the concept of same-sex marriage, that I will also stand against this amendment here. And I will leave my comments there.

But, Mr Speaker, you very kindly allowed me to say a few words with regard to this Bill, somewhat indirectly, on another matter. Whilst on my feet, I wish to express concern about the content of a recent Examiner front-page photomontage depicting a Member of this Hon. House in connection with his use of the words of others in his speech at the Second Reading of the Bill now before us. I speak in his support now because no one else has and in the circumstances he would not find it easy to speak for himself. So I hope he will forgive me in offering him some support now.

I found the front page of the newspaper, the attempted assassination of the Hon. Member's integrity and the way it was depicted – and, Mr Speaker, I think everyone knows to which front page I refer – cheap and nasty gutter journalism of the very worst kind.

It purported to address plagiarism, but in fact the intent behind the article lay elsewhere and was clear to all. The Hon. Member spoke about the Same-Sex Marriage Bill and the Editor's intent was to shame the messenger in order to discredit the message. It was vindictive and nasty. (*Interjection by Mr Karran*)

Maybe I would not have said some of what the Hon. Member said in the Second Reading, nor would I have necessarily said it in the same way that he said it; but I *absolutely* defend his right to say it. Let me quote Mr Peter Tatchell who, as everyone will, I am sure, be aware, spoke consistently and courageously and with great commitment in defence of the homosexual community throughout *many* difficult years, at a time when it was still suffering the most *dreadful* persecution by society as a whole in many ways.

In the recent case of the Belfast cake – and I think Members will be aware of this – the McArthur family run a bakery and they declined an order to supply a cake with the slogan 'Support Gay Marriage'. Mr Tatchell said this:

Much as I wish to defend the gay community, I also want to defend freedom of conscience, expression and religion.

It should be pointed out here that the person who ordered the cake, a Mr Gary Lee, was a gay activist who specifically targeted the bakery in order to provoke the very response achieved. Mr Tatchell's comments were not well received in some quarters and, as a consequence, he found that he had been banned from a University College platform where he had been due to give a speech, as his views were no longer considered acceptable. This subsequently prompted Mr Tatchell to warn against the suppression of freedom of expression and the drift towards – as *he* used the word – McCarthyism.

Mr Tatchell is now pursuing a freedom of expression campaign alongside both left-leaning and conservative allies including the Christian Institute, the evangelical think tank which financed the McCarthy family bakery defence in their Northern Ireland court battle.

I respect the newspaper Editor's passionately-held views, but I hope that in the future he resists the temptation to express them in such an insulting and derogatory fashion through what is, when all is said and done, the Island's *only* newspaper. I doubt the Editor's front page has done his paper's credibility any good at all; and I believe he would do well to learn a few lessons in how to conduct himself from the greatest of all activists in the matter of homosexual rights, Mr Peter Tatchell.

Thank you, Mr Speaker.

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

Mr Thomas: Thank you, Mr Speaker.

I am delighted that this long title extension is taking place, because what we are here for today, basically, is to talk about equalising civil and state marriage; and of course we should, alongside that, be equalising the alternative which is a civil partnership. And this Bill, in general terms, also allows for the possibility of opt-in by people outside those two state arrangements as they wish.

Just two points I wanted to make beyond that, are that I would hope the mover of this amendment – and in fact the mover of this whole Bill, and in fact every speaker today – would notice that the mover of this amendment had to present a couple of clauses to deal with the fact that the Disability Discrimination Act was not yet in force; and the Equality Act, by the Chief Minister's own admission, he would have preferred to have been here three years ago, if not before that.

So I hope that every speaker today will actually use this as an opportunity to say that this is an important issue, but it is not the only important equality issue for this Island. I am delighted that we are now at the stage where the Equality Bill is coming into the Branches of Tynwald and that is an important message to go out from here – equalising civil partnership and equalising civil marriage are important, but they are not the most important equality issues, in actual fact.

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

Mr Karran: Vainstyr Loayreyder, in the Civil Partnership Bill of 2010 one did bring about a number of amendments to do the very thing that we have here today, on 22nd June 2010. So these amendments about giving heterosexuals the same status as homosexuals, as far as civil partnerships, was something that we very much agreed with – just like, as we saw in the House before, on the issue of IRIS and the regional sewage works, what we are getting now compared to what we were supposed to be getting are two different things.

What I am concerned about is that the whole issue as far as civil rights is concerned ... and I think the Hon. Member for East Douglas really needs to get a life, if he thinks the derogatory newspaper thing ... he should have been here 30 years ago –

Mr Robertshaw: Thank God, I wasn't!

Mr Karran: – with faeces, with tyres slashed and with losing a large percentage of the people that you grew up with, for being associated with you for supporting the principle of not standing by watching people being hounded into suicide and into leaving their homeland, because they could not live the life that they have, as far as that is concerned –

Mr Robertshaw: That does not justify what the newspaper did.

Mr Karran: The point is that I am not justifying what the newspaper says –

Mr Robertshaw: Well, don't!

Mr Karran: – but, to be perfectly honest with you Vainstyr Loayreyder, at least he read something from the internet, as some of the time I wonder whether anybody has read *anything* when it comes in this Hon. House.

So I think you need to realise that we have come a tremendous way; and I think we need to recognise that the Hon. Member for Peel, Mrs Hannan, did a tremendous job on this with a few brave people who were prepared to stand shoulder-to-shoulder with her on this issue.

I personally believe that the situation as far as same-sex marriage was about the principle that we were going to have equality. Now, in my opinion, there is no need for civil partnerships: we must not mistake the issue of marriage as far as religion is concerned, over the issue of marriage as far as the civil side of it. And remember, it is only in recent times that if you were a Catholic you had to have a civil registrar there in order to legitimise the marriage, because otherwise the marriage was recognised in church but not recognised as far as the state was concerned.

We have fought for years – not myself – to develop the principle of marriage. Marriage is something that is special and I do not see any problem as far as marriage is concerned, whether it is heterosexual or homosexual – it should be about a loving union between two people. We have won

that battle today, we have given equality to our gay constituents to be able to get married. So my argument is that I do not agree, for different reasons than the Hon. Member for East Douglas.

I think we should be drawing a line under the history as far as that is concerned; we recognise the situation that if people want to keep civil partnerships we will recognise it, and if they want to convert civil partnerships into marriage we will recognise that as well.

But there are fundamental issues that have been fought over for years, in order to develop a responsible society to provide for people in a marriage, in *my* opinion ... And I know I am a bachelor, but I believe the situation is that we have given to all our citizens who are over the age of 16 – or over the age of 18, without the consent of their parents – the opportunity to marry.

Civil partnership should be put where it should be. My concern is, Vainstyr Loayreyder, that I do not believe ... any more than I believe the two figures as far as the regional sewage works are concerned. I think you will find, the situation as far as the liabilities of civil partnerships being given to both heterosexual and homosexual, will have an effect as far as the long-term pension liabilities, particularly if there is a situation of being able to have prenuptial agreements.

You will end up with a situation where you might find people who were not prepared to go down the commitment of being married, ending up being able to pass on their very fortunate widow's rights to people that they really are not committed to on the basis of a marriage status. I actually think that this undermines marriage, in my opinion.

I know it is crazy that I am the person ... and I can remember, because there are the amendments, Hon. Members – the amendments to give equality for heterosexuals and homosexuals, as far as civil partnership legislation. But I believe today what we need to do is turn this into the non-event that it should be. The non-event that when we first started, with the Hon. Member for Peel and the Member for Ramsey, the *Hansard* was so bad that they had to edit the *Hansard*!

We have come a long way. We have seen with the lowering of age of consent from 21 to 18, which we moved many years ago, where some of my colleagues were concerned – the Hon. Member for Ramsey – on the issue of the reaction, it became a non-issue.

So in my opinion, Hon. Members, I believe that we should not support these amendments. I believe that this should be consigned to the records of history. We have now given equality as far as your sexuality is concerned and I believe that should be the way forward – either you have a commitment ... and marriage does *not* mean, Vainstyr Loayreyder, that you have to do any religious ceremonies, but it does have fundamental principles.

I can argue the other case and I can see the other case about the issue; we have already heard about people who do not want to get married – they want to live together but they do not want to commit. Well, either you *have* conditions on issues or you do *not* have conditions on issues. Marriage, in my opinion, is a very important issue and I just think that I do not believe that the assurances ... and we do see in this House where there is a great willingness because of the patronage system of Government, that people will overlook issues.

I do not think this has been properly costed; and my concern is not the cost of it, but the danger you are going to have that when the funding crisis comes, we have to then chip away at the fundamental rights that the last 75 years of social legislation, in order to protect the widows and widowers ... when widowers came in, when the former Member, Mr Quine, was in the seat of Mr Teare. So I am concerned that the danger is, I do not believe this is robust as much as the mover of the Bill and the mover of the amendment are saying.

So I will not be voting for that. I have always supported gay rights; I believe in tolerance. I understand the way that people tend to forget that with rights there are responsibilities; and I have some sympathy with the Member for East Douglas as far as the case of the baker and the cake. I believe that I would defend the rights of the vocal minority who do not always want to preach hatred and intolerance, but end up being associated with those sorts of people.

So the other thing I would like to say, Vainstyr Loayreyder, as said by the Hon. Member for West Douglas, is that we have only got the equality as far as this is concerned. I do hope that we are not

going to end up with the situation where churches will be forced to perform marriages – and I will defend them, like I defended my gay constituents when we lived almost under siege with an entourage of stuff that came from the establishment in this Island, as far as that issue is concerned.

I hope Hon. Members will *not* support the proposal and will actually support the amendment that will come up later on, that we have now got marriage; and if you want to be married you do not have to do it in a religious way, but you are married and that is the end of it – heterosexual or homosexual, it does not matter.

So I hope Hon. Members will not support this proposal; not as an attack on our gay constituents. We have lost a number of decent, hard-working people because of something that should be an irrelevance – unless you want to have sex with them anyway, in the process. So the situation is I hope Hon. Members ... because we looked at the amendments back on the Civil Partnership Bill in 2010. I believe you may find yourself opening a Pandora's box that you cannot shut at a later date.

The Speaker: I call on Mr Singer to reply.

Mr Singer: Thank you, Mr Speaker.

I would, first of all, like to thank Mr Ronan for seconding my amendment; and also Mr Bell for his support, and Mr Thomas for *his* support.

I would like to comment briefly about what Mr Robertshaw said. I certainly respect the views of Mr Robertshaw but, from what he is saying, I do not think he is actually supporting the move to equality. And the item he talked about – the cake-maker and whatever, and other services to weddings – is actually not to do with this Bill, that is more to do with the Equality Bill.

I thank Mr Karran for his contribution; and I respect Mr Karran's view but, as far as I am concerned, civil partnerships *are* about loving relationships. As I said in my speech, I only had one comment that said to abolish civil partnerships; but there were *many* reasons from the other contributors who wrote to me as to the reason why they did not want marriage. But even to them, civil partnership *is* a total commitment. And I also do not believe that civil partnerships have any undermining of marriage, which is by choice.

And I certainly congratulate Mr Karran for bringing sewerage problems into the debate on same-sex marriages! (*Interjection*)

He did make an important point about pensions, and I have to say that the information I have been given is that there will be no effect on pension funds liability, because the prohibited degrees will continue to apply, so that there will be no possibility of passing pension entitlement down a generation. There is also no question of religious organisations being compelled to participate in same-sex marriage. I think that is an important part of the Bill, and the Chief Minister will agree with me on that. The present Bill, and the Equality Bill, will make special provisions for that.

So, can I thank Members for their contribution; and I move the new long title of the Bill be accepted.

The Speaker: Hon. Members, the motion is that the long title be amended, by inserting after the word's 'same sex couples', the words 'for civil partnerships of opposite sex couples'.

Those in favour of the amendment to the long title, please say aye; against, no. The ayes have it. The ayes have it.

Mr Singer: There was a call to divide, Mr Speaker.

The Speaker: Division called.

A Member: Yes.

The Speaker: Please vote, Hon. Members.

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

FOR

Mrs Beecroft
Mr Bell
Mr Boot
Mr Cannan
Mr Gawne
Mr Harmer
Mr Joughin
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
Mr Teare
The Speaker
Mr Thomas

AGAINST

Mr Karran
Mr Robertshaw

The Speaker: We have 18 votes for, 2 votes against.

And, just for the avoidance of doubt then, voting for the long title as amended. 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 Cannan
Mr Gawne
Mr Harmer
Mr Joughin
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
Mr Teare
The Speaker
Mr Thomas

AGAINST

Mr Karran
Mr Robertshaw

The Speaker: We have 18 votes for, 2 votes against.

Hon. Members, we move now to clause 1 and I call on the mover, Hon. Member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker.

Clauses 1 to 3 which make up Part 1 of the Bill are opening provisions.

Clause 1 states the short title that the Act will have if the Bill is passed.

Clause 2 provides for its commencement; and clause 3 enables the Council of Ministers to make any additional amendments to other Manx legislation which may be needed as a result of the Bill.

Mr Speaker, I beg to move that clauses 1, 2, and 3 stand part of the Bill.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I call on the Hon. Member for Ramsey, Mr Singer.

Mr Singer: Mr Speaker, I move –

The Speaker: If you are moving the amendment to clause 1 it needs to be formally moved.

Mr Singer: Yes, fine, I will formally move, sir.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second.

The Speaker: Do you wish to reply to the debate, Mr Singer?

In that case, voting on the amendment to clause 1 in the name of Mr Singer. Those in favour, of the amendment, 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 Cannan
Mr Gawne
Mr Harmer
Mr Joughin
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
Mr Teare
The Speaker
Mr Thomas

AGAINST

Mr Hall
Mr Karran
Mr Robertshaw

The Speaker: We have 18 votes for, 3 votes against. The amendment therefore carries. Voting clause 1 as amended. 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 Cannan
Mr Gawne
Mr Harmer
Mr Houghton
Mr Joughin
Mr Malarkey
Mr Peake

AGAINST

Mr Hall
Mr Karran
Mr Robertshaw

Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
Mr Teare
The Speaker
Mr Thomas

The Speaker: We have 19 votes for, 3 votes against.

Clause 1, as amended, therefore carries.

Clause 2 has been moved and seconded. All in favour, please say aye; against, no. The ayes have it; the ayes have it.

Clause 3. 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 Cannan
Mr Gawne
Mr Harmer
Mr Houghton
Mr Joughin
Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
Mr Teare
The Speaker
Mr Thomas

AGAINST

Mr Hall
Mr Robertshaw

The Speaker: We have 20 votes for and 2 votes against. Clause 3 therefore carries.

Mr Bell, clause 4, please.

Mr Bell: Mr Speaker, clause 4 simply introduces the amendments which are made by the Bill to the Marriage Act 1984. In moving the subsequent clauses of the Bill I will simply refer to that Act as 'the 1984 Act'.

Mr Speaker, I beg to move that clause 4 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the motion that clause 4 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. *(Interjection)*

Clause 5.

A Member: A division was called.

The Speaker: Sorry, if people are calling a division would they please *call* it, not *whisper* it!

A Member: Hear, hear.

The Speaker: Division called, clause 4.

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

FOR

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

AGAINST

Mr Hall
Mr Robertshaw

The Speaker: We have 18 votes for, and 2 votes against.
Clause 5, Mr Bell.

Mr Bell: Mr Speaker, clause 5 makes a small amendment that goes to the heart of this Bill. Almost everything else in this Bill is basically consequential to this clause.

Section 1 of the 1984 Act sets out the conditions under which a marriage between two people is void. At present one of those conditions is if the two people are of the same gender. This clause removes that condition.

I beg to move.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the question, clause 5 do stand part of the Bill. Those in favour, please say aye; against, no. (*Laughter*)

There is a right time to call divide, you have to wait for the Speaker to announce first!

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

FOR

Mrs Beecroft
Mr Bell
Mr Boot
Mr Cannan
Mr Harmer
Mr Houghton
Mr Joughin

AGAINST

Mr Hall
Mr Robertshaw

Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas

The Speaker: We have 18 votes for, and 2 votes against. The motion therefore carries.
Clause 6.

Mr Bell: Mr Speaker, clause 6 amends section 3 of the 1984 Act. At present if a young person aged 16 or 17 marries with the necessary parental consent and their spouse then dies, if the young person wishes to remarry while still under the age of 18, parental consent is not required for the second marriage.

The amendment made by this clause will mean that a surviving civil partner who subsequently wishes to get married while still under the age of 18, will also not require parental consent for that marriage.

I beg to move that clause 6 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 6 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 7.

Mr Bell: Mr Speaker, clause 7 can perhaps be considered the other side of the coin to the amendment made by clause 5. That clause amended Manx legislation so that a marriage between two people of the same gender is not automatically void, and this clause confirms that such a marriage is lawful. This is achieved by inserting a new section 4A into the 1984 Act.

In addition to declaring that the marriage of same-sex couples is lawful, this clause sets out the position of the Church of England as the established Church in the law of the Island. The Church of England is very clear that it does not support or recognise a marriage of two people of the same gender. I may not agree with that view of the Church but I respect the right of the Church to hold that view. And, as Hon. Members know, the rights to freedom of religion and freedom of expression are enshrined in the Human Rights Act 2001.

Under the 1984 Act as amended, a same-sex couple cannot enter into a marriage according to the rights of the Church of England, they can only marry under a registrar's certificate or a Deemster's licence. In other words, the only form of marriage ceremony which may be contracted, unless a religious body has consciously opted in – and I repeat that, *opted in* – to providing them, is the civil marriage ceremony.

In addition, the new section 4A of the 1984 Act confirms that the common law duty of the clergy of the Church of England to marry parishioners is not extended to same-sex couples. If the Church of England were to change its position on the marriage of same-sex couples at some point in the future, additional primary legislation would be required both here in the Island and in England to give effect to that decision.

Mr Speaker, I beg to move that clause 7 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 7 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 8.

Mr Bell: Mr Speaker, clause 8 inserts new section 4B into the 1984 Act. This new section provides that if a same-sex couple has been lawfully married in a country outside of the Isle of Man that marriage will be recognised as a marriage in the law of the Island. This applies whether the marriage was entered into before or after the Bill comes into operation.

Mr Speaker, I beg to move that clause 8 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 7 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it.

Several Members: It was clause 8, Mr Speaker.

The Speaker: I beg your pardon, clause 8.

A Member: I thought I had missed one there. *(Laughter)*

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

FOR

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

AGAINST

Mr Hall
Mr Robertshaw

The Speaker: We have 18 votes for, 2 votes against.
Clause 9.

Mr Bell: Mr Speaker, clause 9 inserts the new section 4C into the 1984 Act. This new section provides that there is no compulsion on persons to participate in the marriage ceremony according to religious rights, if the parties to be married are of the same sex.

It does permit same-sex marriage ceremonies according to religious rights but does not compel participation in them. Of course the marriage of a same-sex couple according to religious rights can only take place at all if the governing authority of the religion or denomination in question has consented to opt in to such ceremonies, and opt in by religious parties other than the Church of England is possible without further primary legislation.

It is perhaps worth reiterating here why the position of the Church of England is different to that of other religions and denominations under the Bill. The member for Onchan, Mr Hall, when he was attempting to send the Bill to a committee following the Second Reading, said that he found it offensive that I had not mentioned the Roman Catholic Church at all. The reason for that is quite simple: the Catholic Church, like other Christian denominations and other religions that are followed in the Island, is *not* the established Church – that role lies solely with the Church of England, and it is only the Church of England that has a statutory role in this respect under the Marriage Act 1984.

Mr Speaker, I beg to move.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

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

Mr Karran: Vainstyr Loayreyder, can we have an assurance that there will be no renegeing on this proposal with religious freedom, as far as issues with the Equality Act; and that we will not end up in any way having a situation whereby support ... And I *totally* support what we are doing today but what I do feel is the fact that, when it comes to religion, they should have that opportunity.

With the Bill for Equality just coming at us the other day, we have not had the ability to read that, but I want an assurance from the mover of the Bill, as the Chief Minister, who has the block vote when it comes to most of these things – but he might not claim it at the moment – that we make sure there is no compulsion on a religious order as far as that is concerned.

I would be happy to go to a marriage ceremony in a church, with a religious order doing it, but I do feel it is about tolerance, like the Hon. Member talked about before, about Peter Tatchell – who is somebody that we should admire for how much *he* has suffered, in attacking such bigotry and horribleness to their fellow man, as far as that is concerned.

I think the Chief Minister needs to make sure it is clarified as far as this Equality Bill, that there will be no equalities and you cannot have a situation of a religious order being told that a citizen has that right, whether they are heterosexual or homosexual.

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

Mr Thomas: Thank you, Mr Speaker.

Beyond that assurance, I would hope the Chief Minister could assure this House that any equality legislation in our Island would indeed protect the conscience protections in this marriage legislation, as it does in the UK.

More specifically, I am sure the Chief Minister will be in a position to state the firm intention that the Equality Bill will include, if necessary, a provision such that the Marriage (Same Sex Couples) Bill opt-in provisions – if, by chance, they are in the House at the same time – are actually harmonised; such that all of the opt-in protections and conscience protections that are in here for religious buildings and religious people, are actually incorporated in any Equality Bill just as they have been in the United Kingdom.

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

Mr Bell: Thank you, Mr Speaker.

Can I start, first of all, by saying that there is no block vote. I have made it *very* clear that this is a Bill for the conscience of every individual Member. There is no collective responsibility and Ministers and Members have absolute freedom to vote whichever way they wish. (**A Member:** Hear, hear.)

So I would not like it to be inferred that there is any pressure on *any* Member in this Hon. Chamber to vote in favour of this Bill, if their conscience does not allow it.

The Bill, Mr Speaker, is quite explicit that religious bodies of any denomination have to opt in to this Bill. With the Church of England it is governed by fresh legislation. As I have just said, it is in law; if this Bill is passed it will be in law that the Church of England will have to have its own primary legislation to enable them to carry out same-sex marriages, and all other denominations will have to deliberately opt in. There will be no compulsion on other religions as a result of this Bill and there is nothing in the Equality Bill which will force people to do this against the measures which will be enshrined, I hope, in law when this Bill goes through. This Bill mirrors exactly what is the situation in the United Kingdom and there is no intention to change it at all.

So I can only give Members the absolute assurance there is no intent in this Bill or in the Equality Bill to do anything which will force religious organisations to carry out these marriages against the policy of the Church.

The Speaker: Hon. Members, I put the motion that clause 9 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

Mr Bell: Mr Speaker, clause 10 makes a minor amendment to section 5 of the 1984 Act which concerns the method of authorising marriages according to the rites of the Church of England.

The amendment is to recognise the fact that such a marriage may now be celebrated at any time. This provision is unconnected to the introduction of marriage for same-sex couples. It is included because the Bill is a convenient legislative vehicle to make the amendment.

I beg to move.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the question, clause 10 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

Mr Bell: Mr Speaker, clause 11 replaces the existing section 17 of the 1984 Act with a new section 17.

The new section includes specific provision stating that any purported Church of England marriage between persons of the same sex is void. This provision reflects the view of the Church of England on same-sex marriage and it is necessary because of the removal of the general provision from section 1 of the 1984 Act that currently makes all same-sex marriages void.

Section 17 is replaced rather than just amended, as the opportunity has been taken to make the section as a whole more readable.

Mr Speaker, I beg to move.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: Hon. Members, the question is clause 11 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

Mr Bell: Mr Speaker, clause 12 of the Bill replaces the existing section 19 of the 1984 Act with a new section 19.

The new section replicates the existing section 19 for marriages between a man and a woman, and in addition it authorises marriages of same-sex couples by civil ceremony in non-religious buildings. It does not deal with religious marriages of same-sex couples where the religious organisation in question has decided to recognise such marriages. That issue is dealt with by new provisions which are to be inserted into the 1984 Act by clauses 13 and 14 of this Bill.

Mr Speaker, I beg to move.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the question, clause 12 do stand part of the Bill. Those in favour, 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 Harmer
Mr Houghton
Mr Joughin
Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas

AGAINST

Mr Hall
Mr Robertshaw

The Speaker: There are 17 votes for, 2 against. The motion therefore carries.
Clause 12, Mr Bell.

Several Members: Thirteen.

Mr Bell: Thirteen was the ...

The Speaker: Thirteen! *(Laughter)*

Mr Bell: You are throwing me out here today, Mr Speaker! *(Laughter)*

Mr Robertshaw: Keep it up, Mr Speaker! *(Laughter)*

Mr Bell: Mr Speaker, clause 13 of the Bill inserts new section 19A into the 1984 Act.

The new section will permit religious denominations, other than the Church of England, to opt in to the celebration of same-sex marriages on their premises. Religious buildings can only be used for same-sex marriages if they have been registered for such ceremonies, and registration can only be applied for with the consent of the governing authority of the relevant religious organisation.

Mr Speaker, I beg to move that clause 13 stands part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 13 do stand part of the Bill. Those in favour, 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 Harmer
Mr Houghton
Mr Joughin
Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
The Speaker
Mr Thomas

AGAINST

Mr Hall
Mr Robertshaw

The Speaker: There are 16 votes for, 2 against. The motion therefore carries.
Clause 14.

Mr Bell: Mr Speaker, clause 14 inserts new section 19B into the 1984 Act.

This new section will allow religious organisations to opt in to conducting same-sex marriages, according to their religious rites, in the home of a person who is housebound or in the place where one of the couple is detained, for example, in a hospital or prison.

Mr Speaker, I beg to move.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the motion that clause 14 do stand part of the Bill. Those in favour, 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 Harmer
Mr Houghton
Mr Joughin

AGAINST

Mr Hall
Mr Robertshaw

Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
The Speaker
Mr Thomas

The Speaker: There are 16 for, 2 votes against. The motion carries.
Clause 15.

Mr Bell: Mr Speaker, clause 15 amends the existing section 21A of the 1984 Act. That section concerns a registrar's powers to require evidence in respect of a marriage of housebound and detained persons.

The amendment expands the registrar's powers in such cases to require evidence that the governing authority of a relevant religious organisation has consented to the participation of its members in the marriage of same-sex couples.

Mr Speaker, I beg to move that clause 15 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: Clause 15, 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 Cannan
Mr Harmer
Mr Houghton
Mr Joughin
Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas

AGAINST

Mr Hall
Mr Robertshaw

The Speaker: There are 18 for, 2 votes against. The motion carries.
Clause ...

Two Members: Sixteen.

A Member: Fifteen.

Mr Bell: Twenty-seven? *(Laughter)*

A Member: You wish!

The Speaker: Not so fast!

Mr Malarkey: Sixteen.

The Speaker: Clause 16.

Mr Bell: Mr Speaker, clause 16 inserts new section 21B into the 1984 Act.

The new section provides for the giving of additional evidence in connection with same-sex marriages where a member of the couple is either housebound or detained. This evidence includes confirmation of where the marriage will take place, a medical statement confirming that the person is housebound and confirmation that an institution where a person is detained is content for the marriage to take place.

Mr Speaker, I beg to move that clause 16 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: Clause 16, those in favour, 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 Cannan
Mr Harmer
Mr Houghton
Mr Joughin
Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas

AGAINST

Mr Hall
Mr Robertshaw

The Speaker: There are 18 votes for, 2 against. Clause 16 carries.
Clause 17.

Mr Bell: Mr Speaker, clause 17 amends section 29 of the 1984 Act.

That section concerns the registration of buildings for marriages, and the amendment limits it to only dealing with the registration of buildings for marriages between a man and a woman. Separate provision for the registration of buildings for same-sex marriages is inserted by the next clause of this Bill.

Mr Speaker, I beg to move that clause 17 stands part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the question, clause 17. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 18.

Mr Bell: Clause 18, Mr Speaker, inserts new sections 29A to 29E into the 1984 Act and all of these new sections relate to the registration of buildings for the marriages of same-sex couples.

Section 29A sets out the main registration procedures and section 29B concerns the cancellation of a registration, while section 29C allows for regulations to be made to supplement the provisions in 29A and 29B.

Section 29D deals with the procedures required for the registration for same-sex marriages of church buildings which are used by more than one religious denomination, and section 29E concerns the cancellation of such registrations.

Mr Speaker, I beg to move that clause 18 stands part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the motion, clause 18. Those in favour, say aye; against, no. The ayes have it. (A Member: Divide!) The ayes have it. (A Member: Divide!) Too late!

Clause 19.

Mr Bell: Mr Speaker, clause 19 amends section 30 of the 1984 Act.

That section deals with the cancellation of the registration of a religious building when it is no longer used for the purpose of public religious worship, and it provides for the possibility of substituting a different building that is now used for such worship.

The effect of the amendment is to extend the provision to take into account that religious buildings may be registered for the purpose of solemnizing same-sex marriages.

Mr Speaker, I beg to move that clause 19 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the question, clause 19. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 20.

Mr Bell: Mr Speaker, clause 20 makes a minor amendment to clause 31 of the 1984 Act which deals with the procedures for the solemnization of marriages in a registered building. The amendment is consequential on the fact that the building may be registered for the purpose of conducting the marriages of same-sex couples.

Mr Speaker, I beg to move that clause 20 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: Clause 20. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 21.

Mr Bell: Mr Speaker, clause 21 inserts new section 34A into the 1984 Act.

This new section makes similar provision in respect of void same-sex marriages to that which is already made by section 34 of the 1984 Act for marriages between a man and a woman. In each case, the marriage will be void if the couple have knowingly and wilfully married in the absence of the required consent to the marriage.

A marriage will also be void under this section if it is purportedly solemnized between two persons of the same sex according to the rites of the Church of England.

Mr Speaker, I beg to move that clause 21 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: Clause 21. Those in favour, say ayes; against, no. The ayes have it. The ayes have it. Clause 22.

Mr Bell: Clause 22, Mr Speaker, amends section 36 of the 1984 Act. That section concerns marriage – under the authority of a licence issued by a Deemster – of a person who is seriously ill and who is not expected to recover.

The amendments made by this clause ensure that a Deemster can only authorise a religious marriage ceremony of a same-sex couple if the relevant governing authority has consented to marriage of same-sex couples.

The clause also amends section 36 so that a deathbed marriage of a man and a woman according to the rites of the Church of England cannot be authorised under a Deemster's licence. This is to bring the provision in the Island in line with that in England. In England, such marriages may be authorised by a special licence issued on behalf of the Archbishop of Canterbury. In the Island, such a marriage may be authorised by a special licence issued by the Bishop, under his hand and episcopal seal.

Mr Speaker, I beg to move that clause 22 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: Clause 22. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 23.

Mr Bell: Clause 23, Mr Speaker, amends section 39 of the 1984 Act. That section deals with the circumstances where a marriage under a licence issued by a Deemster is not valid.

The amendment adds the condition that the licence of a same-sex couple under a Deemster's licence is not valid if it has been solemnized in accordance with the rites of a religious organisation, but the governing authority of that organisation has not given its consent to same-sex marriages.

Mr Speaker, I beg to move that clause 23 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the motion, clause 23. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 24.

Mr Bell: Clause 24, Mr Speaker, makes a minor amendment to section 40 of the 1984 Act and that section deals with who is responsible for the registration of various categories of marriage, and the amendment is consequential on the substitution of section 19 of that Act by clause 12 of this Bill.

I beg to move that clause 24 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: Clause 24. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 25.

Mr Bell: Clause 25, Mr Speaker, amends section 55 of the 1984 Act which deals with the interpretation of certain terms used in the Marriage Act. A consequential amendment is made to the definition of 'registered building', to take into account the fact that the building can be registered for same sex marriages.

A new provision is also inserted to confirm that, if the governing authority of a religious organisation has given its consent to marriages of same-sex couples, the validity of that consent is not affected only because there is a change in the person or persons constituting the relevant governing authority. However, for the avoidance of doubt, there is nothing to prevent the new person or persons from changing their position on same-sex marriage and deciding to opt out when the governing authority had previously opted in.

Mr Speaker, I beg to move that clause 25 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: The motion, clause 25. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 26, with Schedules 1 and 2.

Mr Bell: Mr Speaker, clause 26 confirms the effect of the extension of marriage to same-sex couples in the law of the Island. Generally the marriage of a same-sex couple is to be treated the same as a marriage of an opposite-sex couple and Manx legislation is to be interpreted according.

The clause also makes specific provision to avoid conflict with the Measures and Canons of the Church of England and other ecclesiastical law.

In addition, this clause introduces Schedules 1 and 2 which contain further provision on the effect of Manx law of the extension of marriage to same-sex couples.

Paragraph 1 of Schedule 1 requires reference in existing Manx legislation to married couples and married persons are to be read as including the marriages of same-sex couples.

Paragraph 2 of Schedule 1 confirms that references in existing Manx legislation to couples who are not married, but living together as if they were, are to be read as including same-sex couples who had not married but are living together as if they were.

Paragraph 3 of Schedule 1 explains a situation where existing Manx legislation treats unmarried couples who are living together differently depending on whether it is a heterosexual couple or a same-sex couple.

Paragraph 4 of Schedule 1 simply confirms that the specific provisions in the preceding paragraphs of the Schedule do not limit the general effect of subsections 1 and 2 of clause 26.

Paragraph 5 of Schedule 1 explains how new Manx legislation is to be read as a result of the extension of marriage of same-sex couples.

Paragraph 1 of Schedule 2 confirms that the introduction of marriage of same-sex couples will not affect the meaning of any marriage-related reference in private documents, such as wills, which are made before the Bill comes into operation.

Paragraph 2 of Schedule 2 confirms that the common law presumption that a child born to a woman during her marriage is also the child of her husband is not extended to the marriages of same-sex couples.

Paragraphs 3 to 8 of Schedule 2 amend the Matrimonial Proceedings Act 2003 in respect of divorce and the annulment of marriage in consequence of the extension of marriage to same-sex couples.

Paragraph 9 deals with those areas of Manx law where, despite the extension of marriage to same-sex couples for almost all purposes, the concept may be restricted by contrary legal provision.

Mr Speaker, I beg to move that clause 26 , Schedule 1 and 2 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the motion that clause 26, Schedules 1 and 2 do stand part of the Bill. Those in favour, 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 Cannan
Mr Harmer
Mr Houghton
Mr Joughin
Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas

AGAINST

Mr Hall
Mr Robertshaw

The Speaker: There are 18 votes for, 2 against. The motion carries.
Clause 27 and Schedule 3.

Mr Bell: Mr Speaker, clause 27 gives effect to Schedule 3 which contains amendments to Manx legislation as a result of the extension of marriage to same-sex couples.

Paragraphs 1 to 3 of this Schedule deal with the amendment of the Sharing of Church Buildings Act 1986.

Paragraph 4 of Schedule 3 amends the Civil Partnership Act 2011. In particular, it inserts new section 27A into that Act. This new section enables the same-sex couple to convert a civil partnership entered into in the Isle of Man into a marriage. If a civil partnership is converted into a marriage, the resulting marriage is to be treated as having existed since the date on which the civil partnership was formed.

Mr Speaker, I beg to move that clause 27 and Schedule 3 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: Before I call Mr Houghton, just to remind the House the way we are going to deal with this is that Mr Houghton is going to move his amendments as a block. They are debated together and if amendment one carries, we shall vote individually on the others.

Is that clear?

Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

Mr Speaker, before I move the specific amendments set down in my name, I would like to make certain points about the overall thinking behind them.

The Marriage (Same Sex Couples) Bill is one of those pieces of legislation that raises issues of conscience and therefore questions of toleration. Reference in its support have been made to equality, but it is important that we do not push this principle so far that equality becomes the imposition of a total uniformity upon everyone in complete disregard of individual freedoms of conscience. That is not the hallmark of a truly democratic society, but it would be very descriptive of those countries which are citadels of applause and silence.

Toleration is sometimes spoken of as if it means the adoption and, indeed, the promotion of someone else's view. It is, in fact, the opposite. Its essence is that of a disagreement – maybe fundamentally so – with the views of another and yet, despite this, the principle of toleration is that a dissenting view should be allowed in its proper expression. This is because toleration recognises that, although competing views to one's own may cause irritation, discomfort, annoyance and even alarm, that is far preferable to the alternative of totalitarianism. Indeed, it is vital to the preservation of the social and political health of a nation.

Mr Speaker, with regard to the amendments that relate to registrars, teachers and parents, an analogy has been drawn between the provisions that have existed in law for decades regarding another potentially contentious issue: that of religious worship and teaching in schools. Rights of withdrawal from the same have been enshrined in law ever since the Elementary Education Act 1872 and they survive to this day.

On the other hand, there is Church involvement in our schools. The Church may wish to retain a particular and distinctive emphasis in its religious teaching and so the principle has evolved of the reserve teacher who is perfectly willing and able to provide that teaching. This has proved to be a sensible compromise between the competing needs to accommodate the wishes of the institution in question whilst at the same time protecting the consciences of both teachers and parents.

It is from the well-established statutory compromise that the amendments for registrars are based. The amendments thus represent an excellent example of toleration in operation and I must add also of respect and inclusion. You simply cannot have an inclusive society where consciences are disregarded or trampled upon.

Mr Speaker, a reference was made during the Second Reading debate to the possible use of the criminal law against people who hold differing views about the sort of legislation that is now before us. There have been some instances of arrests being made in the United Kingdom under the Public Order Act for comments relating to sexuality that were far from being down-right inflammatory. In

the proper understanding of the word, indeed they invariably amounted to a mere difference of opinion. In almost every case, such arrests have led to the arrestee being released without charge and even where cases have been taken to court, the convictions have been quashed on appeal. Nevertheless, there has been a chilling effect in the British Isles upon responsible freedom of expression on this issue.

Although democracy is being commended and promoted in the adjacent isle – democracy is a fundamental British value – we must be vigilant to ensure that democracy does not by default degenerate into some sort of people’s democracy such as once existed behind the Iron Curtain. It is for those reasons that an amendment to the Public Order Act 1998 has been tabled. I might add that this matter needs to be kept under careful review, and if needs be it should be revisited in the future if ever it is found that this safeguard is inadequate, especially when new legislation is being considered.

Mr Speaker, these are broadly the principles on which my amendments are based. In no sense, shape or form are these amendments discriminatory simply because they address the differing views and interests in our society. Quite honestly, not to make an honest attempt to try and strike a balance between the competing interests certainly would be discriminatory.

That leads me onto a further point. These amendments do not seek to protect individual consciences or freedom of expression purely on religious grounds. That would be far too narrow a basis. Those who have no religious belief not only have consciences that deserve protection, but they have a code of conduct by which they seek to live and this is acknowledged in the wording of the amendment that I wish to move.

Mr Speaker, moving on then, in relation to each of those amendments and in relation to registrars, as I have already mentioned, these amendments bear some resemblance to the provisions already in existence regarding religious education. They not only include those registrars who are currently in employment, but also those who may be employed in the future. Thus it would be irrelevant if no registrar currently employed wishes to avail himself or herself of having the opting-out right.

Moreover, from what was said in the Second Reading debate about civil partnerships – that is that just 24 of them have been entered into since 2011 – it is arguable that same-sex marriages will almost certainly be relatively few in number also and will constitute a small percentage of the registrars’ usual duties and functions.

Secondly, just the same as the law does not deter a person from applying to teach in school simply because of his or her views on religious teaching and worship, nor should it do so with regard to applicants for posts such as registrars by requiring all newcomers to conform to the same-sex marriage legislation. Such a situation might well discriminate against and therefore exclude perfectly competent people and it is hardly consistent with respect of social inclusion.

However, in order to prevent a situation arising whereby every future registrar opted out on the grounds of conscience, the concept of the reserve teacher has been borrowed from the Education Act and it has been applied, with the appropriate modifications, to the post of registrar. It will be noted that the holder of the post of Chief Registrar would also be covered by these provisions.

Mr Speaker, I have already explained in my opening remarks my reasons for the short amendment to the Public Order Act which relates specifically to the Marriage (Same Sex Couples) Bill. This becomes particularly important in relation to the provisions concerning harassment that are also part of that Act. When they were first conceived, the legislator sought to close a loophole in the law whereby, for instance, elderly people on a housing estate may be subject to intolerable misconduct and unacceptable behaviour that was making their lives a misery. However, with the benefit of hindsight, it can be seen that the words such as, ‘annoyance’ can be used to silence those whose opinions are disliked by others. This probably was not appreciated when the provisions were being drafted, but this is an unexpected development that can take place in law. Therefore, Mr Speaker, it is essential that ‘annoyance’ or ‘alarm’ or ‘distress’ does not degenerate into a means whereby any opinion that conflicts with one’s own may be suppressed.

It is absolutely necessary to the preservation of true freedom of expression – which is always a tender plant – that we are challenged from time to time by views that we heartedly dislike or disdain. This is not to say that anything goes, because it does not. Toleration always has its limits – there is conduct within this Hon. House that we would not allow – but without some indication of where the boundaries lie, a specific reference in respect of this legislation which concerns a subject that the most casual observer will know is highly controversial ... if that is the case, Mr Speaker, we are heading for serious trouble.

Mr Speaker, in relation to the Education Act 2001, I have already drawn attention to the religious education and worship provisions in the current law and the rights that are given to teachers. The Marriage (Same Sex Couples) Bill has a direct bearing on those rights since the two are inextricably linked by both doctrine and practice. But, as I have said, everyone deserves the protection of conscience. Therefore, this amendment does not confine itself to maintained schools with a Church connection, but also to provided schools which constitute the overwhelmingly majority of schools on the Isle of Man.

Furthermore, an education institution is a place where competing ideas are often explored. That is why it is specifically provided that a teacher may perfectly lawfully express his or her view in relation to same-sex marriage. We do not want a situation where teachers are reported to higher authorities simply for expressing a view in a rational and temperate manner that strays from the politically correct norm; even more so where that view may have been mischievously elicited from a teacher, known for his or her perfectly legitimate standpoint. That is the protection that this amendment seeks to confer, Mr Speaker.

Mr Speaker, finally, in relation to the parental right to withdraw their children, this amendment again is based upon the existing right to parents with regard to religious teaching and worship. The rights of parents are never absolute, but we must be vigilant not to slide into a situation where the state decides what views the up and coming generation should indeed hold. The 20th century contains numerous examples of the dangers of the state's control of children, especially where the state had a particular agenda that it wanted to pursue. There is always a balance to be held between the competing interests, but there is worrying and growing evidence in the West of the state gradually encroaching more and more upon the preserve of parents. We already respect parental rights with regard to religion. We should also recognise that those views, where based upon religion or otherwise, will often extend into areas such as same-sex marriage.

It is immaterial as to how many people would wish to avail themselves of this right. A principle does not lose its validity simply because it concerns a minority or even a small minority. On the contrary, that very fact demonstrates its worth, Mr Speaker.

Now, Mr Speaker, if I can ask Hon. Members, in consideration of whether they wish to vote for one or more of any of these separate amendments that will be voted on separately, may I ask that Hon. Members certainly vote for the paving clause, the enabling amendment, which of course is set out on lines 1 and 2 and which is the main amendment to clause 27. Because, Hon. Members, as Mr Speaker has made clear, if those first two amendments – which are enabling amendments – fail, then you will not have the ability to vote on the other separate amendments that you may or may not wish to vote for. If all of those amendments fail, then of course the amendment that you will have voted for will itself obviously fail because of the amendment. That is how I understand it, Mr Speaker.

So I would ask Hon. Members to vote for all of the amendments, but please certainly vote for the first two that the Speaker will guide you through to allow you to have the opportunity for voting on the main amendments that I have now put in front of this Hon. House.

I beg to move:

Amendment to clause 27

- 1. Page 25, line 7, after 'consequential' insert 'and incidental'.*
- 2. Page 25, line 8, after 'consequential' insert 'and incidental'.*

In consequence of this amendment the heading to Schedule 3 becomes 'Consequential and incidental amendments to other Acts'.

Amendment to Schedule 3

3. Page 37, immediately before paragraph 1 insert the following paragraph –

'1. Civil Registration Act 1984 amended

After section 2 of the Civil Registration Act 1984 insert –

"2A Right of registrars to opt out

(1) A registrar may, by notice in writing given to the Chief Registrar, opt out of conducting same sex marriage ceremonies.

No registrar shall suffer detriment for opting out, subject to subsection (3).

(2) No applicant for appointment as a registrar shall be refused that appointment simply because the applicant will wish to opt out of conducting same sex marriage ceremonies, subject to subsection (3).

(3) The Chief Registrar must maintain a reserve list of registrars, who are prepared to conduct same sex marriage ceremonies, and must indicate the existence of the list in any advertisement relating to the appointment of registrars (and whether a post being advertised is only for a candidate who is prepared to be entered on the reserve list).

This is subject to subsection (4).

(4) A post may not be advertised as being only for a candidate prepared to be entered on the reserve list if, at that time, more than 50% of existing registrars are already entered on it.

(5) Subsection (1) applies to the Chief Registrar as it applies to registrars, save that in the case of the Chief Registrar the notice must be given to the Clerk of the Rolls."

Renumber succeeding paragraphs and adjust cross references accordingly.

4. Page 38, after paragraph 3 insert –

'4 Public Order Act 1998 amended

In section 8 of the Public Order Act 1998 after subsection (1) insert –

"(1A) To avoid doubt, the mere discussion of, expression of disagreement with, or opposition to the Marriage (Same Sex Couples) Act 2016 or to same sex marriage is not of itself to be taken to be insulting, abusive or threatening words or behaviour, or an act that constitutes harassment, annoyance, alarm or distress."

Renumber succeeding paragraphs and adjust cross-references accordingly.

5. Page 38 after paragraph 3 (and the paragraph inserted by the preceding amendment if successful) insert the following paragraph –

'X¹ Education Act 2001 amended

(1) The Education Act 2001 is amended as follows.

(2) After section 14 (but before the cross-heading Admission, etc. of pupils) insert –

"Teaching about same sex marriage

14A Teaching about same sex marriage

Nothing in the Marriage (Same Sex Couples) Act 2016 is to be taken –

(a) to require a teacher at an independent or maintained school to teach about same sex marriage if same sex marriage is contrary to –

(i) the tenets of the religion or of the religious denomination in accordance with which education is or may be required to be provided at the school; or

(ii) the religious, philosophical or other beliefs of the teacher;

(b) to prevent a teacher falling within paragraph (a) from expressing the tenets of that religion, denomination or belief;

(c) to require a teacher at a provided school to teach about same sex marriage if same sex marriage is contrary to the religious, philosophical or other belief of that teacher; or

(d) to prevent a teacher at a provided school from expressing the tenets of that belief in relation to same sex marriage.

14B Parents' rights in relation to teaching about same sex marriage

(1) If the parent of any pupil requests that the pupil be excused from attendance at any lesson where same sex marriage is being taught then, until the request is withdrawn, the pupil shall be excused from such attendance.

(2) The responsible body in relation to a school must secure that, if teaching about same sex marriage is, or may be, included in the curriculum, give notice to every parent of a pupil at the school of the parent's right to request that the pupil be excused from such teaching under subsection (1).

(3) For the purposes of this section "the responsible body" is –

(a) in the case of an independent school, the proprietor;

(b) in the case of a maintained or provided school, the governing body."

Remember the succeeding paragraph and adjust cross-references accordingly.

¹X represents the paragraph number (which will be dependent upon the earlier amendments).

The Speaker: Mr Hall.

Mr Hall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

I appreciate, Mr Speaker, the strength of feeling behind the mover's view here, but this is going to sound somewhat contrary really.

Mr Bell: That is unusual for you, Chris! *(Laughter)*

Mr Robertshaw: But there is a will in this House, despite my personal views, to go for same-sex marriage and if this House decides that it is what it is going to do, then that actually becomes the law of the land; it is as simple as that.

In terms of making exceptions, the mover of the Bill, the Member for Ramsey, has clearly defined where there are exceptions and these exceptions relate to churches, but it is not willy-nilly. It is clear that if a Church opts through its authoritative system not to pursue same-sex marriage, then that will be respected. It is not at the wish and will of individual clergy to opt one way or the other. That starts to make it unworkable. The law that you are deciding to opt for now becomes unworkable.

The same would apply for registrars. It makes life very, very difficult if the law can be applied but actually, 'Not if I do not feel like it' and I find that very difficult to accept as a principle. Because if it applies here, it could apply to any law. We could start deciding that we wanted to agree with this and not that.

So I stand against the same-sex marriage Bill, but if it is the will of the House then it becomes the law of the land and it has to be respected. If there are going to be exceptions, those exceptions have got to be clear and explicit, not along the lines of personal choice.

As far as withdrawing a child is concerned, I hope that the schools, particularly the religious schools, are not put in a position where they have to teach same-sex marriage, but it is a matter for the whole school and for the religion that that schools sits within. The idea of withdrawing an individual child would, I think, embarrass the child, effectively, and I would be very, very uncomfortable with that.

So, Mr Speaker, Hon. Members are making a decision here today with regard to whether they do or do not want same-sex marriage. If it is the fact that the House wants to go with same-sex marriage and it is the law of the land, then we have to respect it.

Thank you, Mr Speaker.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, as far as this clause is concerned, I think the input from the individuals behind this speech by the Hon. Member for North Douglas has some very irrational logic, as far as that is concerned.

To start off with, as far as a registrar is concerned, if we are going to say that we should have an opt-out for registrars for same-sex marriage, why not blacks? Why not Catholics? Why not disabled people? Remember in the last 20-odd years, we have actually just got rid of the bastardy court, to do with people who were born out of wedlock. They are all treated the same now.

If this was to do with somebody who is not a public servant and it was to do with a religious order, that is their right, that is fair enough, but these people – the civil servants – they are here as public representatives, to serve the public.

So what I cannot understand is, if we are going to allow this, why don't we allow all the other prejudices? Prejudices that over the last 50 years we have beaten on this Island: from Catholics not being allowed to have high office, as far as in the Civil Service is concerned; with policemen being banned, until representation was made about 50 years ago to stop that. The issue has to be, as far as the registrar is concerned: they do a job. I believe that that is wrong, as far as that is concerned.

As far as the second one is concerned, if we are talking about religious freedom, if we condone this – and the problem is the people behind this speech for the Hon. Member do not realise – then their argument would be, if it is a Muslim school, equality is not there for women, it is not there for girls, as far as education is concerned. So consequently, you end up with a situation where you create a dangerous ticking bomb within your education system. (**A Member:** Hear, hear.) We passed legislation before the majorities were in here about female circumcision –

A Member: It is mutilation.

Mr Karran: Well, whatever you want to call it. The situation is, in some religions they actually believe that that is the right way forward.

Well, if you are going to give that sort of freedom to have this intolerance as far as the gay community, you then cannot talk about not giving that intolerance – that the hard won battles that have been done as far as women's rights have been concerned over the years – when we look at what could come about if we are to allow that sort of unacceptable bigotry on the other foot, as far as females are concerned.

Whilst I do not agree with the mover of the Bill – they would be very brave if they did not support his Bill – I think it is about time this Bill was supported to actually get rid of one of the bywords about the Isle of Man: that it is dodgy, it is homophobic, it is fascist and all this sort of thing. So I support this Bill.

But what I feel is, if you support this you will then have to support the fact that ... why should a registrar who does not believe that blacks should have the same rights to get married ...? Why should we have a situation ...? It is not that long ago, if you were a little bit simple, you could end up being locked away. It is only 1987 that we released the unmarried mothers out of the lunatic asylum.

I believe that where the undercurrent of what we are trying to do about tolerance is concerned, it is to create a free, fair society; people are equipped to be able to get the education and get the access to the same rights as any other citizen.

So I cannot support these proposals because I actually think that, if you support this proposal, then you actually do the very thing that certain people – who are behind these clauses ... It will actually create a greater disservice to what is our basic Christian religion and that is you will end up having a hard job to rationalise when people do not, under educational services, believe that the likes of women's and girls' rights to an equal education will be affected. This will end up being a

Trojan Horse, in my opinion. If you accept this, then you will have to accept all the obscure religious rights of different faiths in education.

So I am with the Chief Minister on this. This needs to be blocked off. I am not denying, Vainstyr Loayreyder, this Bill would not be in the priority list if I was the Chief Minister of the Isle of Man, as far as the number of issues like the Disability Discrimination Act which should have come through and other pieces of legislation.

But I hope Hon. Members, whilst this speech from the mover has put a plausible argument, when you look at the reality of these amendments, there is no logic as far as if we believe in an inclusive society within this Island. I believe that we cannot support this proposal because if you support it for this, then you have got to support the religious rights of other minority Churches when it comes to education.

So I would not support these proposals.

The Speaker: Hon. Members, at this point we will not adjourn and the House will adjourn until 2.30 p.m.

*The House adjourned at 1.08 p.m.
and resumed its sitting at 2.30 p.m.*

Marriage (Same Sex Couples) Bill 2016 – Consideration of clauses concluded

The Speaker: Please be seated, Hon. Members.

We resume our consideration of the amendments to clause 27 and Schedule 3 that have been tabled by Mr Houghton. The next Member to speak is the Hon. Member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker.

I have to oppose both Mr Houghton's amendments. First of all, on the registrar opt-out; I believe this amendment is unnecessary because there is not a problem at the moment, or likely to be in the future. At present, all the registrars conduct civil partnership ceremonies and the Registry have checked with all the registrars and there is absolutely no indication that any of them would refuse to conduct a same-sex marriage. And I have to agree with what Mr Karran said that we are talking about public servants.

Now, subject to this Bill becoming law, you would not expect that anyone would apply for a position of registrar if they cannot carry out the full duties as according to the job specification, which obviously would include same-sex marriage ceremonies. You would not expect vegetarians to apply for a job at the meat plant, unless they were prepared to undertake the killing of animals; maybe that is a parallel, maybe it is not. But there is case law which supports the view that regardless of the personal views of the registrar they can be required to undertake their functions as personal rights yield to public policy considerations. In the case of *Ladele v London Borough of Islington*, which was taken to the European Court of Human Rights, the judgement said, and I quote:

The requirement to perform her job's duties did not prevent her from worshipping as she wished. It is clear that Article 9 is a qualified right. Ms Ladele's views could not override the employer's concern to ensure equal respect for the gay community.

So, Mr Speaker, I believe that this amendment is unnecessary, in my view, as there is not a potential problem.

If we come on about the teaching of same-sex marriage, again, my views would differ from those of Mr Houghton. It is what it says: teaching about same-sex marriage, bringing it before the young people, pupils and giving them information. Mr Speaker, many of the world's problems today are caused by ignorance and myths passed from one generation to another. In our schools today we

thankfully teach our children about other countries, about religions, to give them a broad ... and hopefully an understanding of other people's beliefs and the need to, as I have said before, celebrate our differences. The young persons' developing minds will form their own opinions, but we have to give them access to information so that they do not grow up carrying on any prejudices that they may have absorbed from their parents, and their parents from their grandparents.

This amendment singles out the teaching about same-sex marriage – does anyone really believe that the teaching of relationships, same- or opposite-sex, will influence a child in its future in a bad way? The child will develop with a more rounded view of the world and hopefully not continue to promote those ignorance's to future generations. This may not happen if this amendment is adopted. What we have to ensure is that the teacher's approach to this or any other subject is done in a considered, unbiased and balanced way. In the context of this amendment I would have to say that for the children ignorance is far from bliss.

Thank you, Mr Speaker.

The Speaker: The Hon. Member for Douglas South, Mr Malarkey.

Mr Malarkey: Thank you, Mr Speaker.

The last person to resume his seat has just taken a lot of what I was going to say, certainly with regard to the registrars. Mr Speaker, at the Second Reading I made it quite clear, and I have done all the way down the line, that I will not criminalise anybody for having their views. I mentioned at the time of the Second Reading that registrars were an issue that I did have at the time, but so did many other Members. Since the Second Reading I have had time to talk and do my homework and I understand, as Mr Singer has said, at present registrars do not have a problem and if they do not have a problem any future registrars will know exactly what they are getting in for before they apply for the job, Mr Speaker. So I really do not think it is necessary to put in legislation looking for something that is not going to occur in the future, so that deals with the registrars.

With regard to part two with the opt-out for children in schools, as the Member here for the Department of Education, we had this discussion last Friday at our Department meeting and our Department is not in favour of these clauses, and does not recommend going forward with these clauses today. In fact, we had a debate about it on Friday afternoon within the Department and not many people could envisage when it would be necessary for somebody to opt out, except of course if somebody was taking an A-level RE course, in which case they have opted in, so they are hardly likely to want to opt out again. So, again, the Department sees that if you start putting opt outs in where does it stop? Where do we go from here? Are we going to have motions coming forward in the future where we are going to start allowing parents to opt out for all sorts of different reasons?

So I would urge Members today to not vote for going further with either of these amendments, Mr Speaker. I believe that what we have today is quite sufficient without these additional clauses or amendments really muddying the water going forward, to be perfectly honest, Mr Speaker.

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

Mr Thomas: Thank you, Mr Speaker.

The Speaker: West, I should say. *(Interjections)*

Mr Thomas: I don't mind!

Mr Malarkey: He is nearly south! *(Laughter) (Interjection by Mr Thomas)*

A Member: Central!

Mr Robertshaw: Douglas Far East.

Mr Thomas: It is entirely right, it is entirely proper, that public functions should be exercised and public services should be provided equally, completely equally, regardless of the religious, political or other views that the person or body providing that function or that service on behalf of the state. That is a point that the two previous speakers have made.

But I just wanted to say something additional to that, which is that in actual fact I would have preferred not to have known whether or not our existing civil registrars actually had issues with this because they are public servants and it is a private matter for them and I would like to think that it could remain a private matter for them. So in one sense it is reassuring to know that it does not seem there is a practical issue, but that is not the main point. The main point is that they are public servants.

If you have a moral, religious, political objection to fighting in an army you do not have to join up. But once you are in that army, serving the state, you have to do whatever you have to do according to the political power on a local level according to the military power.

The second point, however, is we are in the Isle of Man and we are a sort of society ... and I am absolutely sure that in practice where there are a number of registrars in an office that arrangements would be considered to make it easier for people, without in any way coming close to personnel issues or even to legal issues, because that is the nature of our society. We are a tolerant society, we are an inclusive society, and respect and tolerance are very important in all of this beyond the law.

Thank you very much, Mr Speaker, Hon. Members.

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

Mr Bell: Sorry, Mr Speaker. Just a couple of quick points.

Most of the issues I would like to have raised have been raised, and I thank Members for that. I think it has been a very balanced, measured contribution to the problems which could be caused by these amendments if they go through. The issue of the registrar opting out; I would like to confirm again that we have done our homework on this, we have spoken to all the registrars involved and there has been no concerns expressed at any level, either in central Registry, or indeed around the Island. So we have worked on that; there is not a problem there.

But I would pick up the point the Hon. Member for ...

Mr Thomas: West Douglas South! *(Laughter)* The Isle of Man! *(Laughter)*

Mr Bell: This Bill, Mr Speaker, has gone to great lengths to ensure that no one's position is prejudiced in terms of their religious beliefs. We have stated quite clearly in this Bill that the Churches can only participate if they bid to opt in, that there is no compulsion about it and likewise for the employees, i.e. the clergy related to that Church but the Church authorities obviously are the employer of the clergy, just as Government is the employer of the registrars.

I just repeat the point, Mr Speaker, if we were allowed to include an opt-out here, where would that end? Could they refuse to carry out a marriage if the partners are divorced, for example? There are all sorts of reasons perhaps that could be manufactured to avoid doing it. What we are trying to do, Mr Speaker, is bring in a fair, inclusive and balanced approach to this. It is based on equality and inclusivity and nothing more than that. Some of the scenarios which could be painted at this ... has taken the issue out of all proportion.

What we are talking about here is the basic human right of two people who care about each other, love each other, to declare their love by way of civil marriage. It is no more, no less than that. It is not aimed at distorting the morals of young people, it is not aimed at damaging society in any

way at all. It is simply endorsing a relationship between two people who wish to commit to each other.

I do not believe it is appropriate for the registrar to have an opt-out, but equally I have a concern about the comments which somehow indicate that teachers might be promoting gay marriage to school children. Now, those of you who were involved in the battle we had in the early 80s and 90s will remember clause 28 – Mrs Thatcher’s notorious piece of legislation in response to a book which was published, I think, by the GLC at the time, which she accused of promoting homosexuality. This clause could almost hint that this is what is being proposed. Nothing could be further from the truth! As the Member for Douglas South quite clearly declares, relationship education is part of education – that has to be why children are there. They have to be brought up and taught with the broadest approach to life, their minds open to all sorts of possibilities.

The area that concerns me most though, Mr Speaker, is not necessarily what is in the curriculum – although I could stop there and say currently there is nothing to stop teachers teaching against same-sex marriage as we stand at the moment; they could actually bring in that discrimination – the thing that concerns me most about this is that within every class I think there is a high probability there will be at least one or two young people who will be struggling with their sexuality. We do not know how they may end up but for young people teenage years are *very* difficult years at the best of times; we need to give them all the love and support and understanding that we possibly can. If we inject this sort of prejudice and discrimination at that age you have these young people not only even more confused but growing up believing that somehow their lives have less value than heterosexual young people – is that really what we want? Is that what we are here for? I do not believe so.

Finally, Mr Speaker, just one other point: it does cause me great concern this endorsement almost of discrimination under the Public Order Act. I think it is outrageous that that should have been brought in at this point to say that it is okay to protest, to argue, discriminate against gay marriage; that is okay, but everyone else has to fit within the law. I do not think that is acceptable either.

Mr Speaker, most of the points I was going to raise have been covered, but I would urge Hon. Members, please stick with the Bill as printed. These amendments are not going to help the situation at all, they are going to muddy the waters and actually inject more discrimination, more imbalance into society than we have got at the moment. Do not lose sight of the basic tenant of this Bill which is to celebrate the union of two people who wish to commit to each other.

The Speaker: Mr Houghton to reply.

Mr Houghton: Thank you, Mr Speaker.

I thank all Hon. Members for the points that they have made, that have been gone through quite clearly in respect to this.

This is an opportunity, Hon. Members, if you would just consider some of the safeguards that I am trying to bring forward for this Bill. It is not actually impinging on the operation of the Bill itself; its consequences lend themselves elsewhere in others such as the Education Act.

Turning to the Hon. Member, Mr Malarkey, where he states – and I am glad he stated this in ... it is clearly helpful that he as a Member of the Department of Education and Children, has stated on *Hansard* today that the Department of Education does not see that as a problem, because I can quite see the mood of the House is going to vote against these amendments today.

But an important point that the Hon. Member, Mr Malarkey has said is it has been considered by the Department and they do not see any problems with it at all. So, in the event – and I do hope the event never comes and I really mean this – that there is any sort of legal action against parents or children or what have you, that of course a court will take credence of what was said at the time this Bill was going forward from a Member of the Department who states it was considered by the Department of Education.

So I know, if you like, we are clutching on straws to a certain extent here but the Department – and I am quite sure they carefully considered the amendments – do not see a problem at all, so let's hope that if there is a problem that arises – and I hope there is not – these are just safeguards. That is all they are, Hon. Members. There is nothing other than fair and good meaning in all of this effort that has been gone to today to give this Hon. House the opportunity to consider these points. That is what it is actually there for.

I think the standard of debate that we have had before this Hon. House today has been excellent. **(A Member:** Hear, hear.) To consider the facts before us and do that and hear what both the Chief Minister has said, as Chief Minister, that these are not problems, there is not an issue, nothing will happen – I am reassured at that. I still will be asking the Hon. Members to vote, but Members will make their mind up on that.

But these points now, Mr Speaker, as you are aware yourself, are very carefully considered by courts with legislation, with recent legislation – which this will be considered as, recent legislation for the next 10 years – as to the points that have been made, how would we have thought what the Chief Minister of the Isle of Man Government has stated etc. in order that cases of defence or indeed prosecution of both criminal or civil courts. *Hansard* is read Hon. Members, and so I cannot state how strongly, when the Hon. Member, Mr Malarkey, perhaps did not realise quite what he was saying, but he could be recalled back to a court –

Mr Malarkey: I was saying what my Department says.

Mr Houghton: – in order to ... I thank you for that, Hon. Member, I really do, I am not being funny. It is helpful. If nothing else, the debate helps in those particular ways, as primary evidence in a case where we have had ... as you know, it was looked at by the Hon. Member, Mr Robertshaw earlier – this crazy situation in Belfast to do with a wedding cake. Absolutely crazy! But those crazy things happen these days and that, Hon. Members, is the purpose, just the purpose, for bringing these safeguards. Mr Karran came out with some crazy situations to do with other really bizarre circumstances. This is not bizarre, this is making sure that people who express an opinion in a temperate way, not an intemperate way, are not taken to – if I daresay – the cleaners, simply because somebody wants to have a go at them, because that is the way litigious society is working these days, and it is a very important point that I make to Hon. Members. That is the purpose for bringing this. My work is done to put it before this Hon. House and for it to be considered in the way that it has.

I would like to close by thanking all Hon. Members for the very considerate and high quality way this whole matter has been dealt with today, this morning and this afternoon. So, Mr Speaker, if I can just finally state, no doubt without getting in the way of your chair, if Members are minded to vote for one or more of these, please vote for line 1 and line 2 of the amendments, which is the amendment to clause 27, because that is an enabling clause only to allow you to vote on, of course, the other main amendments that are being debated today. If that fails then there is no vote taken at all and therefore no idea of what Members thoughts and feelings are and in their voting for the final amendments. So, if nothing else, please consider that that you have got to vote first for the amending clause.

I thank you Mr Speaker, I beg to move.

The Speaker: Members, I put the motion that the amendment to clause 27 in the name of Mr Houghton be made. Those in favour of the amendment, please say aye; against, no. The noes have it.

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

FOR
Mr Hall

AGAINST
Mrs Beecroft

Mr Houghton

Mr Bell
Mr Boot
Mr Cannan
Mr Gawne
Mr Harmer
Mr Joughin
Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Robertshaw
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas

The Speaker: Two votes for, 19 against. The amendment to clause 27 therefore fails and consequently the amendments to schedule 3, in the name of Mr Houghton, also fall.

I now call the Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, the principal has been accepted as far as heterosexual civil partnerships in this Bill so I see no point ...

The Speaker: You will not be moving. Thank you.
I call on the Hon. Member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker.
Having previously explained to Hon. Members my amendments to Schedule 3, I formally move that they become part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second.

The Speaker: I put the motion in the name of Mr Singer – the amendment to Schedule 3 as set out. Those in favour of the amendment to Schedule 3, 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 Cannan
Mr Gawne
Mr Harmer
Mr Joughin
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly

AGAINST

Mr Hall
Mr Houghton
Mr Karran
Mr Robertshaw

The Speaker
Mr Thomas

The Speaker: There are 17 votes for, 4 votes against. The amendment in the name of Mr Singer to Schedule 3 therefore stands.

If we now vote on clause 27 ... No, we don't, we ask Mr Bell to respond! *(Laughter)*

Mr Shimmin: Say yes.

Mr Bell: Mr Speaker, I do not think there is anything more ... *(Laughter)*

A Member: Hear, hear.

A Member: Well said.

Mr Robertshaw: Just press the right button.

The Speaker: Clause 27 with schedule 3, as amended. 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 Cannan
Mr Gawne
Mr Harmer
Mr Houghton
Mr Joughin
Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas

AGAINST

Mr Hall
Mr Robertshaw

The Speaker: There are 19 votes for, 2 votes against. It therefore carries.
Clause 28, Mr Bell.

Mr Bell: Finally, Mr Speaker, clause 28 contains consequential and minor repeals of Manx legislation and before I formally move it, could I just make one comment.

Mr Karran and one or two other Members have commented during the course of this particular Bill that this Bill is not really a priority, that there are other more important Bills coming along. I just want to put on record that this is part of a wider package which we have been working on now for over three years. (**A Member:** Hear, hear.) This is one part – the Marriage (Same Sex Couples) Bill – but alongside this is the Equality Bill and we have been working on this now for over three years. It has been a *very* difficult Bill to get through, to bring together. And just to remind people the Equality Bill deals with direct discrimination, indirect discrimination in relation to disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, age, race, religion or beliefs,

sex, sexual orientation, equality in the workplace. It is a very wide-ranging and probably one of the most important pieces of social legislation that the Isle of Man has had to deal with for many years.

In case people have the impression that we have steamrolled this Marriage (Same Sex Couples) Bill through at the expense of everything else; that is not the case. A huge amount of work has gone in and it has tied down the legal draughtsman for the best part of two years, certainly recently, to put this Bill together. The Equality Bill will be in LegCo next week for its First Reading, so these two Bills are in fact moving through in parallel.

So, for those people who had picked up the impression that somehow this Marriage (Same Sex Couples) Bill is out of order, that it has no importance, it fits perfectly in the wider social agenda which we have been trying to drive through now for quite some time. It has taken longer than I would have expected. I had hoped they would have both been further advanced now than they are, but we have to live with the circumstances that we are presented with. So I hope Members will accept that there is a wider agenda here, not just the one Bill.

But, having said that, Mr Speaker, can I thank Members for the tone of the debate today. I think it has been very constructive, very helpful; it will send a good strong message to the public outside and I beg to move that clause 28 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, as far as I am concerned, I am quite happy to support this Bill, no problems about that, if it helps sort out the public image as far as this Island is concerned. But I have to say, if the Chief Minister was not the Chief Minister, I wonder whether this would have the same priority as far as this legislation is concerned.

When you think that we passed the Disability Discrimination Act in 2006, we have seen a number of other issues as far as that is concerned, I do take issue with the Chief Minister as far as it is concerned. Shoulder to shoulder on this issue for the last 30 years, but I just feel it is important that we do not try and distort the facts of the reality –

Mr Bell: There is no distortion.

Mr Karran – as far as other issues are concerned as far as legislation, it would not be number one. It should be done; no one is arguing that point but if you look from the logic from outside this Hon. House, many people will find it hard to believe that the priority list has been done on that basis.

Happy to vote for the clauses of this Bill – no problem with this Bill, but let's try and keep a resemblance of logic and reality to what people outside this Hon. House will appreciate what is going on as far as this Bill is concerned. Happy to support it, not a problem, but if we are looking at the situation, the Equality Bill is something that we should support – another piece of legislation. But it is disappointing that other legislation ... You have only got to look at the Disability Discrimination, fair enough it is being superseded in the adjacent island, the fact is it is very difficult for those people to feel that they have had legislation on the statute book for 10 years now that has not been brought into force.

The Speaker: Mr Bell, you have the right of reply.

Mr Bell: Yes. It is sad that after such a positive day it ends up on a sour note!

Mr Speaker, the Disability Discrimination Act has been given Appointed Day. It is out for consultation at the moment. There is a four-year lead in time for its introduction.

The Equality Bill which we are moving forward on now, and why it is taking so much time, goes much further. It re-enacts the Disability Discrimination Bill and extends it into the workplace in a way that the original Bill did not, so this is a far more effective way of supporting the disabled in our community than the Bill which stands, which is some 10 years old now. To state that there are some ulterior motives behind bringing this Bill forward today leaves a really bad taste in my mouth, I have to say, Mr Speaker.

Mr Karran is really just parroting some of the views outside that somehow the gay community merits less attention than other parts of the community. It just reinforces some of the prejudice which exists and I find that a very disappointing end to what has been a very constructive day.

Mr Speaker, we have a right, an absolute right, to end discrimination in all its forms, (**A Member:** Hear, hear.) right across all our community. We cannot pick and choose who we discriminate against. We have to develop an inclusive, equal and caring society that looks after all its members. That is what this Government is doing; that is what this legislation is doing and it will be reinforced when I hope the Equality Bill will get strong support when it finally finds its way into this Chamber.

Mr Speaker, I beg to move.

The Speaker: Hon. Members, clause 28. Those in favour, please say aye; against, no.

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

FOR

Mrs Beecroft
Mr Bell
Mr Boot
Mr Cannan
Mr Gawne
Mr Harmer
Mr Houghton
Mr Joughin
Mr Karran
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas

AGAINST

Mr Hall
Mr Robertshaw

The Speaker: There are 18 votes for, 2 votes against. The motion therefore carries.

That concludes the clauses stage of that particular legislation and that concludes the business of the House today. The House will now stand adjourned until the next sitting which will take place at 10 o'clock on Tuesday 8th March in this Chamber.

The House adjourned at 3.02 p.m.