Justice Committee

Offensive Behaviour at Football and Threatening Communications (Scotland) Bill

Written submission from the National Secular Society

The National Secular Society challenges religious privilege and campaigns for the separation of Church and State.

The NSS wishes to make the following points on the proposed legislation:

1. The impairment of Freedom of Expression – one of our most fundamental rights - is a potential consequence of the current wording of the Bill. Parliamentarians need to ensure that disagreements and robust debate are not unwittingly proscribed. It is essential that the prosecution threshold always includes intention, not just likelihood. We do not think that material on its own should be deemed threatening; in order to secure a conviction, persons should need to have been threatened. Similar concerns were recognised by late freedom of expression amendments to the Racial and Religious Hatred Act in England\(^1\). Alex Salmond voted for these in England; but so far there is no equivalent in the Scottish Bill.

2. Offensive religious sectarianism has disappeared from many areas of Scottish life. In the 1950s many Scottish Roman Catholics feared Home Rule because they thought that it might result in discriminatory behaviour towards them\(^2\). Collaboration between the major churches in Scotland was, however, a feature of the movement that resulted in the establishment of a Scottish Parliament in 1999. There is also evidence that the descendants of the Roman Catholic Irish immigrants of the late 19\(^{th}\) and early 20\(^{th}\) century have integrated on equal terms into Scottish society\(^3\).

3. The proposed legislation is only tackling the tip of an iceberg in attempting to deal with specified types of purported disorder related to certain football matches.

4. The NSS agrees with the Moderator of the Church of Scotland that religious sectarianism in Scotland is a ‘deeply cultural matter’\(^4\).

5. While the proposed legislation may diminish unacceptable targeted behaviour it will not totally eradicate its causes and other manifestations of violent and offensive religious sectarianism in Scotland.

\(^1\) Para J29 Protection of freedom of expression. Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practicing their religion or belief system. (Racial and Religious Hatred Act 2006) http://www.legislation.gov.uk/ukpga/2006/1/schedule


\(^4\) Scotsman 17 June 2011
6. The causes of unacceptable religious sectarian behaviour at football matches and elsewhere lie deeply rooted in Scottish and UK society. Religious identities are continually expressed and reinforced in a number of ways by institutions central to Scottish society.

7. State funded schools are divided between Roman Catholic and ‘non-denominational’ (Protestant) schools – many of the latter with Church of Scotland chaplains. Whatever the efforts of teachers, ministers and priests to promote inter-faith understanding, the overall effect of schooling in such a system is to emphasise the significance of faith and faith distinctions in society.

8. Scotland’s publicly funded further education colleges and universities provide a model of how state funded education can be delivered without a religious ethos, religious indoctrination or religious observance to students from various ethnic and national origins and a great diversity of religious and non-religious beliefs.

9. Sectarian divisions have even been embedded in the Scottish Parliament in the weekly ‘Time for Reflection’ where, because of the attempt to incorporate and reflect the religious diversity of the nation, the most numerous appearances are by Protestant and Roman Catholic representatives –reinforcing, in the Parliament, the idea that these religious differences are of great importance.

10. Successive Scottish governments have given privileged consultative status to the two biggest churches in Scotland – most recently evident in the consultation held by the Minister for Justice with representatives of the Church of Scotland and the Roman Catholic Church prior to the release of the proposed legislation on offensive and violent behaviour at football matches.

11. Politicians often appeal for support on the basis of religious distinctions and thus contribute to the maintenance of vigorous attachment to religious identities amongst some Scots.

12. Perhaps the most important symbolic representation of the continuing divisions between Roman Catholics and Protestants in Scottish society is the oath required of a new monarch (under the Acts of Union of 1706/7) to swear to maintain, in Scotland, Protestantism and the Presbyterian form of church government and the exclusion of Roman Catholics from succession to the throne.

13. The Scottish Parliament expressed opposition to discrimination against Roman Catholics in the succession to the throne in 1999. It is time that it considered making representations to remove a new monarch’s oath to maintain Protestantism in Scotland.

14. The Scottish Parliament’s consideration of the UK Parliament’s Scotland Bill over the next six months provides an opportunity to initiate action to end the additionally Protestant character of the monarchy in Scotland by proposing amendments to the relevant UK legislation.

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15. Unless these issues are attended to, the fundamental factors that shape sectarian religious attitudes and behaviour in Scotland will continue to result in unacceptable and offensive behaviour at football matches and in other locations.

16. Increasing numbers of Scots reject, or are indifferent to religion and the differences among Christians that are the sources of violence and disorder at football matches. There is thus a need for the Parliament and commentators to avoid attempting to depict the Scottish population as divided between Protestants and Roman Catholics. There is a large and growing sector of the population to whom these distinctions are irrelevant.

17. There is thus a considerable agenda for the Scottish Parliament in several areas of its responsibilities, not just in the Justice Committee, if it wishes fundamentally to challenge the undesirable manifestations of religious differences in various aspects of Scottish life. For this reason this paper is being circulated to all members of the Scottish Parliament, the Education and Culture Committee and the Scotland Bill Committee.

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