



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Tuesday 4 February 2014

Session 4

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Scottish Parliament

Tuesday 4 February 2014

[The Presiding Officer *opened the meeting at 14:00*]

Time for Reflection

The Presiding Officer (Tricia Marwick): The first item of business is time for reflection. Our leader today is Christine Duncan, the chief executive officer of Scottish Families Affected by Alcohol and Drugs.

Christine Duncan (Scottish Families Affected by Alcohol and Drugs): Presiding Officer and members of the Scottish Parliament, thank you for the opportunity to address you this afternoon.

Imagine you go home tonight and someone in your family—a son, daughter, partner or sister—tells you that they are addicted to drugs and you then find that society either blames you for the addiction or fails to understand what it means for a family to be in recovery. That is the reality for many of the families in Scotland that have been impacted by a loved one's substance misuse. Current estimates say that there are about 60,000 problematic drug users and 200,000 problem drinkers in Scotland. Around each person who has an addiction there is a constellation of anywhere between four and six people who are directly impacted.

Scottish Families Affected by Alcohol and Drugs is tasked with delivering the drug and alcohol strategies. We have a national helpline and, from callers to the helpline and the many families we engage with through a network of peer-led family support groups, we hear daily what the reality is for everyone affected. We hear from 78-year-old parents who are struggling to cope with a 55-year-old son's drug addiction; we hear from parents who are worried about their teenage son's use of new psychoactive substances, or legal highs; and we hear about cousins who are worried that their relative has once more relapsed and is suicidal.

Numerous national and international studies show that the harms that are experienced by families as a result of their relative's drug misuse include psychological distress, mental and physical ill-health, domestic abuse and negative financial consequences. It can also lead to social isolation. Stigma, unfortunately, still surrounds anyone who has an addiction, and for those close to someone who has an addiction, there is the double stigma of often being shunned just for loving a son or father or daughter who is misusing substances. One family member told me that it was easier dealing with her son's addiction than it

is being ignored or pointed at in the street by neighbours and former friends.

What do families need? They are in need of services in their own right. They need understanding and support to help them as they hold their families together. Again on our helpline, when asked what they would like, the average family member simply says, "Help for my boy," or, "I just want her to get her life back together." Families are very selfless. What would our communities be without them?

I would like to leave you with the following thought: while children outgrow childhood, parents never outgrow parenthood.

Business Motion

The Presiding Officer (Tricia Marwick): The next item of business is consideration of business motion S4M-08938, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 of the Marriage and Civil Partnership (Scotland) Bill.

14:03

The Minister for Parliamentary Business (Joe FitzPatrick): Moving these motions is often a formality, but I hope that you will bear with me for a second, Presiding Officer, as I say that it is with great pride that I move the motion setting out the timings for the Marriage and Civil Partnership (Scotland) Bill. Most importantly, I look forward to the debate and to saying a big “I do” to equal marriage at decision time.

Motion moved,

That the Parliament agrees that, during stage 3 of the Marriage and Civil Partnership (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 and 2: 50 minutes

Groups 3 and 4: 1 hour 15 minutes

Groups 5 and 6: 1 hour 30 minutes—[*Joe FitzPatrick.*]

Motion agreed to.

Topical Question Time

14:04

Education Courses (Access)

1. Ken Macintosh (Eastwood) (Lab): To ask the Scottish Government, in light of figures from the Scottish Qualifications Authority that suggest a reduction in the numbers enrolling for national exams, what action it is taking to ensure access to courses. (S4T-00593)

The Minister for Learning, Science and Scotland’s Languages (Dr Alasdair Allan): Curriculum for excellence is built on local flexibility, ensuring that schools meet the best educational needs of their learners and provide access to courses across the curriculum. Decisions on the number of subjects that pupils take should be based on maximising achievement. Learners may study for fewer qualifications at a particular point but leave school with a greater overall level of achievement. It is not surprising that there will be changes in patterns of presentation for qualifications. Indeed, it is extremely difficult to make meaningful comparisons with the statistics, given that we are talking about two completely different qualification systems.

The curriculum is designed to support and recognise a wider range of skills, achievements and qualifications than ever before. That approach allows greater depth of learning and will best prepare Scotland’s young people for life and work in the 21st century.

Ken Macintosh: The minister will know that the Scottish curriculum has always been based on offering a broad range of subjects to pupils not only up to secondary 4 but beyond. Analysis of the SQA figures suggests a significant narrowing of that choice. In parts of Scotland, some pupils are taking six courses, while in others some pupils are taking eight. The average number of courses taken is down from 7.3 to 6.8, which is a significant change.

The Presiding Officer (Tricia Marwick): Can we have a question?

Ken Macintosh: There is a particularly marked impact on science and languages, which are down 8 and 10 per cent. That comes on top of a drastic fall in, for example, the number of pupils enrolling to study German. How is the minister addressing that very worrying trend?

Dr Allan: As I have mentioned, the member is comparing not only two different qualification systems but two different structures of courses. The number of subjects that are studied in S4 is a decision for individual schools and local

authorities, but it should be said that the number of subjects that are studied in S4 does not determine the number of qualifications that a pupil will leave school with. For instance, as I have mentioned in the chamber before, there is a huge variety of language courses on offer now—not just national 4s and 5s but qualifications in languages for life and work. It is also worth saying that the figures are provisional and that the final totals will not be presented until the end of March.

Ken Macintosh: I am not entirely sure whether local flexibility or having such variations is the answer to a national curriculum. As well as the potential inequity and anomalies that are introduced by such a system, we have a decision to introduce a brand new appeals system this year. Given that anomalies are likely to be thrown up and the Scottish Government has limited the opportunities that are available to pupils to appeal, what recourse will pupils have and what action will the minister take if there is inequity?

Dr Allan: First, as I am sure the member is aware, Scotland does not have a national curriculum as he suggests. Despite the name, curriculum for excellence is a change in the methodology of teaching and examining. It should be said that standards are absolutely being maintained; indeed, there is every evidence to suggest that the new exams will be very challenging.

Changes have been made to the appeals system. However, there will still be the opportunity for anyone who has exceptional circumstances to have those considered and for a check of exam papers, should any questions arise around that. The changes that have been made are based on the understanding that the appeals system is there to cope with errors in the process or unusual circumstances. That is why the appeals system was established in the first place.

George Adam (Paisley) (SNP): Will the minister outline the support that is being provided for teachers ahead of the new nationals?

Dr Allan: An unprecedented level and range of support is being provided. Since 2012, more than £5 million of additional funding has been provided, including two extra in-service days. Perhaps even more important than that has been the involvement of teachers throughout the construction, design and implementation of curriculum for excellence and the new exams and, I hope, a responsiveness to teachers' points, such as the fast-tracking of material in response to requests on nationals 4 and 5 and their assessments.

Mary Scanlon (Highlands and Islands) (Con): Despite what the minister says, an S4 pupil from Falkirk has written in today's *Scotsman*:

"The slow but steady simplification of exams ... benefits only politicians, who are able to sing their own virtues as exam results reach record highs every year."

I ask the minister to respond to that criticism. I hope that, in doing so, he can reassure parents, pupils and teachers.

Dr Allan: We welcome and receive comment from young people and people who are sitting exams around the country. As I understand it, the person who is concerned and who has written the letter feels that the exams in the coming diet will be too easy. However, I certainly do not think that the SQA or any experts who are responsible for setting our exams would agree with that stance. The SQA has a gold standard when it comes to maintaining standards in our exam system, and I have complete confidence in it.

Marriage and Civil Partnership (Scotland) Bill: Stage 3

14:11

The Presiding Officer (Tricia Marwick):

Before we move to the next item of business, I extend a welcome to the members of the public who are in the public gallery. However, I say to them that this is a meeting of the Parliament in public, not a public meeting, and I would appreciate it very much if they did not participate in the debate by applauding or making other interventions.

The next item of business is stage 3 proceedings on the Marriage and Civil Partnership (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2, the marshalled list of amendments and the groupings of amendments.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds; thereafter, I will allow a voting period of one minute for the first division after a debate. Members who wish to speak in the debate, on any group of amendments, should press their request-to-speak buttons as soon as possible after the group is called.

Members should now refer to the marshalled list of amendments.

Section 10—Persons who may solemnise marriage

The Presiding Officer: Amendment 25, in the name of John Mason, is in a group on its own.

John Mason (Glasgow Shettleston) (SNP): I emphasise that amendment 25 and other amendments that I have lodged are intended to strengthen the protections for those who disagree—who, frankly, will continue to disagree—with same-sex marriage. Other members may speak against the bill in principle, but that is not my intention, whatever my personal beliefs.

The words “strengthening” and “protection” can seem a bit subjective, but that is where we are. We are not at zero per cent protection, nor are we or can we be at 100 per cent. We are all trying to anticipate what the courts may or may not decide in the years ahead. I accept that the Government has made attempts to build in safeguards on what is a very controversial issue, but I would argue that we could make some improvements.

In other legislation, we have seen a degree of accommodation by the Government, which has been very welcome—for example, in the Freedom

of Information (Amendment) (Scotland) Act 2013 and in the current budget bill. Surely, some flexibility today would show that Parliament is listening to the public. Some of my amendments—for example, amendments 26 and 27—might gain greater support than others, but for now we are looking at amendment 25.

Amendment 25 is based on an amendment that was accepted by the United Kingdom Government during the passage of the Marriage (Same Sex Couples) Act 2013. Section 10 of the Marriage and Civil Partnership (Scotland) Bill proposes a new section 8(1D) of the Marriage (Scotland) Act 1977, which refers to no duty being imposed by specific proposed new subsections of the 1977 act. By contrast, the Westminster protection is broader, referring to no person being

“compelled by any means”

—that is the key phrase—

“including by the enforcement of a contract or a statutory or other legal requirement”.

The aim of amendment 25 is not to remove the “no duty imposed” terminology but to bolster it by putting in the additional protection of a person not being “compelled by any means”. That is to give protection for the religious liberty and rights of conscience of those groups and individuals who do not wish to participate in same-sex marriages.

The “by any means” terminology should cover, for example, the hire of public premises being made conditional on a religious body being a prescribed body that is able to conduct same-sex marriages. That is not currently covered by the limited “no duty imposed” terminology. The amendment would help to prevent a scenario from occurring in which, for example, a religious organisation is refused hire of public buildings because it is not registered for same-sex marriages.

Given that a similar amendment was accepted at Westminster, I would argue that we could learn from that example and that amendment 25 could similarly be accepted by the Scottish Parliament and the Government today.

I move amendment 25.

14:15

Marco Biagi (Edinburgh Central) (SNP): One of the key concerns when the bill was discussed at the Equal Opportunities Committee was the nature of the opt-in requirement and the question whether there could be any kind of challenge.

When Aidan O’Neill and other legal experts came before the committee, my first question was whether there could be any means, under human rights or other law, whereby a church could be

forced to perform a same-sex marriage, as amendment 25 tries to stave off. It is worth going through the response that I got directly, as it shows the difference between Scotland and England. It was:

“It could be argued that, at a certain level, the Church of England is a public authority when it carries out marriage functions because of its duty in law to marry anyone ... In Scotland, there is a different relationship between church and state. The Church of Scotland is not and has never been a department of the state”.

I then asked:

“Would article 9 of the European convention on human rights offer strong protection to a church against such a challenge?”

Aidan O’Neill said:

“Yes.”—[*Official Report, Equal Opportunities Committee*, 19 September 2013; c 1494.]

The opinion that came before the Equal Opportunities Committee from the person who is most closely associated with the campaign against equal marriage was that no further protection is necessary.

I add that the issue throws up some serious questions about parliamentary competence. We are not, in this Parliament, able to change or amend any duty that the European convention on human rights would put on us. As a layman, I would suggest that the wording

“may be compelled by any means”

could be taken to refer to an attempt to pass something in employment law or in other reserved areas. As members throughout the chamber know, should an amendment that creates an interference with reserved areas pass at this stage, it would cause the entire bill to fall. I hope that members will reject the amendment.

Jackie Baillie (Dumbarton) (Lab): It would be helpful if the cabinet secretary could, when winding up, offer clarification on John Mason’s amendment 25 so that members, in exercising their vote, are aware of all the facts. I understand that the amendment seeks to ensure that there are no circumstances in which any religious or belief body can be compelled to carry out a same-sex marriage.

I understand—and as has been referred to—that a similar amendment was made at Westminster to the Marriage (Same Sex Couples) Bill, which became the 2013 act. Can the cabinet secretary confirm whether that is the case, and whether there is a difference between what was passed at Westminster and the bill? Can he confirm whether the point raised by my colleague Marco Biagi is indeed correct about the reservation?

I understand that the view of the Equality Network is that the amendment is “unnecessary” and that:

“Section 10(2) of the bill already states ... that there is no duty imposed by the bill on religious or belief bodies to request to be prescribed to conduct same-sex marriages, or to nominate any of their celebrants for registration to conduct same-sex marriages.”

That provision goes on to offer the same protection to individual celebrants, too.

It would be helpful to the entire Parliament if the cabinet secretary could advise us whether John Mason’s amendment is necessary and on what discussions he has had, if any, with our colleagues at Westminster, given the fact that similar changes were apparently accepted in the UK Parliament.

Patrick Harvie (Glasgow) (Green): As Jackie Baillie says, the Equality Network has described amendment 25 as “unnecessary”. I would guess that the Government will take the same view, given the existing protections in the bill.

In speaking against the amendment, I think that it is worth recalling quite how strong those existing protections are. John Mason used the phrase “religious liberty”. There is at present no religious liberty on the question of same-sex marriage. Those religious bodies and officiants who wish to welcome same-sex couples on equal terms are forbidden from doing so by the secular law—this Parliament’s law. If we want religious liberty to exist on this question, liberty has to be the freedom to say yes as well as the freedom to say no—or it is not freedom at all.

At the moment, the bill actually goes further towards the constituency that John Mason seeks to represent than pure religious liberty. If we were simply concerned with religious freedom, we would say that religious officiants are neither forbidden nor compelled to conduct same-sex marriages. In fact, what the law says is that religious bodies may forbid their officiants from conducting same-sex marriages but that they may not compel.

Under the bill as it stands, religious bodies as well as individual officiants will have their freedom protected. It is worth reflecting on quite how far John Mason seeks to go away from the principle of religious freedom.

Bob Doris (Glasgow) (SNP): I have a brief comment that I hope the cabinet secretary will deal with in his summing up.

The argument seems to have been fairly well made that amendment 25 may not be necessary. I am sure that the cabinet secretary will say something about that in his summing up. However, I ask the cabinet secretary, in terms of building the largest possible consensus in relation to the bill,

whether there would be any unintended consequences if amendment 25 was passed. In other words, would there be detriment to the bill if amendment 25 was passed? I seek clarification on that from the cabinet secretary in his summing up.

Chic Brodie (South Scotland) (SNP): I understand and accept the principles of the bill, but the overriding interest on my part is to protect the rights of individuals while wishing to extinguish the rancour that has characterised some of the debate prior to today. I believe that amendment 25 will help.

I raised with the cabinet secretary the issue of article 9 of the European convention on human rights, which provides for

“the right to freedom of thought, conscience and religion”,

and the

“Freedom to manifest one’s religion or beliefs ... subject ... to such limitations”,

which include among several others

“the rights and freedom of others.”

Some of those people may be involved in religious organisations. That provision is compounded by the Equality Act 2010, which prohibited discrimination because of religion or belief in connection with employment, vocational training or education.

We do not need another act of toleration, and we have gone way beyond that; but neither do we need another case like the Ladele and McFarlane cases, which were on civil partnerships, ending up in the European courts, which so far have ruled that employers or organisations can legitimately limit the freedom of employees to manifest their religions or faith to prevent discrimination to other groups. Sometimes the law can be an ass.

There is no unilateralism in the bill to protect the freedom of all individuals to live and believe as they wish. That circle must be squared in the bill. I think that amendment 25 deserves consideration.

The Cabinet Secretary for Health and Wellbeing (Alex Neil): I do not support amendment 25. I will try to deal with the points that have been raised by the various speakers.

Everybody, including the Scottish Government, has recognised throughout that many churches and celebrants will have concerns about same-sex marriage. Our consultations on the bill and the planned amendments to the Equality Act 2010 reflect that.

I do not consider that there is a need to borrow terminology from the 2010 United Kingdom act. I will give a brief synopsis of the protections for Scottish religious and belief bodies and celebrants as a result of the legislation that we introduced

and the related amendments to the Equality Act 2010.

The bill will establish an opt-in system for bodies that wish to take part. There is provision at section 10 that makes it clear that the bill does not impose a duty to opt in and does not impose a duty on a person to apply for temporary authorisation. We have also agreed amendments to the Equality Act 2010 with the UK Government to protect individual celebrants from actions of discrimination. I believe that the approach that we have taken was supported by the evidence given to the Equal Opportunities Committee.

Amendment 25 could actually cause confusion. In particular, it is not clear what is meant in the amendment by

“the enforcement of a contract or a statutory or other legal requirement”.

Including those words in marriage legislation might suggest that there is a statutory role for religious and belief bodies in marriage ceremonies beyond their role under the Marriage (Scotland) Act 1977.

During the debate on an equivalent amendment at stage 2, John Mason mentioned a specific example, as he has done today, of a local authority that would not hire out premises to a church because that church did not toe the line on same-sex marriage. We covered that specific issue in the Government consultation on the draft bill before it was introduced to Parliament.

Paragraphs 62 to 65 of annex A to the consultation noted that a local authority that refuses to let premises to a body on the basis of the body’s religious beliefs risks a successful claim for discrimination. I know that John Mason often raises concerns about the public sector equality duty. Our consultation on the bill went on to note that that duty does not mean that public bodies can discriminate when the Equality Act 2010 says that that is unlawful.

In conclusion, I invite the Parliament to reject amendment 25 for three reasons. First, we specifically addressed in our consultation the point that John Mason raised at stage 2 on churches hiring premises. Secondly, to import terminology from UK legislation into the bill could cause utter confusion. Thirdly, there are robust protections for religious bodies and celebrants in the bill and in the planned amendments to the Equality Act 2010. I therefore consider that amendment 25 is unnecessary and that it should be rejected.

The Deputy Presiding Officer (John Scott): I call on John Mason to wind up and press or withdraw his amendment.

John Mason: I will comment on a few of the speeches that have been made.

Marco Biagi talked about human rights law, but that is not really the concern here. The concern is that a zealous local authority that is very committed to the public sector equality duty will refuse to let a hall or whatever to a religious group that has not signed up to same-sex marriage. It is all very well to say, as the cabinet secretary did, that there is a risk that the local authority could be defeated in the courts, but the reality is that a small charity or a small church cannot possibly afford to go to the courts. Given the cost, it is just not possible for many groups to get such clarification. That is why I argue that what I propose needs to be in the bill.

Jackie Baillie used a useful word that I think will come up again this afternoon when she said that the amendment is “unnecessary”, and the cabinet secretary said that there is no “need” for it. However, that is not really my argument. The argument is not that we have 100 per cent safeguards here or that we do not. We know that we are in a grey area. The question is whether we can make things a little bit clearer through amendment 25 and others. That is why I am arguing for what I propose.

Patrick Harvie mentioned religious freedom. I am happy to accept that there is not complete religious freedom at the moment, but some of the danger around the bill is that, overall, religious freedom will be reduced.

I end by saying that, if the Parliament accepts none of my amendments this afternoon, we will send out a signal that we have not been listening. I think that we should at least accept one or two of them. I press amendment 25.

The Deputy Presiding Officer: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. As it is the first vote of the afternoon, there will be a five-minute suspension.

14:27

Meeting suspended.

14:33

On resuming—

The Deputy Presiding Officer: We move to the division on amendment 25.

For

Brodie, Chic (South Scotland) (SNP)
Brown, Gavin (Lothian) (Con)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fergusson, Alex (Galloway and West Dumfries) (Con)

Fraser, Murdo (Mid Scotland and Fife) (Con)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
McGrigor, Jamie (Highlands and Islands) (Con)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allard, Christian (North East Scotland) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Buchanan, Cameron (Lothian) (Con)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Davidson, Ruth (Glasgow) (Con)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hilton, Cara (Dunfermline) (Lab)
Hume, Jim (South Scotland) (LD)
Hyslop, Fiona (Linlithgow) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, Johann (Glasgow Pollok) (Lab)

Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Abstentions

Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Malik, Hanzala (Glasgow) (Lab)
 Stewart, David (Highlands and Islands) (Lab)

The Deputy Presiding Officer: The result of the division is: For 21, Against 96, Abstentions 3.

Amendment 25 disagreed to.

After section 14

The Deputy Presiding Officer: Group 2 is on protection of freedom of expression. Amendment 26, in the name of John Mason, is grouped with amendments 3, 1, 2 and 30.

John Mason: Amendment 26 is one of the simplest and most straightforward amendments and I hope that it will gain support, even from those who are strongly in favour of the bill.

Parliament knows the strength of feeling with which many in Scotland hold to the view that marriage can be only between a man and a

woman. That has been the prevailing view in Scotland for centuries. It may now be considered to be a minority or even old-fashioned view, but it is an integral tenet of faith for many Christians, Muslims and others, as well as the belief of many with no faith position at all.

The bill's policy memorandum states:

"Many people and organisations hold the view that marriage can only ever be between a man and a woman. The Government has made clear its respect for this view".

Similarly, during our oral evidence sessions, the director of Stonewall Scotland, Colin Macfarlane, told the Equal Opportunities Committee that not believing in same-sex marriage does not make an individual homophobic

"in any way, shape or form."—[*Official Report, Equal Opportunities Committee*, 5 September 2013; c 1397.]

However, a distinct lack of respect for people who express that view has already come to light—and that is before the law has changed. For example, we have seen volunteers in the third sector removed from the board for publicly supporting traditional marriage and our colleague Elaine Smith vilified for expressing her opposition to same-sex marriage.

John Finnie (Highlands and Islands) (Ind):

Does the member accept that intemperate language has been used on both sides of the debate? Does he condemn its use on both sides, as I do?

John Mason: Yes, I completely accept that intemperate language has been used. If I believe everything that is said on Facebook, thousands of people will be campaigning against me at the next election.

At stage 2, some members asked why only the current definition of marriage was being singled out as worthy of respect in the amendment. The answer, of course, is that, if the law is changed, the new definition of marriage will automatically be afforded full protection and respect by the law. Amendment 26 is necessary to ensure that what may become the old definition of marriage, to which many in Scotland will continue to adhere, is likewise protected and respected. Should the new definition of marriage be agreed by Parliament, it is important that individuals and organisations that do not agree with the new definition feel free to express their opinions without fear. By agreeing to the amendment, Parliament would send a strong signal that intolerance of those who continue to believe in the current definition of marriage will not be tolerated.

I understand that the language that is used in amendment 26 is a key test that is used by the European Court of Human Rights. Surely showing tolerance of and respect for those whose views

may differ from the state's position is the hallmark of any democratic society. I therefore urge MSPs across the chamber, whatever their view is on the bill, to support amendment 26.

I turn to my amendment 30. It has been accepted that the need to amend the Equality Act 2010 is part of the process. I know that the Scottish Government has been working with the UK Government to prepare amendments to that act that relate to religious bodies, celebrants and others who do not wish to take part in the solemnisation of same-sex marriages.

However, concerns about the Equality Act 2010 go beyond the issue of celebrants and what happens inside religious buildings. The further issue relates to ordinary people, specifically those who work in the public sector. The Equality Act 2010 is intended to protect such people against discrimination on the ground of religion or belief, but it has tended not to do so. That protected characteristic has rather been relegated below others. Therefore, I would like to see additional amendments to the 2010 act that would specify that the protected characteristic of religion or belief includes the belief in marriage as currently defined.

That would not guarantee success in the courts, but it would confirm that belief is capable of being protected by the 2010 act and would make it clear that compliance with the public sector equality duty in section 149 of that act requires ensuring that no one should suffer any detriment as a result of holding or expressing the view that marriage is between a man and a woman. Nobody who works in or seeks a career in the public sector in Scotland should have their equality and diversity credentials and therefore their suitability for employment disputed merely because they hold to the existing view of marriage. That is why I believe that amendment 30 is required.

I move amendment 26.

Siobhan McMahon (Central Scotland) (Lab): I lodged amendment 3 because I believe that the important principle of reasonable accommodation should be prioritised in assessing how to fulfil the public sector equality duty that is contained in the UK Equality Act 2010.

As I said at stage 2, the public sector equality duty places a duty on public authorities to have regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations, which includes the need to tackle prejudice. Many organisations, such as churches and religious charities, are at the forefront of tackling social problems in their area—for example, by working with the homeless or providing food banks.

It must be made clear that the public sector equality duty should not be used to deny religious organisations that are known to be opposed to same-sex marriage the ability to provide public contracts or to hire public buildings, as many churches do. Public bodies should seek to make reasonable accommodation for religious groups in order to facilitate those organisations to maintain their ethos.

For example, a local authority may claim that it would be in breach of the public sector equality duty if it were to give a grant towards the cost of a community project to, or enter into a contractual relationship with, a local church if that church were unwilling to marry same-sex couples. Similarly, public sector employees may find themselves being asked to act against their conscience if they believe in traditional marriage. Nobody who works in or seeks a career in the public sector in Scotland should have their equality and diversity credentials or their suitability for employment disputed merely because they hold to the existing view of marriage, whether expressed or not.

At stage 2, Alex Neil said:

"I understand the concerns that religious bodies have expressed. As well as making it clear that people who oppose same-sex marriage should not be denied public services or the use of public facilities, we have made it clear that religious bodies that oppose same-sex marriage will continue to be eligible for grants and public services. As I have said, any public services that are provided through public money must in principle be available to all."—[*Official Report, Equal Opportunities Committee*, 19 December 2013; c 1730.]

I therefore urge Alex Neil to do exactly what he said at stage 2 and support my amendment.

Richard Lyle (Central Scotland) (SNP): As an adoptive parent myself, I appeal to the cabinet secretary and to every member in the chamber, whatever their view is of the bill, to understand why I feel that it is incumbent upon me to return with amendment 1 at stage 3. I do so because this is a matter of the utmost importance. People have to experience adopting a child to know what couples go through. Social workers—quite rightly—ask many questions and my wife and I went through the process and eventually got a baby 32 years ago.

I am glad that the cabinet secretary is on the record as saying:

"It would not be appropriate for prospective and current foster carers who oppose same sex marriage to have their suitability to foster children questioned just because of opposition to same sex marriage."

I do not doubt his sincerity for one minute. He went on to say that

"opposition to same sex marriage is not by itself sufficient to make a person unsuitable to provide foster care."—

[*Official Report, Written Answers*, 12 November 2013; S4W-018023.]

I think that it is the phrase “by itself” that may trouble potential carers. It would be a genuine tragedy for everybody involved—especially the children—if prospective foster carers or adopters were turned down because their views on same-sex marriage led the authorities to question their suitability for the role. What is more likely, yet no less tragic, is that applicants with so-called traditional views on marriage will be put off applying in the first place, fearing that they will be branded homophobic.

It is worth emphasising that amendment 1 gives no special protection to people who disagree with same-sex marriage. Rather, it means that no views on the subject, whether for or against, should be factors in the approval process. My amendment would therefore provide equal protection for a couple who were passionately in favour of same-sex marriage and who found themselves in difficulty. That is why the bill should state that views on same-sex marriage cannot be taken into consideration during the approval process for prospective foster carers or adoptive parents. I therefore earnestly urge colleagues to lend me their support this afternoon.

Amendment 2 aims to ensure that an organisation’s charitable status is protected if it believes in the present definition of marriage. As every member knows, Scottish civic society is teeming with charitable organisations, many of them religious, which are engaged in all sorts of social activities in their communities such as food banks, homelessness services or debt advice.

It is also the case that many of those charities, due to their ethos, would not be supportive of same-sex marriage. That certainly does not mean that same-sex couples would be discriminated against with regard to the services that are provided by such bodies—to suggest otherwise is quite wrong and would be a terrible insult to those organisations. On the contrary, the issue at stake is that the Office of the Scottish Charity Regulator may seek to use a charity’s opposition to same-sex marriage as a means of challenging its public benefit. The loss of charitable status could easily lead to such an organisation’s closure, which would have a hugely detrimental impact upon the vulnerable people who rely on the services that it provides.

Despite previous ministerial assurances regarding the future of the Catholic adoption agencies, OSCR has sought to remove charitable status from St Margaret’s Children and Family Care Society because St Margaret’s gives preference to married couples. I hope that all members have read the extremely thoughtful letter that was sent to us by the Rev Thomas White, the

executive chair of St Margaret’s, which expands on the issue. The fact that OSCR’s decision has been overturned on appeal in the past few days is extremely good news, but it does not mask the fact that OSCR wished to remove St Margaret’s charitable status and that a lengthy period of uncertainty, disruption and distress has engulfed that small society. St Margaret’s had to use the law to protect itself, but a less well-resourced charity might feel that the costs would deter such action.

14:45

The appeal decision is welcome, but the entire sorry episode serves to underline why amendment 2 is so important. It would simply ensure that OSCR could not consider an organisation’s position on same-sex marriage when assessing its charitable status. I therefore urge the Government and all members to put the matter beyond doubt and to back amendment 2, which would send out a powerful message to the many voluntary bodies that are currently hard at work in our communities and which might be worried about the bill’s unforeseen impact.

The Deputy Presiding Officer: Several members wish to speak, so I urge them to be as relatively brief as they can in making their point.

Marco Biagi: Above all with the bill, which will shortly become law, I want it to be even handed. I want the same protections and provisions to apply to lesbian, gay, bisexual and transgender people and to those who are not LGBT, including those who oppose the bill. Whenever the Equality Act 2010 is mentioned in the Equal Opportunities Committee, my colleague John Mason mentions the prospect of a hierarchy of rights. However, it seems to me that the amendments in the group try to create a hierarchy of rights by creating special protections.

Those protections are unnecessary. Section 14 states:

“nothing in this Part so far as it makes provision for the marriage of persons of the same sex and as to the persons who may solemnise such marriages affects the exercise of—

(a) the Convention right to freedom of thought, conscience and religion,

(b) the Convention right to freedom of expression”.

Those two strong protections run right through the bill and apply equally to those on both sides of the debate. Moreover, the suggested amendments to the Equality Act 2010 in amendment 30 have already been rejected by the United Kingdom Government and would therefore cause the bill never to come into force.

The argument behind amendment 26 is that opposition to same-sex marriage is a belief that is worthy of respect in a democratic society. John Mason suggests that we need a provision on that because the bill creates a new definition. However, the bill goes out of its way to ensure that it is perfectly legal for a church or other religious organisation not to perform same-sex marriage. The bill creates a situation in which every church has to choose, so it seems perverse to think that the wording of the bill could be cited as a reason for actions against a group that had used the powers that are in the bill. There is a strong difference between a bill that permits same-sex marriage and one that criminalises opposition to it. This bill is clearly permissive rather than compulsive.

None of the amendments in the group is necessary, because all the protections are in the bill. I would not want to lodge an amendment stating that support for same-sex marriage is a belief that is worthy of respect in a democratic society or that an organisation that supports same-sex marriage should not be denied access to public services, even though I can foresee circumstances in which local authorities or other organisations might have a bit of reluctance in that regard. Let us have one set of protections that applies broadly and that covers everyone, so that we are all equal in the eyes of the law.

Jackie Baillie: I wish to comment on amendments 1 and 2 in the name of Richard Lyle and amendment 30 in the name of John Mason.

I will start with the latter. I am totally opposed to amendment 30, because whether or not John Mason intended this to be the case, it is undoubtedly a wrecking amendment. Expanding the protected characteristic of religion and belief to include belief that marriage should be only between one man and one woman raises questions about the overall status of other beliefs. As I understand it, it is extremely unlikely that the UK Government will agree to those particular amendments to the Equality Act 2010. Therefore, because the bill could be enacted only after those specific changes had been made, it would in effect never happen. Of course, it is up to individual colleagues to exercise their judgment on amendment 30, but I urge caution, given the likely effect of agreeing to it.

The Scottish Government has, of course, been in dialogue with UK counterparts, and it would be useful for the cabinet secretary to set out the agreement for an order under section 104 of the Scotland Act 1998 and how those additional protections in the Equality Act 2010 will be taken forward.

I turn to amendments 1 and 2 from Richard Lyle. It seems a long time ago, but I recall the same

matters being discussed in the chamber during the passage of previous legislation and my colleague Michael McMahon seeking clarification from ministers about Catholic adoption agencies when we last considered fostering and adoption. He was given an on-the-record assurance about the Scottish Government's intentions, and we know that that counts.

I recognise that decisions about adoption and fostering are taken with the interests of the child as the paramount factor, so what reassurance can the cabinet secretary offer that belief in traditional marriage between a man and a woman is not an issue in determining fostering and adoption?

Members will understand concerns, as the charitable status of St Margaret's Children and Family Care Society was questioned, and I am delighted—as, I am sure, are many other members—at the ruling of the Scottish Charity Appeals Panel only last week, which recognised that the society provides public benefit and qualifies for charitable status.

My question to the cabinet secretary is whether we need to put the matter beyond doubt by putting it into the bill. If not, what clear indication of safeguards and intention on the Government's part can he offer that would be useful to members in determining how they vote?

Margaret Mitchell (Central Scotland) (Con): I speak in support of amendment 26, which reflects the high level of public concern about same-sex marriage and seeks to protect those who hold to the current definition of marriage. It provides wider protection than the provision that protects clergy and religious celebrants. In essence, it seeks to ensure the right to freedom of speech for individuals of all faiths who believe that marriage is between only a man and a woman.

In a democratic society, showing respect and tolerance for those whose views differ from the position that is legislated for by the state is fundamental. The main argument against amendment 26 appears to be that it is discriminatory because it implies that other views are not worthy of respect. I consider that to be oversensitive to the point of looking like an excuse not to support that fundamental freedom.

Amendment 3 is also worthy of support to guard against the overzealous, politically correct interpretation of the bill. On that basis, I consider Richard Lyle's amendments 1 and 2 also to be worthy of support.

Jim Eadie (Edinburgh Southern) (SNP): I oppose amendment 1 in the name of my friend and colleague Richard Lyle, with whom I have a respectful disagreement on the subject.

Amendment 1 is identical to stage 2 amendment 43, which the Equal Opportunities Committee considered and to which it disagreed. It would prevent an adoption agency, court or local authority from taking into account a person's views about same-sex marriage in all cases in making decisions on approving the person as an adopter, on the adoption of a child or on approving the person as a foster carer.

Speaking as someone who is gay and adopted, I believe that amendment 1 is discriminatory and unnecessary.

It is discriminatory because it singles out beliefs about same-sex marriage as being worthy of particular protection. However, why should other beliefs—for example, a belief that divorce is wrong—not be equally protected? Passing legislation that gives greater protection to one particular belief might undermine the legal position of all other beliefs, because courts might take the view that the Parliament intended that beliefs that are not specifically listed in legislation should be less protected.

Amendment 1 is unnecessary because adoption and fostering legislation already requires decisions to be based on, as Jackie Baillie said, one paramount consideration: the best interests of the child. Constraining the courts, local authorities and adoption agencies, as the amendment seeks to do, could unacceptably interfere with their ability to ensure that the best interests of the child remain the paramount consideration.

It is clear that—here I agree with Richard Lyle—a person's view on same-sex marriage should not and must not, as family law and equality and human rights legislation already state, be the determining factor in deciding their suitability as an adoptive or foster parent. However, it would be disproportionate and would distort the decision-making process to exclude all consideration of such views in all cases. For example, where a child has been successfully brought up for some years by a same-sex couple and is now in need of adoption or fostering, the fact that a possible adoptive or foster parent has strong views against same-sex marriage and says that they would seek to teach the child those views might, in some cases, count against their suitability as adoptive or foster parents.

For those reasons, the amendment is disproportionate. Overall, I believe that it is unnecessary and could be discriminatory. For all of those reasons, I urge the chamber to reject the amendment.

Nigel Don (Angus North and Mearns) (SNP): I would like to speak briefly on amendment 26. First, for the avoidance of doubt, I agree that it is unnecessary—indeed, that is presumed within the

words—but we must acknowledge that, as we have all seen from our mailboxes, there is widespread concern about the matter.

Why is it relevant here? Why is it not discriminatory in its context? Quite simply because it relates to a bill that changes the more than 2,000-year-old definition of marriage. That is precisely why this is the right place for it. It is not discriminatory in its context, although, of course, it would be if it were anywhere else. Right where it is, it seems to provide reassurance, if not protection.

Patrick Harvie: Marco Biagi points out that this group of amendments creates a hierarchy, and he is quite right. In particular, amendments 26 and 3 open up another possibility, of an increased likelihood of speculative attempts to press matters through the courts. I am sure that we can envisage a scenario in which any measure that is taken by a local authority or other public body to promote equality or tackle prejudice and discrimination would be challenged in the courts on the basis that it does not show sufficient respect for the belief that same-sex marriage is wrong.

There is a similar issue with amendment 3, in particular the words that are used in subsection (2):

“The belief is that marriage may only be between one man and one woman.”

It does not say that it should be; it says that it “may only be”.

The amendment would open up the possibility of organisations seeking to refuse to acknowledge same-sex married couples as married couples and refusing to treat them as married couples, because they take the view that that is not what marriage ought to be. That would give rise to a host of legal challenges, which I do not think is what the member who is moving the amendment would wish to happen.

On Richard Lyle's amendments, amendment 1 says:

“the views of a relevant person on whether marriage may be between persons of the same sex may not be considered”.

That seems to imply that those views may not be considered no matter in what terms they are expressed. I know that there are people who say that opposing same-sex marriage does not make a person homophobic, and perhaps on another occasion there will be greater time to debate that question in depth, but I am sure that all members accept that homophobia exists in our society and that, when considering matters around adoption and fostering, it would be legitimate to consider the views of some of those people who express those views in the terms that members will have

seen in their inboxes. To suggest that those views can never be considered goes far too far.

Amendment 30 is the most transparent wrecking amendment in the papers before us today. To suggest that this legislation cannot come into force until amendments are made to the Equality Act 2010, which we know will not happen, is simply an attempt to stymie the will of the majority in Parliament to pass the principle of same-sex marriage.

I urge all members to reject all the amendments in the group.

The Deputy Presiding Officer: I advise the Parliament that I am exercising my power under rule 9.8.4A(c) to extend the next time limit, to avoid debate on this group being unreasonably curtailed.

15:00

Murdo Fraser (Mid Scotland and Fife) (Con): I support Richard Lyle's amendment 2, which deals with the issue of charitable status, an issue that I raised during the stage 1 debate. As Richard Lyle pointed out, there will be many faith-based social providers who might well fall foul of this legislation, should it be passed in its current form.

I have no doubt that, if the bill is passed, there will be challenges to the charitable status of certain faith-based social providers that take a traditional view of marriage. As has been mentioned, we saw that in relation to St Margaret's adoption agency and its view on same-sex adoptive couples. As we have heard, the good news is that that issue has been resolved and the decision has been taken that charitable status should be retained.

Of course, that does not mean that the same will necessarily apply should the bill be passed, because we are dealing with completely different legislation and a different set of circumstances. Even so, even though St Margaret's survived, it nevertheless suffered huge disruption to its important charitable work and a cost of some £50,000 in legal expenses—a cost and a challenge that could well close down many other faith-based charities that have a much smaller budget.

The issue is simple and straightforward. The Scottish Government has made it clear that it does not want to see charitable status removed from such faith-based social providers. The Scottish Government should take the lead on this—it should put the matter beyond doubt and accept amendment 2. The Government will no doubt say that it is unnecessary, but it seems to me that if anything can be done to deter what might be vexatious challenges to the charitable status of

faith-based social providers, such provisions should be put in place.

I ask the cabinet secretary to address one point when he comes to wind up on this group of amendments. If he does not think that amendment 2 is necessary but agrees with me about protecting the charitable status of such faith-based social providers, would he undertake, in the event that the bill is passed and we subsequently see such challenges to the charitable status of faith-based providers, to bring back to the Parliament primary legislation to put the matter right? I believe that Parliament is agreed that it does not want to see that charitable status removed.

Kevin Stewart (Aberdeen Central) (SNP): I have told the chamber before that it came as a bit of a shock, when I was first elected some 15 years ago, to be told that I was a parent. My shock increased dramatically when I was told that I was a parent of hundreds of children. Now, in this place, like everyone else, I am the corporate parent to thousands of children in this country. That is why I have always had an interest in adoption and fostering. It is much better if a kid ends up with parents rather than going through the care system. When it comes to adoption and fostering, consideration of a child's future is paramount.

I cannot understand Mr Lyle's amendment 1, which would make special provision for one set of beliefs but not, as Mr Eadie outlined eloquently earlier, for other beliefs. The amendment is a bit daft, to say the least, because we would end up with huge numbers of other folk coming forward with future amendments on adoption and fostering, asking for special protection for other folks who hold different beliefs. That would be a rod for our own backs. I am very interested to hear what the cabinet secretary has to say on the issue. However, as it stands, amendment 1 should be rejected by Parliament.

Bob Doris: Mr Eadie's contribution compelled me to rise to speak on amendment 1. I agree wholeheartedly with Mr Eadie that equality and rights in this area cut both ways. He gave a practical example of why amendment 1 is flawed.

I hope that I misheard Mr Harvie—whose views on the matter I completely respect—in relation to amendment 1. I thought that he mentioned that he believed that people who opposed same-sex marriage might, as a rule, be homophobic, which I do not believe is necessarily the case. I hope that I am wrong about what Mr Harvie said. This is an opportunity for Mr Harvie to clarify the point.

Patrick Harvie: Some people have argued that simply opposing same-sex marriage does not make a person homophobic. Whether or not I agree with that—and I am not sure that I am

convinced of that argument in blanket terms—the point that I was making was that homophobia does exist and it is important that in the legislation that this Parliament passes and the debates that it conducts, we do nothing that endorses or justifies the homophobia that exists in our society.

Bob Doris: I am delighted that I did contribute in relation to amendment 1, because I agree with every word that Mr Harvie said and that was an opportunity to clarify what he said. On the basis of what we have heard, I will not be supporting amendment 1 this afternoon.

Alex Neil: Like others, I am concerned about the potential impact of these amendments and I do not support them. A number of them would make specific reference in legislation to protecting views about marriage being between one man and one woman. As others have said, that raises questions about other views.

I do not consider that amendment 26 is necessary. I agree that a belief that marriage should only ever be between one man and one woman is worthy of respect. However, it would be unnecessary and unhelpful to put a specific provision on that in the bill. Making specific reference in legislation to one issue would raise questions about other beliefs for which there is no specific legislative provision. In addition, the effect of providing in law that one particular view is “worthy of respect” is unclear. It could almost suggest that the view could not be criticised, which would undermine freedom of speech.

On amendment 3, I agree that a person or body that believes that marriage may only be between one man and one woman should not, on the basis of that belief alone, suffer detriment when using a public authority’s service or facility. However, there is already provision in this area.

At stage 2, Siobhan McMahon expressed concern about, for example, religious organisations that are opposed to same-sex marriage not being allowed to provide public contracts or not being allowed to hire public buildings. In response to the request that Jackie Baillie made during her speech, I can refer to the relevant amendments to the UK Equality Act 2010, which I have agreed with the UK Government. One of those amendments is to protect people from discrimination in relation to persons controlling the use of religious or belief premises who refuse to allow those premises to be used for same-sex marriage—in other words, people cannot be discriminated against because they refuse to allow those premises to be used, as outlined by Siobhan McMahon.

A public body that refuses to let premises to a religious body just because of the religious body’s views on same-sex marriage risks a successful

claim for discrimination, however. The key factor in relation to the award of contracts is the balancing of cost, quality and sustainability to provide the service to all who need it, rather than views on same-sex marriage. I do not consider that amendment 3 is necessary or helpful. As with other amendments in this group, the amendment is unhelpful in that it raises questions about the impact on other beliefs for which there is no specific legislative provision.

On amendment 1, I appreciate Richard Lyle’s concerns, but the key and overriding principle in relation to adoption and fostering is the welfare of the child. It is already the case in law that views on same-sex marriage—or anything else for that matter—should not disqualify anyone from becoming a foster carer or adoptive parent. If the amendment was agreed to, we would be singling out views on marriage as being a specific issue that should not be considered by adoption agencies, the courts and local authorities. Again, it seems unnecessary and unhelpful to single out views on same-sex marriage in that way.

The better approach is to assess prospective foster carers and adoptive parents in a comprehensive way on their ability to provide loving homes and to promote the welfare of children in their care. We should not concentrate on views on issues of the day, but instead should concentrate absolutely on what is best for the child.

I have similar concerns about amendment 2. It is already the case that the simple expression of a view on same-sex marriage, which is to the furtherance of a body’s charitable purposes, is not expected to adversely affect the body’s charitable status. Under the Charities and Trustee Investment (Scotland) Act 2005, a body seeking charitable status has to show the Office of the Scottish Charity Regulator or the courts that its purposes are for public benefit. The act does not lay down what purposes are for the public benefit. Amendment 2 appears to seek to change that only in respect of same-sex marriage.

That could raise general questions about how charitable status is decided. Singling out views on same-sex marriage could cast doubt on the expression by a charity of a view on other issues and lead to the need to amend the 2005 act repeatedly, to make provision on each issue. That concern is similar to the concern about many of the amendments in this group.

Murdo Fraser: Before the cabinet secretary finishes on amendment 2, will he address the point that I raised? If, when the bill is passed, he turns out to be wrong about the issue and there are successful challenges to the charitable status of faith-based social providers who take a traditional view of marriage, will he undertake to introduce

primary legislation to this Parliament to put matters right?

Alex Neil: We are absolutely, totally sure that we are not wrong on this matter. If such a situation arose under unforeseen circumstances, we would take whatever measures were necessary to rectify it, because it would not be an acceptable position. I hope that that reassures the member that we are absolutely sure about what we are proposing. However, if we turn out to be wrong—which would be a highly unusual occurrence, in my estimation—we would take corrective action as appropriate at the time.

I do not consider that amendment 30's suggested changes to the Equality Act 2010 are desirable. The first suggested change is to the protected characteristic of religion or belief. If the protected characteristic of religion or belief should be amended to make a specific reference to the belief that marriage may only be between a man and a woman, doubts could be raised about whether other beliefs are covered by the protected characteristic.

Similarly, I do not agree with the proposed amendment to section 149 of the 2010 act, on the public sector equality duty. The amendment would provide that complying with the equality duty requires a public authority to ensure that a belief that marriage may only be between a man and a woman is respected and that no person may suffer any detriment as a result of holding or expressing such a belief. Imposing an obligation on a public authority that they must ensure that a specific belief is respected would give them a duty that they could not deliver.

Given that I do not consider that those changes should be made to the Equality Act, it follows that I do not consider that the commencement of the same-sex marriage provisions should depend on them. Indeed, as Jackie Baillie and others have stated, it is highly unlikely that the UK Government would make those changes to the Equality Act, so it appears that amendment 30 would stop the provisions on same-sex marriage in the bill from being commenced. That would, of course, have a huge impact on the bill and could delay same-sex marriages in Scotland for an indefinite period. We would have to discuss the proposed amendments to the Equality Act with the UK Government, which is opposed to them and opposed them when it considered its own legislation.

The effect—although perhaps not the intention—of amendment 30 would be to wreck the bill entirely. I therefore invite the Parliament to reject all the amendments in the group.

John Mason: I thank members for their contributions and will mention one or two. Marco Biagi and Patrick Harvie talked about wanting

balance and not wanting a hierarchy of rights. However, I am making the point that there appears to be a hierarchy of rights at the moment and we are seeking to equalise those rights, so that all protected characteristics in the Equality Act are treated more equally. That point was raised at Westminster, including by me when I was a member of the committee that studied the Equality Bill as it went through the Parliament there. The Government at that time refused to say either that all rights were equal or that there was a hierarchy. However, we have seen in practical experience that there is a hierarchy in the courts.

I certainly disagree with Marco Biagi on one point. He emphasises that churches and denominations are being protected, but misses out protection for people in the voluntary and public sectors.

15:15

Marco Biagi: Does the member not appreciate that the relevant articles in the European convention on human rights, including the one on freedom of thought, expression and religion, apply equally to individuals, organisations and any other form of entity that might exist in this country?

John Mason: But the reality is that the courts decided against someone like Lillian Ladele, who was not allowed to exercise any freedom in her case.

Jackie Baillie and Alex Neil said that amendment 30 is a wrecking amendment. I am willing to accept that the effects of the amendment would be more difficult to achieve than those of some of the others, but the reality is that any amendment to the Equality Act 2010 is made through negotiation with Westminster, and that is all that the amendment seeks.

Murdo Fraser made a strong argument for amendment 2, which many members will have been convinced of. Kevin Stewart talked about only protecting one group, but not all groups are under the same amount of pressure. Alex Neil mentioned that the Equality Act 2010 has exactly the same problem in that it does not cover every single possible group that could be discriminated against; it focuses only on the eight or nine groups that are most discriminated against.

Alex Neil said that he was "absolutely, totally sure", although he seemed to back off from that later. That is an incredibly strong statement to make about anything that might happen in future in the courts.

I want to focus on amendment 26. We all seem to agree with the wording of the amendment. If we reject it, are we saying that the belief in traditional marriage is not worthy of respect? If members

wanted to send out the message that they have been listening, amendment 26 would be a good one to support.

The Deputy Presiding Officer: The question is, that amendment 26 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Buchanan, Cameron (Lothian) (Con)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)

Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

Abstentions

Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Malik, Hanzala (Glasgow) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)

The Deputy Presiding Officer: The result of the division is: For 19, Against 95, Abstentions 7.

Amendment 26 disagreed to.

The Deputy Presiding Officer: Because I extended the time limit for the first group of amendments, we have less than 10 minutes to deal with groups 3 and 4. That will not be sufficient time, so I advise members that any member has the right, under rule 9.8.5A, to move a motion without notice proposing that the next time limit be extended by up to 30 minutes. Does any member wish to so move?

Motion moved,

That, under Rule 9.8.5A, the next time limit for consideration of amendments be extended by up to 30 minutes.—[*Alex Neil*]

Motion agreed to.

Amendment 3 moved—[Siobhan McMahon].

The Deputy Presiding Officer: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)

Buchanan, Cameron (Lothian) (Con)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)

Salmond, Alex (Aberdeenshire East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

Abstentions

Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Malik, Hanzala (Glasgow) (Lab)

The Deputy Presiding Officer: The result of the division is: For 21, Against 98, Abstentions 2.

Amendment 3 disagreed to.

Amendment 1 moved—[Richard Lyle].

Richard Lyle: Presiding Officer, may I have a few seconds to reply to some of the comments that have been made?

The Deputy Presiding Officer: No, I am afraid that you cannot. I am sorry.

The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Brown, Gavin (Lothian) (Con)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)

Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Buchanan, Cameron (Lothian) (Con)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)

Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

Abstentions

Malik, Hanzala (Glasgow) (Lab)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)

The Deputy Presiding Officer: The result of the division is: For 20, Against 98, Abstentions 3.

Amendment 1 disagreed to.

Amendment 2 moved—[Richard Lyle].

The Deputy Presiding Officer: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Henry, Hugh (Renfrewshire South) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Rutherglen) (Lab)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Buchanan, Cameron (Lothian) (Con)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)

Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

Abstentions

Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Malik, Hanzala (Glasgow) (Lab)

The Deputy Presiding Officer: The result of the division is: For 27, Against 92, Abstentions 2.

Amendment 2 disagreed to.

After section 21

The Deputy Presiding Officer: Group 3 is on review of same-sex marriage. Amendment 27, in the name of John Mason, is the only amendment in the group.

John Mason: Members will be glad to know that amendment 27 is the last of my amendments.

Whatever our view of the bill, it proposes a major change to what has been the tradition in Scotland for a very long time. Even if there is—as there was at stage 1—a big majority in Parliament to pass the bill, the public is much more evenly split than we are.

I suggest that amendment 27 is one of the easiest amendments to support, even for the bill's proponents. The amendment, if agreed, would send out the message that Parliament is listening and that should anything unintended happen—on either side of the argument, because it is a neutral amendment—that can be reviewed. With that in mind, there should be a commitment to review the legislation after five years and to assess its impact. If the impact is minimal, the review will still be worth while; if, however, the legislation is shown to have had any negative effects or has not had all the positive effects that its supporters hoped for, a review will serve to address those effects. It has been said before that Parliament should regularly review all legislation, but we all know that that has not always been managed.

Amendment 27 would put down a simple marker in the bill and ensure that a review takes place.

It was suggested at stage 2 that amendment 27 could be interpreted as a sunset clause. The implication of that interpretation would mean that, if accepted, same-sex marriages might in the future be abolished. That is clearly not the case; all that is asked for is a review.

I move amendment 27.

Marco Biagi: My comments on amendment 27 will be brief. The fact that we are debating an issue that was the outcome of something that happened in 2007 shows that the issues will continue and that they will be looked at and debated in the chamber without the need for an arbitrary review being set at a particular time. The suggestion that the bill will be passed and then sit on the statute book unexamined is rather far fetched. Given that Parliament will be actively watching the situation and that civil society will be actively debating the issue for years to come, I do not see the need for an arbitrary review at the five-year point.

Jim Hume (South Scotland) (LD): I tend to agree with Marco Biagi and to disagree with John Mason's amendment 27. It ignores the democracy of Parliament and calls on the Scottish ministers, in conducting a review, to

“consult such persons as they consider appropriate”

and to publish a report. However, Parliament has a committee structure, and the committees have the protocol of reviewing all Scottish legislation. I therefore agree with Marco Biagi that the amendment is unnecessary, and I shall vote against it.

Alex Johnstone (North East Scotland) (Con): Post-legislative review is a good idea in all cases. It is one of the objectives that Parliament does not achieve often enough.

The six amendments that we have debated previously today, and several others that were lodged at stage 2—including my own, which I have not brought back to Parliament—were designed to ensure that the bill, once it becomes an act of law, does not have unintended consequences. The case for each of the previous amendments has been argued well but has been substantially rejected by Parliament. It therefore seems to be reasonable that, at the end of the process, we should have an amendment that is designed to protect against unintended consequences.

Amendment 27 does not ask us to change the bill in any way; it asks for a review to ensure that, after five years, should the majority in Parliament turn out to have been wrong, and should there have been unintended consequences, the Government of the day will be able to deal with the

problems as it sees fit. I do not accept the suggestion that amendment 27 is somehow a sunset clause, because the amendment makes it clear that the review would be a review of the effects of same-sex marriage.

It is vital that, when we come to a conclusion on the bill, we find a way to bring Parliament together. It is therefore reasonable that the majority who seem likely to have their way at decision time tonight should take this only remaining opportunity to offer an olive branch to the other sections of opinion within Parliament, who are concerned about the effects of the bill, by ensuring that amendment 27 is passed. Should the majority be right, the effect of the amendment will be virtually zero. Should there be unintended consequences, the effect of the amendment will be to offer an opportunity for the Government of the day to deal with the problems.

I invite members across the chamber to take the opportunity to join Parliament together around the amendment, to ensure that we all have something that we can agree on and take forward alongside the legislation.

Patrick Harvie: It has been properly pointed out that post-legislative scrutiny is a matter for parliamentary committees. No doubt, any committee that considers it necessary to undertake that work will do so in its own good time.

John Mason says that amendment 27 is designed to send a signal. Let me ask members to consider what signal it will, in fact, send. The signal that it will send, for the next five years, is that same-sex marriages remain an open question, and that anyone who has taken part in a same-sex marriage—anyone who has formed a relationship and has married their same-sex partner—will still have a question hanging over them: what is the future going to be? Is there any other category of marriages that members would like to keep on hold for the next five years while we conduct a review of the consequences? I do not think so.

Mark McDonald (Aberdeen Donside) (SNP): Does Patrick Harvie agree that the message that amendment 27 sends, based on the stipulations within it, is that somehow same-sex marriage can have only negative consequences?

Patrick Harvie: I agree. My final point relates to the argument that there will be unintended consequences. People have been whipping up completely groundless fears about what the consequences of the bill will be.

Let me explain what the consequences will be. Some couples who love each other will get married. They might previously have been in civil partnerships. Some confetti will be thrown. Some

cake will be eaten. Occasionally, an auntie will use the excuse to buy a new hat. With just a little bit of luck, some of these people might live happily ever after.

My olive branch, which has been requested by Alex Johnstone, is simply to say this: let us welcome the consequences—the real consequences—that will flow from passing the bill. Let us welcome them with joy.

15:30

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): My question is a simple one. I do not know what is meant by “the effects of”. If we are to put something in legislation that is then to be reviewed, John Mason will have to tell me what it means.

The Deputy Presiding Officer: That is perhaps a question for the cabinet secretary, to whom we now come.

Alex Neil: Like other members, I do not support amendment 27. The points that Patrick Harvie made are valid.

We are all agreed that every piece of legislation that is passed by Parliament should be subject—at the right time and at Parliament’s choosing—to post-legislative scrutiny. However, amendment 27 is not really about the typical, normal post-legislative scrutiny process. It refers only to the provisions of the bill relating to same-sex marriage. The bill goes much wider than same-sex marriage; it extends the notice period for marriages, it allows civil marriage ceremonies to take place anywhere that is agreed by the couple and the registrar, it puts belief bodies on the same footing as religious bodies in relation to the solemnisation of marriage, it introduces qualifying requirements for religious and belief bodies to meet before they can solemnise marriage, and it introduces religious and belief civil partnerships. It also makes very wide provisions for the transgender community.

Amendment 27 does not, however, refer to any of those other provisions. To paint the proposed provisions as normal post-legislative scrutiny is not a proper or accurate reflection of the effect of the amendment.

I appreciate John Mason’s claim that the amendment would not introduce a sunset clause, but the proposed new section would still be potentially very destabilising when it comes to the impact of the bill. It would be detrimental to the reputation of Parliament if we were to pass amendment 27 and we would be sending out a very wrong signal to the entirety of Scottish society. I hope that Parliament will reject the amendment decisively.

John Mason: I agree with Jim Hume that committees should review legislation. I have been here nearly three years now, however, and I do not think that that is happening. There may be other ways of dealing with the issue, but Parliament somehow needs to get its act together on actually reviewing legislation.

Patrick Harvie and Mark McDonald had an interesting interchange. Mark McDonald suggested that the proposed review suggests that there could only be negative consequences. I do not see that in amendment 27. Perhaps he wants to correct me.

Christine Grahame asked about “the effects of” the introduction of same-sex marriage. In normal English, speaking as an accountant, I understand that phrase. I do not know what the legal problem with those particular words might be.

Christine Grahame: I do not know what the remit of any review would be if it is just about “the effects of” the measures. That wording is far too broad.

John Mason: I am not sure that that intervention has clarified the issue very much in my mind—perhaps other members understand. “The effects of” means “the consequences”. Amendment 27 specifically mentions the question whether there have been “any court proceedings”, tribunals or suchlike.

The cabinet secretary questioned why amendment 27 asks for a review concerning same-sex marriage only. The reality is that the rest of the bill is largely non-controversial. There were hardly any divisions at committee on the rest of the bill. By all means, we can review the whole bill, but it is this particular area that needs to be looked at. Alex Johnstone put it quite well when he spoke about an olive branch, and said that the effect would in fact be almost zero.

Amendment 27 is the final amendment in my name. I find it disappointing that the cabinet secretary would not even commit to a review in a specified time, even if that is not in the eventual legislation.

The Deputy Presiding Officer: The question is, that amendment 27 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brodie, Chic (South Scotland) (SNP)
Brown, Gavin (Lothian) (Con)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)

Johnstone, Alex (North East Scotland) (Con)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
McGrigor, Jamie (Highlands and Islands) (Con)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Buchanan, Cameron (Lothian) (Con)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Davidson, Ruth (Glasgow) (Con)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hilton, Cara (Dunfermline) (Lab)
Hume, Jim (South Scotland) (LD)
Hyslop, Fiona (Linlithgow) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Lochhead, Richard (Moray) (SNP)

MacAskill, Kenny (Edinburgh Eastern) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

Abstentions

Malik, Hanzala (Glasgow) (Lab)

The Deputy Presiding Officer: The result of the division is: For 19, Against 100, Abstentions 1.

Amendment 27 disagreed to.

After section 25

The Deputy Presiding Officer: Group 4 is on review of civil partnership. Amendment 28, in the name of Patrick Harvie, is grouped with amendment 29.

Patrick Harvie: Amendment 28 would require the Scottish Government to conduct a review of the future of civil partnership. The amendment sets a timescale of nine months after the bill receives royal assent and requires the review to set out options, including

“the option of enabling two people of different sexes to enter into civil partnership with each other.”

That would open up the mechanism of civil partnership, in the same way as we are currently opening up marriage to same-sex couples.

Amendment 28 would also require ministers to consult in preparing the report.

Amendment 29 is consequential on amendment 28.

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): I am intrigued by amendment 28 because it was not so long ago that we were being told that marriage was the gold standard and that people in civil partnerships felt like second-class citizens. If that was true, why would anyone choose a civil partnership over a civil marriage?

Patrick Harvie: The member has not been told by me that marriage is the gold standard. I think that we should all be committed to the importance of choice. People who wish to pursue the option of marriage should be able to make that choice. However, there will be others who believe that civil partnership better reflects their personal values, ideology or what have you. There will be some who regard marriage as having a religious connotation that they do not choose to buy into.

The reality is that we do not know what the uptake of civil partnership by same-sex couples will be, nor do we know what appetite there might be among mixed-sex couples for civil partnership instead of marriage, although we know that there is some because a case has been taken to the European Court challenging UK civil partnership legislation. It has been recognised that an imbalance will arise, in that same-sex couples will be able to choose civil partnership, marriage or cohabitation, whereas mixed-sex couples will have only two of those options. If there were some challenge to that on human rights grounds, it might be hard to justify not allowing mixed-sex couples to have civil partnerships.

The Scottish and UK Governments have noted the position and have agreed to conduct civil partnership reviews. The Scottish Government published a remit for its review in September, but we do not know much more about the timescale for the review or the options that the Scottish Government is considering. The UK Government's review, which was published very recently, is quite troubling, because it opens up the possibility that people in same-sex civil partnerships will be compelled to have their civil partnership either dissolved or converted into marriage, when that was not their choice.

I lodged amendments 28 and 29 purely to open a debate on the question and to offer the cabinet secretary the opportunity to set out the Scottish Government's position and current thinking on it. I also hope that he will indicate a willingness to

consider opening up civil partnership to mixed-sex couples just as we are opening up marriage to same-sex couples, and to close down the possibility that civil partners could be forced to convert their partnership into a marriage or that they could lose their legal status altogether.

I move amendment 28.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): There is merit in reviewing the position of civil partnerships, so I thank Patrick Harvie for lodging amendments 28 and 29. Most people would accept that the Parliament created the institution of civil partnership because, at that stage, it was not quite prepared to do what we are likely to do today and legislate for those in same-sex relationships to be able to get married.

However, I approach the matter from a slightly different perspective from that of Patrick Harvie. If we legislate for same-sex couples to be able to get married, we call into question the position of the institution of civil partnership. Frankly, I doubt that those who are in civil partnerships today aspired to enter the institution of civil partnership; they chose to enter that institution because it was the one that was available to them. I suspect that most people in that institution already regard themselves as married, and that is why it is important that we are taking the step that we are taking today.

That step calls into question the on-going position of civil partnerships. I know that the Scottish Government is to review the position, as Patrick Harvie has called for. Equally, I accept his point about choice, and that is why it is important that we have a review that can inform the position. If the cabinet secretary can set out how the review will go forward and what options it will consider, we may be able to conclude that amendment 28, with which I sympathise, is unnecessary.

Alex Johnstone: I will be very brief, Presiding Officer. Dare I ask whether Mr Harvie will explain to us in his closing remarks why, a few minutes ago, a review was a bad idea?

Marco Biagi: Alex Johnstone refers to a lack of agreement, so I begin by quoting an unusual associate in the civil partnerships argument, who said:

“There is no discrimination whatsoever in the present law, except that against heterosexual population relating to civil partnerships.”

Those are the words of someone I have never quoted before—Norman Tebbit, who agrees that the status quo on civil partnerships is untenable. Perhaps that spirit of agreement is the reason why a rainbow has appeared over the Parliament this afternoon as we have debated the bill.

I have an issue with the on-going existence of civil partnerships for same-sex couples only,

because that is indirectly discriminatory against LGBT people. Members could ask why the exclusion of opposite-sex couples is discriminatory against LGBT people. It is because civil partnership is still in statute as a marker of difference and a relic of prejudices past. It continues to create a separate category showing that LGBT people need different treatment and special institutions—something that I would not support in this context.

Dave Thompson: Following on from the argument that the member has just made, would it not be better just to abolish civil partnerships and give everyone the same, if it is truly about equality?

Marco Biagi: I was about to say that I have some sympathy with that perspective. I supported civil partnerships at first, but in time and on reflection I came to identify them more with the desire not to allow same-sex couples to get married than with the attempt to create an alternative. I supported those who campaigned for them at the time, such as Patrick Harvie, and I did so on a pragmatic basis. Those people are all to be commended, but—let us face it—in the long run civil partnerships have been overtaken. Personally, I would consider it a little bit distasteful to keep them, in the same way as I would regard wearing a badge that says that I am gay so as to warn people of a nervous disposition.

My personal preference would be to see civil partnership disappear entirely. That is what happened in Denmark and Sweden when they legislated for equal marriage. However, I realise that many people wish to keep civil partnerships, not least those who are in them, and that although I see civil partnerships as irredeemably tainted by prejudice, there are those who see marriage as irredeemably tainted by the sexism that characterised it for hundreds of years.

If I am saying anything here, it is that, whatever happens, the status quo on civil partnership must not continue. Above all, it must not continue through sheer political inertia. Civil partnerships should either end, as Dave Thompson suggests, or be made equal, so that the unnecessary, unnatural and differentiating division between two types of couple ends.

15:45

I was glad when the Scottish Government promised in appearances before the Equal Opportunities Committee to look at the issue and come back to it, and I trust that it will do so. I firmly support the spirit of amendment 28 but, if I backed it, that would be a signal that I was not taking the Government at its word. If the amendment is pressed to a vote, I will vote against it, and I urge

others to do the same. I will listen with interest to the cabinet secretary's comments.

Stewart Maxwell (West Scotland) (SNP): Fundamentally, amendment 28 comes down to something that I hope that we all support and which is a strand throughout the bill. This is about freedom of choice. If a couple—whether they be heterosexual or homosexual—wish to enter into a civil partnership rather than a marriage, I do not see what the problem is, if that is their choice. If cohabiting heterosexual couples wish not to get married but to enter into a civil partnership, they are barred from doing so. If we are truly determined to create a society in which we value choice among adults—

Dave Thompson: The member raises an interesting point about giving people a choice. People are given a choice between two different things, such as an apple and a pear. What is the difference between civil partnership and civil marriage?

Stewart Maxwell: Sometimes, when people are given a choice, it is not between an apple and a pear but between two different apples. It is entirely reasonable to give people a choice between marriage and civil partnership.

As I said, surely this is about freedom of choice. We should aim for that in the bill. I think that a review is a good idea, but that is not to say that I support amendment 28. I want to hear from the cabinet secretary about the Government's plans for the review that he has talked about.

Mark McDonald: I have two points. Stewart Maxwell has summed up the first point eloquently. It is not for us to second-guess people's motivations in defining their relationships. If individuals wish to enter into a civil partnership rather than a marriage, that is none of our business. It is up to the two individuals to define their relationship. I have sympathy with Patrick Harvie's amendment 28, in that the option of a civil partnership is not available to heterosexual couples at the moment, as he said.

I disagree with much that my colleague Dave Thompson has said on the issue, but he makes the valid point—Jamie Hepburn made it, too—that civil partnerships might no longer be necessary. However, we need a thorough examination of the matter. Individuals in my circle of friends and constituents of mine have expressed the view that, if civil partnerships were available to mixed-sex couples, they would be willing or would wish to take up that opportunity. It is not for us to second-guess relationships.

As for Alex Johnstone's flippant intervention, the review that was discussed in relation to amendment 27 was being pursued from an entirely negative perspective.

Alex Johnstone: In the member's mind, could the main difference between the reviews be that he might favour the outcome of one but not the other?

Mark McDonald: I have never second-guessed the outcome of a review. I believe that Patrick Harvie is pursuing a review for positive and inclusive reasons to do with ensuring equality of status for civil partnerships while they still exist—indeed, as my colleague Jamie Hepburn said, they might not be necessary. I do not believe that the review that was proposed in amendment 27 was being pursued from a positive perspective. That is why I rejected that amendment. I will be happy to hear the cabinet secretary's views before I decide whether to support amendment 28.

Bruce Crawford (Stirling) (SNP): I will make a simple point. I make no comment on the amendments; I want to hear what the cabinet secretary has to say.

Whatever we do as a Parliament today or in future, we should not diminish the standing of those who have already willingly entered into civil partnerships and have, in effect, chosen that direction. Removing civil partnerships from statute would diminish their own and society's view of their standing, regardless of the fact that they would then become equal. Therefore, we have to look for another option.

I ask the cabinet secretary to reflect on that as we make these decisions. We have to think about what has already happened and people who have made decisions in the past. To remove all of that now, given that people freely entered into civil partnerships, would be wrong.

Alex Neil: I am grateful for the opportunity to speak to Patrick Harvie's amendments 28 and 29, on the review of civil partnerships. I guarantee that there will be no inertia from the Government on that or any related issue.

As members will be aware, we have already published the remit for our review of civil partnerships, which is on the Government website. We have already had initial informal discussions with key stakeholders, which will be followed by a full public consultation that will outline the options and the consequences of each option and seek views.

I am keen to talk to the other parties across the Parliament on the methodology and timing of the review, because such an exercise is better done together on a consensual basis, so that, whatever option the Parliament eventually agrees, at least we will have as much buy-in as we can from external stakeholders and parliamentary participants.

On the timescale, I am determined that we get the job done as quickly as possible. We hope to establish a timetable and methodology as soon as possible after initial discussions with parliamentary colleagues in other parties, and to complete the review by the early part of 2015 at the very latest. A realistic timetable would probably mean any consequent legislation coming in the session that starts in 2016, but if we can all agree on what the legislation should be, there is no reason why the work on it could not start in 2015. That would be my intention after consultation with other parties.

As the debate has highlighted, there are, broadly, two viable options that relate to the future of civil partnerships. The first would be to lay down that no more new civil partnerships could be entered into after a specified date, to reflect that, in future, both same-sex couples and opposite-sex couples will be able to get married. The other main option would be to establish opposite-sex civil partnerships in Scotland. At the moment, I will certainly not come down on one side of the argument or the other; rather, I want to see the evidence on and consequences of both.

I will develop the extremely important point that Bruce Crawford made about people who have already entered into a civil partnership—and people who will have done so by the time that any legislation is introduced. Unlike the recommendations in the review down south, I would be quite reluctant to support any proposal that absolutely required those in existing civil partnerships to be forced to change their status as a result of any review, because it is clear that they entered into civil partnerships in good faith. They should have the option of changing their status, but I would need a lot of persuading before I would agree to forcing them to change their status by either dissolving their civil partnerships or transferring and converting them into marriage.

All those issues are clearly for discussion. We need to look at the consequences. The pension consequences, for example, require detailed consideration, because pensions may be the most complicated issue of the lot to deal with when we come to legislating, no matter which option, or options, we eventually agree to pursue.

I say to Patrick Harvie that I am absolutely committed to the review and to doing it and dealing with the methodology and the timetable on a consensual basis. I want the review to be done by early 2015 so that we can quickly start to work on any recommendations on legislation, with legislation possibly being passed in the session that starts in 2016.

On that basis, I ask Mr Harvie not to press his amendments.

Patrick Harvie: It is probably true that a little over a decade ago, when Scotland and the UK were debating civil partnership, there were some people who were willing to support civil partnership—the technical legal rights and responsibilities of marriage but without the name “marriage”—who might not have been ready to support the bill that we are debating today. I hope that those people have come with us on society’s progress towards equality and are voting with the bill.

Civil partnership might not have been introduced as a separate institution had support for same-sex marriage existed a little over a decade ago. However, that is what happened. At the time, I proposed that if we were creating civil partnership, we should do so on a non-discriminatory basis and should allow mixed-sex couples as well as same-sex couples to have a civil partnership, should that be their preference. We did not do that, and the UK Parliament, when it legislated for the whole of the UK, gave us the system that we have now.

Jamie Hepburn quite rightly said that the situation calls into question the future of civil partnership, and I do not think that it gives an answer. As members have said, there is a question about whether civil partnership should continue under its current status, whether it should be removed—as the UK Government proposes—or whether people will simply opt for marriage and so there will be less take-up of civil partnership. We do not know the answer, which is why a review is necessary.

If Alex Johnstone had listened to Marco Biagi’s answer, it would be clear to him that it is only those mixed-sex couples—they are probably few in number—who would prefer civil partnership who face any argument of discrimination around what the law allows them to do. That is why a review is required. Both Governments agreed about that, and I am happy to see that a review will happen.

It is also important to recognise that, as Marco Biagi said, there will be an anomaly only if civil partnership continues for same-sex couples only. If it continues for everybody, we will have removed the discrimination. If it does not continue for everybody, we will have perhaps removed the discrimination in a less favourable way.

The cultural meanings of marriage and civil partnership are subjective. That is why the difference between them is subjective. It is not for us to decide whether some people should regard marriage as patriarchal or as having the sanctity of a religious contract, nor is it for us to decide whether people should regard civil partnership as a purely legal instrument or as a marker of discrimination. People reach such value judgments on their own terms.

Having said all that, I thank the cabinet secretary for his response. He has given some indication of the timescale. I am very pleased that he is talking about broadly two options, instead of the additional option that the UK Government has floated of forcing people to change their civil partnership into a marriage. I am happy that there has been a recognition of the status and the meaning of civil partnership as something distinct, and I am happy about the consensual basis on which the cabinet secretary intends to pursue those debates.

I am content with the cabinet secretary's response. On that basis, I withdraw amendment 28.

Amendment 28, by agreement, withdrawn.

The Deputy Presiding Officer: Members will note that we have passed the agreed time limit for the debate on group 4. I exercised my power under rule 9.8.4A(c) to allow debate on the group to continue beyond the limit in order to avoid its being unreasonably curtailed.

Section 28A—Grounds of divorce: interim gender recognition certificate followed by full certificate

The Deputy Presiding Officer: Group 5 is on the processes for, and consequences of, applications to sheriff for issue of full gender recognition certificates. Amendment 4, in the name of the cabinet secretary, is grouped with amendments 5 to 7, 9 to 11, 13, 15, 17, 19, 20 and 22.

Alex Neil: Most of the amendments in group 5 relate to a new procedure that was introduced at stage 2 on obtaining a full gender recognition certificate. Under the procedure, a sheriff may, in certain circumstances, grant a full GRC without the need for the spouse to consent to stay in the marriage.

Amendments 4 and 5 relate to section 28A of the bill, which amends the Divorce (Scotland) Act 1976. Amendment 4 makes it clear that the amendments are to section 1 of the 1976 act. Amendment 5 adds a reference to the title of section 1 of the 1976 act.

Amendment 6 is also on divorce. A ground for divorce is when one of the spouses has been issued with an interim GRC. The bill amends the Gender Recognition Act 2004 so that, once the gender recognition panel has issued a full GRC, it is no longer open to a spouse to seek divorce on the basis of the interim certificate.

Amendment 6 creates an exception to that general rule so that, where a sheriff issues the full GRC under the new procedure, a spouse can still seek a divorce on the basis of the interim GRC.

That is because a spouse might not have consented to staying in the marriage. As a result of amendment 6, amendment 11 deletes proposed new section 4E(4) of the 2004 act, which is now unnecessary.

16:00

Amendment 7 updates the interpretation section of the 2004 act to reflect that, in future, a sheriff may issue a full GRC under the new procedure. Amendment 9 provides that a person may apply to the sheriff under the new procedure only if the applicant does not have a statutory declaration by the spouse consenting to stay in the marriage after the issue of the full GRC.

Amendment 10 requires the sheriff, when granting a full GRC under the new procedure, to send a copy to the panel. Amendment 13 removes the obligation on the court to issue a full GRC following divorce when a sheriff has already issued a full certificate under the new procedure. Amendments 15 and 17, which relate to applications to the court where a GRC might have been obtained by fraud, ensure that such applications are possible where the sheriff grants a full GRC under the new procedure.

Amendment 19 places a duty on the panel to send a copy of a full GRC to the registrar general for Scotland following the sheriff issuing it under the new procedure. Where the Court of Session quashes a sheriff's decision to issue a full GRC under the new procedure, amendment 20 requires the court to inform the registrar general, who then has to cancel the relevant entry in the gender recognition register.

Finally, proposed new paragraph 20A(1C) of schedule 3 to the 2004 act imposes a requirement that regulations on marriage registration must provide that, following the issue of a full GRC under the new procedure, spouses could register their marriage only if they both consented in writing to the registration. That proposed paragraph could cut across the drafting of regulations, so amendment 22 removes it.

I move amendment 4.

The Deputy Presiding Officer: As no member has requested to speak, do you have anything further to say by way of winding up, cabinet secretary?

Alex Neil: I will forgo any opportunity to do so, Presiding Officer.

The Deputy Presiding Officer: Excellent.

Amendment 4 agreed to.

Amendments 5 and 6 agreed to.

Section 32—Commencement

Amendment 29 not moved.

Amendment 30 moved—[John Mason].

The Deputy Presiding Officer: The question is, that amendment 30 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Johnstone, Alex (North East Scotland) (Con)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
McGrigor, Jamie (Highlands and Islands) (Con)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

Against

Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Buchanan, Cameron (Lothian) (Con)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Davidson, Ruth (Glasgow) (Con)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)

Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hilton, Cara (Dunfermline) (Lab)
Hume, Jim (South Scotland) (LD)
Hyslop, Fiona (Linlithgow) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Lochhead, Richard (Moray) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macdonald, Lewis (North East Scotland) (Lab)
Macintosh, Ken (Eastwood) (Lab)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Marra, Jenny (North East Scotland) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDonald, Mark (Aberdeen Donside) (SNP)
McInnes, Alison (North East Scotland) (LD)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Murray, Elaine (Dumfriesshire) (Lab)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Smith, Drew (Glasgow) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Malik, Hanzala (Glasgow) (Lab)

The Deputy Presiding Officer: The result of the division is: For 14, Against 100, Abstentions 1.

Amendment 30 disagreed to.

Schedule 2—Change of gender of married persons or civil partners

Amendment 7 moved—[Alex Neil]—and agreed to.

The Deputy Presiding Officer: Group 6 is on the issue of full gender recognition certification following the death of a civil partner or spouse. Amendment 8, in the name of the cabinet secretary, is grouped with amendments 31, 14, 16, 18, 21, 23 and 24.

Alex Neil: Amendment 31 introduces a new section 4F to the Gender Recognition Act 2004. Section 4F provides for applications to the gender recognition panel for a full gender recognition certificate—GRC—in certain cases where the civil partner or spouse of a transgender person dies. Amendment 8 makes a change to the interpretation section of the 2004 act to reflect that change.

Amendment 14 extends the right of appeal to the Court of Session on a point of law against a decision by the panel to reject an application under section 4F.

The 2004 act provides for referrals to the Court of Session where a GRC was secured fraudulently. Amendments 16 and 18 extend the right to make such referrals to cases under section 4F, and amendment 21 provides that, where the Court of Session quashes a decision that the panel made under section 4F, the court must inform the registrar general for Scotland so that he can remove any relevant entry in the gender recognition register.

Section 7 of the 2004 act allows the secretary of state, following consultation with the Scottish ministers, to lay down the form and manner of applications to the panel. Amendment 23 extends that to applications under the new section 4F.

The last amendment in the group relates to certain protected information about a transgender person who has applied for a GRC. Section 22(2)(a) of the 2004 act makes it an offence to disclose such information unlawfully. Amendment 24 applies that offence to applications under section 4F.

I move amendment 8.

Amendment 8 agreed to.

Amendments 9 to 11, 31 and 13 to 24 moved—[Alex Neil]—and agreed to.

The Deputy Presiding Officer: That ends considerations of amendments.

Marriage and Civil Partnership (Scotland) Bill

The Presiding Officer (Tricia Marwick): Before we start, I say to Parliament that, as a consequence of the earlier decision to extend the debate on amendments by 30 minutes, decision time will also be moved by 30 minutes.

The next item of business is a debate on motion S4M-08915, in the name of Alex Neil, on the Marriage and Civil Partnership (Scotland) Bill. I call Alex Neil to speak to and move the motion—cabinet secretary, you have 14 minutes.

16:10

The Cabinet Secretary for Health and Wellbeing (Alex Neil): I am pleased to open the stage 3 debate on the Marriage and Civil Partnership (Scotland) Bill.

I thank the members of the Equal Opportunities Committee; its convener, Margaret McCulloch; and her predecessor, Mary Fee. Their careful and considered scrutiny of the bill is greatly appreciated. I pay tribute to and thank my team from the policy, legal and communications team, who have been helping with the bill within the Scottish Government. They have provided me with absolutely first-class support.

The stage 1 debate in November did this Parliament proud. There were many eloquent and moving speeches, with respect shown on all sides. I am sure that, although different views are honestly and earnestly held across the chamber, we will, nevertheless, represent those views in a respectful manner.

If we pass the bill, today will mark an historic day in the history of the Scottish Parliament. I believe that we have got the balance right in the bill. We are extending the rights and freedoms of people of the same sex who wish to be married and to have that marriage recognised by the state. At the same time, we are building in necessary safeguards for the rights of those who are opposed to same-sex marriage and who do not wish to perform same-sex marriage, particularly church organisations and celebrants.

We are doing a remarkable thing today. We are saying to the world, loud and clear, on behalf of Scotland, that we believe in recognising love between same-sex couples in the same way that we do between opposite-sex couples.

We have taken forward this process carefully, and I am confident that, following the two consultations, a robust committee process and today's proceedings in the chamber, we have achieved an excellent package. Of course, the bill

does not just introduce same-sex marriage; it also includes detailed provisions in other areas. I will give a brief overview of those provisions before moving to the provisions on same-sex marriage, because the other provisions are also important.

In the case of couples who wish to have a civil marriage, the bill allows flexibility for ceremonies to be undertaken anywhere that is agreed by the registrar and the couple, provided that it is not in religious premises. The bill establishes belief ceremonies alongside religious and civil ceremonies, reflecting the growing number of marriage ceremonies that are being solemnised by humanists. The bill also authorises Church of Scotland deacons to solemnise opposite-sex marriage.

Scotland has an excellent reputation for marriage ceremonies. Indeed, one of the strengths of the Scottish system is its diversity and variety. The bill seeks to protect that by introducing the possibility of qualifying requirements for religious and belief bodies to meet before their celebrants may be authorised to solemnise marriages or register civil partnerships.

The bill extends the normal notice period for marriage and for civil partnership from 14 days to 28 days, which will work as a deterrent to sham marriages and reflects the reality of how long it takes to check that a person is eligible to marry in Scotland.

As well as changes to marriage law, the bill makes some changes in relation to civil partnerships. Most notably, the bill introduces the religious or belief registration of civil partnership, where the religious or belief body is happy to take part. As debated earlier, the Government will consult publicly on the future of civil partnerships, taking account of the introduction of same-sex marriage.

Clearly, the major innovation in the bill is the introduction of same-sex marriage. The bill proposes to allow same-sex couples to do what thousands of opposite-sex couples do every year—get married. Same-sex couples will be able to choose whether to have a religious, a belief or a civil marriage ceremony, recognised by the state.

Although the bill will allow religious and belief bodies that wish to solemnise same-sex marriage the opportunity to do that, we respect the decision of those religious and belief bodies that do not wish to take part. Not only do we respect that decision, but we have put in place specific protections in the bill for such religious and belief bodies so that they cannot be forced to solemnise same-sex marriage.

The bill establishes an opt-in system for religious and belief bodies in relation to same-sex marriage and civil partnerships. It also makes it

clear that there is no obligation to opt in. We have agreed an amendment to the United Kingdom Equality Act 2010 to provide further protection for individual religious and belief celebrants. That amendment will protect individual celebrants who refuse to solemnise same-sex marriage and civil partnerships from court actions claiming discrimination. Of course, a number of religious and belief bodies wish to take part in same-sex marriages and will welcome the opportunity to do so.

The bill does not include a specific opt-out for civil registrars. That is because a civil registrar is a public servant providing only a public function. The registration of civil partnerships by civil registrars in Scotland has worked well and there is no reason to expect that the solemnisation of same-sex marriage by civil registrars will not work just as well.

Those who are opposed to same-sex marriage have made it clear that their concerns go beyond issues in relation to celebrants and registrars and relate to other issues in society. Most notably, we have heard concerns in relation to freedom of speech. There is nothing in the bill that impacts on freedom of speech. Indeed the wide-ranging debate on the bill, in which diverse views have been expressed, shows that freedom of speech is, as it should be, alive and well in Scotland. The bill includes provision at section 14 to make it clear that the introduction of same-sex marriage in Scotland will have no impact on existing rights to freedom of speech, thought, conscience and religion.

We have listened to people's concerns about potential prosecutions for speaking out against same-sex marriage. The Lord Advocate's prosecution guidance puts beyond doubt that

"criticism of same sex marriage or homosexuality is not in itself an offence".

In relation to guidance, the Government has sought views on updating education circular 2/2001 on the conduct of relationships, sexual health and parenthood education. We are considering the points that have been made and will issue updated guidance shortly.

In all our work, whether guidance or legislation, we have aimed to listen, to be inclusive and to increase rights and provide protections. In relation to same-sex marriage specifically, I strongly believe that the bill achieves the right balance between treating all of our citizens equally and respecting and protecting the rights of conscience and religious objection.

In addition to same-sex marriage, we make new provisions for the transgender community, which I hope will make life a lot easier for that community.

Our society has changed, and changed for the better. Within my adult life, we have seen an end to the criminalisation of homosexual acts and the introduction of civil partnerships. Today is a momentous day for equality in our nation. No longer will persons of the same sex be barred from showing their commitment to each other through getting married.

This legislation sends a powerful message to the world about the kind of society that we in Scotland are trying to create—a nation where the principles of fairness and equality are woven into the very fabric of our society; a nation that protects and promotes freedom of expression; a nation that cherishes love; and a minister who prepares a shorter speech to allow other members the opportunity to speak for longer in the debate.

I commend the bill to the chamber and ask my fellow MSPs to support it and support it well.

I move,

That the Parliament agrees that the Marriage and Civil Partnership (Scotland) Bill be passed.

The Presiding Officer: Cabinet secretary, you just destroyed all my calculations and I will have to start all over again.

16:19

Jackie Baillie (Dumbarton) (Lab): Like the cabinet secretary, I am pleased to participate in the stage 3 debate on the Marriage and Civil Partnership (Scotland) Bill.

I commend the members and clerks of the Equal Opportunities Committee for their diligence in scrutinising the bill at stage 1 and, at stage 2, considering many of the amendments that we have also debated today. When there is a free vote in the Parliament, it places much more responsibility on committee members to take care in their considerations. Whatever their ultimate view, all the members of the Equal Opportunities Committee have done an outstanding job for the Parliament in subjecting the bill and its amendments to a robust level of scrutiny. I believe that Margaret McCulloch deserves particular recognition for so smoothly taking over from Mary Fee as the committee's convener part way through the bill's passage. [*Applause.*]

Ultimately, however, this is a Government bill, started by Nicola Sturgeon, who was clear in her commitment to same-sex marriage, and carried forward by Alex Neil, who may not have used all his speaking time but has certainly used his considerable political skill to deliver the bill itself.

Undoubtedly, there has been a volume of evidence both in favour of and against the bill. The consultation received a record number of submissions—over 70,000 in total. As Scotland for

Marriage pointed out, more of those submissions were against the bill than in favour of it. I have to say that the correspondence that I have received over the passage of the bill is much more finely balanced. Views are passionately held and I respect that. However, I repeat something that I said at stage 1: this is about changing attitudes in Scotland. It is the case that attitudes are changing. We should consider the evidence on that, which I think we would all agree is robust and reliable.

The Scottish social attitudes survey in 2002 showed that 41 per cent of people were in favour of same-sex marriage and 19 per cent were against it. In the same social attitudes survey, but this time in 2010, the proportion of people who were in favour of same-sex marriage had risen to 61 per cent. I can only imagine what it would be today. A shift of 20 per cent in opinion on any issue in such a short space of time is, frankly, astonishing and it speaks to the way that we are progressing as a society. If we begin to unpack the detail of that, we find that support for equal marriage can be found across all echelons of society, among the religious and the secular, people of all ages and income groups and people resident across the length and breadth of the country. Support for this bill therefore transcends religious, social, demographic and geographical boundaries.

If we examine the detail even further, we see that, according to the survey, 55 per cent of those who identified themselves as Catholic supported same-sex marriage and 21 per cent were opposed. Among Scottish Presbyterians, 50 per cent supported same-sex marriage and 25 per cent were against. Of those living in the most deprived areas of Scotland, 67 per cent supported same-sex marriage, while the figure for those who live in the most affluent areas was 63 per cent. Frankly, it makes no difference whether someone lives in urban or rural Scotland, because support for same-sex marriage is roughly the same. Support among young people is higher than support among older people. I will explore that in more detail shortly. There is no doubt about current public attitudes.

Let us look at another data set, helpfully provided by Professor John Curtice, who as we know has a wealth of experience in these things. He described a cultural shift in Britain over the past 30 years. According to Professor Curtice, in 1983, 62 per cent of the population believed that same-sex relationships were mostly or always wrong. That figure has dropped to 28 per cent, which is quite extraordinary. His explanation for that shift is that it is young people who increasingly support same-sex marriage. The Equality Network backs that up by telling us that support for same-sex marriage is highest among those who are under 55. Taken together, I believe that that offers

the kind of robust and credible evidence that we always pride ourselves on seeking before making policy in this chamber.

On that note, I want to consider what has happened in other countries that have legislated for same-sex marriage. In Europe, since 2001, we have seen the Netherlands, Belgium, Spain, Portugal, Norway—I could go on and on—and, most recently, England and Wales, legislate in this area. We also see same-sex marriage in Canada, South Africa, Argentina, New Zealand, Uruguay, Brazil and 17 states in America where it is the norm. Many of those countries are considered to be very religious. A significant number, such as Spain, Portugal, Argentina and Brazil are predominantly Catholic. In Portugal an amazing 81 per cent of the population identify themselves as Catholics, but they have same-sex marriage in place.

In the Netherlands, which was the first country to introduce same-sex marriage, support for their bill was about 62 per cent in 2001. That has now risen to such an extent that I understand that almost everyone there supports same-sex marriage—the highest approval rating of any European country. Apparently some 16,000 people have a same-sex marriage each year out of a nation of 16 million.

When the Parliament passed a law on civil partnerships, we took a huge step forward. Same-sex couples had the legal rights associated with marriage. However, I recognise that, for some, that falls far short of a marriage in which their love and commitment are fully recognised. The Equality Network talks about a gold standard; whatever language we use, it is a matter of equality and fairness.

For a host of reasons, I believe that equal marriage is an idea whose time has come and I will vote in support of the bill this evening.

That said, very few of us in this chamber have been deaf to the concerns that have been raised. I am pleased that we had a robust debate at stage 2 and today in this chamber. I welcome the openness of the chamber to hearing the concerns expressed. It is a sign of a mature Parliament that we have been able to consider the bill in a calm, sensible and objective manner, with tolerance of those who hold differing opinions from ours.

The principal area of concern was in relation to the protections that have been put in place by the Scottish Government. I believe that most members have been persuaded that it will not be possible for any religious or belief body to be forced to perform a same-sex marriage. Celebrants will not be forced to perform a same-sex marriage if it is against their beliefs and no one will be compelled to perform same-sex marriage ceremonies. Under

the Government's proposals, it will be their choice to opt in.

Indeed, throughout consideration of the bill, it has been made clear on numerous occasions that no part of the religious community that does not wish to conduct same-sex marriages will be forced to do so. I believe that that is right and proper: these are matters of conscience, doctrine and belief that are properly for the church and not the state.

Religions already can and do refuse to marry people. That is a matter for them; it is not proposed that that will change in any way. However, I recognise the genuine concerns that people have raised about protections and I very much welcome the arrangement between the Scottish and United Kingdom Governments to amend the UK Equality Act 2010. The 2010 act contains provisions about not discriminating when providing a service, with exemptions for religious and belief bodies that apply in certain circumstances. The Scottish Government has rightly sought the protection to be more comprehensive by asking for a further amendment that would help allay fears about challenges.

Amendments with the aim of respecting the right of those who, as a result of their religious beliefs, take the traditional view of marriage as being between a man and a woman have been considered this afternoon. Concerns have also been highlighted about freedom of speech. I think that the assurances that were given by the cabinet secretary were sufficient to allay those fears.

The Equal Opportunities Committee asked the Scottish Government to look again at the gender recognition provisions and I am pleased that the Government has acted to address those concerns.

For me, the bill is about equality, fairness and social justice: values that are instilled in many of us by our parents, community and society. For many of us, the bill is also about how we see ourselves as a nation, and how others see us. It is about the values that we hold and whether Scotland is indeed a confident, progressive nation where equality is truly valued. It is about our recognition that tolerance and acceptance of all are essential qualities of a mature and civilized society.

We are not the first country to agree to same-sex marriage and we certainly will not be the last. Those countries that have led the way have not suffered any adverse impact on their social and cultural values; in fact, I would suggest quite the opposite.

It is time for change. It is time to support equal marriage.

16:28

Jackson Carlaw (West Scotland) (Con):

When this parliamentary year started and we came back from the summer recess in full anticipation of passing momentous legislation on same-sex marriage, my personal assistant greeted me at the office and said, "Have you heard the latest? Neil Bibby and Mark Griffin have got engaged." There was just a moment before the look on my face made her feel that she needed to qualify that and say, "Not to each other." I noticed that they sat together at the back of the chamber throughout the debate on the amendments this afternoon. On the record, I wish them and their respective—on this occasion—opposite-sex partners every happiness in the marriages that they are about to embark on. [*Applause.*]

At the stage 1 debate, the *Official Report* of which I re-read, we heard some outstanding speeches from Ruth Davidson, Marco Biagi, James Dornan, John Lamont and Christian Allard, who was cut off in his prime by you, Presiding Officer, as he got to the peroration of a wonderful anecdote about two gay French farmers, the conclusion of which I hope to hear—

Christian Allard (North East Scotland) (SNP)
rose—

Jackson Carlaw: —but in his own time.

On re-reading that *Official Report* I saw that there were also eloquent speeches from Nigel Don and John Mason, who put the alternative point of view.

As we move past the amendment stage this afternoon, the Parliament is entitled to take a celebratory attitude to the bill that we are about to pass. I congratulate all those across Scotland who have campaigned to bring this moment about: the Equality Network and its indefatigable parliamentary liaison officer, Tom French, and all the others across Scotland who have done this.

I know that there will be a big party in Hemma tonight. My clubbing days are gone; I do not know whether Jackie Baillie, Nicola Sturgeon and Alex Neil plan to be dancing tonight. I think that Ruth Davidson could be. I look at Jim Hume and see a bit of a wannabe, so it is possible that he will want to be. Today is a celebration.

I echo what I said when I co-sponsored some equal marriage events. My wife and I have enjoyed 26 years of marriage, not civil partnership. I want every couple in Scotland, regardless of their sex, to be able to have exactly the same opportunity to enjoy a long and happy marriage such as we have had.

I also welcome the fact that those couples will be moving into modern Scottish family life. That includes the experience of single parents who are

struggling, either through fate or circumstance or choice, to bring up children on their own. It includes my experience: my mother and father were married and I am the married father of two highly opinionated young sons—how they became so highly opinionated, I have no idea. It also includes the experience of same-sex couples. I hope that they will have the opportunity to enjoy marriage, to be able to rear children in a happy and stable family environment and to have everything that goes with that.

I also take a practical point of view. Our country has an ageing demographic. We do not want people to feel that they have to live alone. I want us to do whatever we can to make it possible for any couple to share a life together. If the marriage legislation that we will pass today encourages that, that will be all to the benefit of our nation.

There has been huge change in my lifetime from the brutal atmosphere in which gay people had to live when I was a teenager and young man, when gay people felt that they had to strangle their sexuality. I know some of those people—I am in the Tory party after all. [*Laughter.*] Okay, it is a common point for everyone else.

Today is a fantastic change to be celebrated in the mood, style, signature and stamp of my country, Scotland. Let me chuck in a bit of musical theatre, because it is that kind of debate, is it not? Rodgers and Hammerstein's 1943 musical "South Pacific" was made into a movie in 1958, the year before I was born. As a 12-year-old, I was confronted by this particular lyric:

You've got to be taught to hate and fear,
You've got to be taught from year to year,
It's got to be drummed in your dear little ear,
You've got to be carefully taught.

You've got to be taught to be afraid
Of people whose eyes are oddly made,
And people whose skin is a different shade,
You've got to be carefully taught.

You've got to be taught before it's too late,
Before you are six or seven or eight,
To hate all the people your relatives hate,
You've got to be carefully taught!

I do not ascribe any of those prejudices to anyone in the chamber this afternoon, but what that song said to me as a 12-year-old is that we can come into politics and hope to change the attitudes in the country about sexual, racial and religious equality. We politicians have the opportunity today to be part of a generation that teaches the next generation, without prescribing the word "teach" too strongly, about the kind of country that they want to work in, to live in, to marry in, and the country that I want to vote for tonight.

The Presiding Officer: We now move to the open debate. We are heavily subscribed,

notwithstanding the cabinet secretary's efforts. I advise members that the first few speakers can have six minutes but, thereafter, all other speakers will get five minutes. That way, I will make sure that I can get all the voices in the Parliament into the debate.

16:34

Marco Biagi (Edinburgh Central) (SNP):
Presiding Officer,

"I am a migrant with a German passport who was born in a former Soviet country. I want to stay because I learned that Scotland is a place where race and origin matters less than where I came from. This is the most wonderful place I want to live in. This is the society I want to contribute to. Please extend this liberty to other people who face discrimination on the grounds of sexual orientation."

Valeri, from Fountainbridge.

"As a member of the Quaker community I find it unacceptable that we are unable to have our registrars conduct same-sex marriages or civil partnerships within our meeting houses."

Anthony, from the old town.

"I have been with my wife for eight years and we became civil partners five years ago. I usually use the terms 'wife' and 'marriage' when describing my relationship as to me they describe perfectly the nature of our relationship, however, I am painfully aware that in the eyes of Scottish and UK law those terms are not applicable and we are left with the term civil partners, a term that makes us sound as if we are in business together as opposed to a loving monogamous relationship."

Angela, from Haymarket.

"I remember as a little girl asking my mother why two ladies couldn't marry each other and her struggling to answer. As I grew up I began to understand it was not for any logical reason but just that some of our rules are unfair but we don't like to change things that have always been that way."

Annie, from Dalry.

"When I came out as gay in my later teens clause 28 was still in law. Homosexuality was never mentioned at school, at least not in a positive context, making growing up gay isolating and often painful. But I do think about the young people growing up gay today and what a difference it would make to their self-esteem and confidence to know that they are equal in the face of the law and could get married, perhaps just as their parents did or their heterosexual friends may do. Without equality in the face of the law how can these kids grow up feeling equal?"

David, from the new town.

"My other role model for a successful loving relationship is that of my best friend's parents. His father had a sex change about 30 years ago, and my friend grew up knowing her as his aunt. They are still married, and have been for almost as long as my own parents. I count them as close friends today, but growing up they were my second set of parents.

Because of the current unequal laws on marriage she's never been formally recognised as a woman. They couldn't face the divorce which would be required under the current

laws. Forced to choose between state recognition of gender, or their marriage, they chose the latter. She has lived for 30 years with a physical identity at odds with her legal one."

Patrick, from Fountainbridge.

"I 'came out' at the age of 15, just over ten years ago now, to a fairly rough school in Edinburgh. I was surprised to find that I was met with relatively little negativity from my peers, and nothing but support from my teachers. My mother took the revelation rather badly. She had an image of gay people, one that she presumed meant I would be bullied all of my life; that I'd never have a 'normal' loving partner to grow old with; that I'd never have children. She was convinced it was her fault—that she'd consigned me to a fate of certain pain. Yes, bullying will inevitably continue. But let's not fan that fire by keeping equal people on different sides of a barrier. So please, let's not look on this as a matter of 'just' words and definitions. Words and definitions go a long way to moulding attitudes and challenging prejudices."

Adam, from Gorgie.

In November 2013, at stage 1 of the bill, I told my own story. On this historic day, I wanted to throw open the doors of this chamber to let in the voices of just some of the 429 constituents who have been moved to ask me to vote yes today. I never needed persuading.

I hear one last voice today:

"We give you our deepest dearest wish to govern well, don't say we have no mandate to be so bold. We give you this great building, don't let your work and hope be other than great".

That was Edwin Morgan. Wherever he is, today he is smiling.

16:39

Margaret McCulloch (Central Scotland) (Lab): I support same-sex marriage as a matter of principle. Not long after I was elected to the Parliament, I was proud to pledge my support to the equal marriage campaign. However, legislators have a responsibility to make sure that all sides of the debate are heard, that everyone's rights are respected and that all bills undergo proper scrutiny.

That is exactly what I have tried to do as the convener of the Equal Opportunities Committee and I can say the same for my committee colleagues. Whatever our initial thoughts about the principles behind the bill, we worked together to take evidence, over several months, to produce a balanced and comprehensive report on the bill and to debate many of the amendments that have returned to the chamber in some form today. At the end of that process, having listened carefully to the different arguments that have been made, I am more convinced than ever that it is right to pass the bill and to legislate for equal marriage.

Much has been made in the debate of the state of public opinion. We have been told that the majority of respondents to the Government's consultation opposed changing the law and that to do so would therefore be against the wishes of the Scottish people. It has even been suggested that the bill should be put to a referendum. However, I do not believe that the rights of any minority should be dependent on the will of a majority at a particular point in time. Nor do I believe that members should take a view on the bill on the basis of the way that they think the wind is blowing. We must do what we believe is right.

Nonetheless, let us take a closer look at public opinion. Professor John Curtice reminded the committee that pro forma letters and emails that are part of an organised campaign might tell us more about the structure than the state of public opinion. Opinion polls actually show that 60 to 65 per cent of the public support same-sex marriage and that is consistent with the findings of the independent Scottish social attitudes survey.

Many of the amendments that have been presented today, like those that were presented to the committee, relate to concerns about how the bill might affect people who have a traditional view of marriage. In my view, such amendments are unnecessary, because sufficient safeguards to protect the rights of those people either already exist or are provided for in the bill. The only religious or belief bodies that will solemnise a same-sex marriage and the only religious celebrants who will participate are those who want to. That is what the opt-in approach that has been taken in the bill is all about—legislating for equal marriage but securing the right of religious and belief bodies to decide whether they want to be part of it.

No prospective foster carer or adoptive parent should be refused solely on the basis of their views about same-sex marriage. The best interests of the child should come first, as they do under the law at present. Furthermore, the right to express a traditional view of marriage as being between one man and one woman is already protected by our freedom of expression; it does not require a specific mention in the bill.

There is one amendment that was withdrawn during stage 2 on which I want to press the cabinet secretary today. One of the Equal Opportunities Committee's concerns at stage 1 was that the bill does not allow couples in a civil partnership that is registered in another country to change their civil partnership to a marriage in Scotland. That could leave those couples trapped outside the law as the only same-sex couples unable to marry in Scotland. I was, therefore, happy that at stage 2 the Scottish Government recognised the problem and committed to dealing

with it. However, the point is to be addressed by order and not through primary legislation, to allow the Government time to consult on the detail of it. It is important to me and to several other committee members that the Government act on that point and that any change is done right.

At stage 2, my committee colleague John Finnie asked the cabinet secretary:

“can you give an undertaking that the general policy approach on the matter will be, as far as possible, to enable all same-sex couples with foreign civil partnerships to marry in Scotland?”

The cabinet secretary's response was:

“Absolutely, and that is why I need time to get the approach right.”—[*Official Report, Equal Opportunities Committee*, 19 December 2013; c 1707.]

In the light of that guarantee given at stage 2, I ask the cabinet secretary to provide more information about the process of introducing an order to deal with that specific point and the timescale that we could expect the order to be delivered in.

This Parliament has come a long way since the debate on section 28 and it has come even further since the introduction of civil partnerships. The case for equal marriage has been made. The safeguards are there. The bill does not curtail religious freedom, it enhances it. The bill does not deal in half measures for same-sex couples, but gives them the same rights that every other couple has. Let us vote today for a bill that we have already waited too long for. Let us vote today for a fairer Scotland.

16:45

Alex Johnstone (North East Scotland) (Con):

Members will not be surprised to discover—if they do not know already—that I will vote with the minority at decision time tonight. However, I have no intention of dwelling on that, as I wish to talk about other things that have happened during the passage of the bill.

First, I highlight the respect that has existed between the two sides during the process. I draw attention in particular to the work of the committee under its convener. The committee was fairly evenly split, yet it conducted itself in a manner befitting the Parliament. In fact, the quality of the debate and of the evidence that we received from both sides is to be highly commended.

There have been one or two bad experiences. After the stage 1 debate, I, like many members of the Parliament, had some interesting emails and tweets. However, none of the more hostile correspondence that I received came from anyone who had a vested interest in the debate. I believe that those who took one side or the other in the

debate have conducted themselves in an exemplary manner throughout.

I will say a little about those who were opposed to this change in the law. It is vital that both sides are heard during the legislative process, and it was therefore essential that, in a debate in which there was likely to be a majority position and a minority position in the Parliament, those on the minority side who came to give evidence felt that their views were taken seriously and treated with respect.

A number of us on the committee, and others in the Parliament, have worked hard to ensure that the minority view has been represented. I hope that those individuals and organisations feel that the Parliament has given them a fair crack of the whip. It is essential that both sides feel that they have been listened to, right to the very end of the process.

It is disappointing that none of the amendments—particularly those lodged by John Mason and Siobhan McMahon for consideration today—was accepted by the Parliament. I believe that, if some token had been given, those who take the alternative view might have felt engaged in the process right to the end. However, there has been significant involvement and buy-in throughout the process.

John Finnie (Highlands and Islands) (Ind): Will the member accept that it should be the quality rather than the quantity that matters when it comes to amendments?

Alex Johnstone: Indeed. That is very much the case, as the way in which the evidence has been treated throughout the process indicates.

As I said, I am disappointed that we were not able to find some compromise that would have allowed some of the amendments to be accepted. It remains a concern among many on the minority side that there will be an on-going effect. I think that it has been accepted in the arguments from both sides that the bill makes such a substantial change that it changes many things in ways that we will not be able to predict.

I hope and pray that we will have the positive outcome that many people have spoken about and that we will not experience the potentially negative consequences that some have described. Nevertheless, we should all be ready in case we are not so lucky.

Looking to the future, my one disappointment with the Marriage and Civil Partnership (Scotland) Bill is that although it dealt with a number of key issues, it did not deal with the significance of marriage in society as a whole. I am not stupid enough to fail to realise that there are today many different models and that we have to work to

support all the models with equal vigour. However, I also believe and am prepared to argue that society itself in recent years has been weakened by the weakening of marriage as a bedrock of society. I believe that we need to look carefully at the significant role that marriage plays in building strong families and a strong society. Although I accept the broad and different definition of family that we have today, I believe that it is right that we continue to argue for the strength of marriage as a cornerstone of society.

It is for that reason that, although I accept that I will not be on the successful side after the vote tonight, I believe that we must continue to press for marriage to be the cornerstone and bedrock that makes for strong families and a strong society. During my lifetime, marriage's role in society has weakened and I think that we have seen society suffer. However, I think that we can reverse that trend. I believe that we can do that even in the context of substantial changes to marriage such as that in the bill.

I would like to see in future a Government that consolidates the achievement of the bill as it becomes an act and ensures that we go on to take advantage of the opportunity that marriage and family give us to strengthen society and make the future of our children stronger as a result.

The Presiding Officer: The next speeches will be of five minutes.

16:51

James Dornan (Glasgow Cathcart) (SNP): I start by responding to the point that Alex Johnstone just made. I would have thought that, if anything, the bill would strengthen marriage because it makes marriage much more acceptable for every sector of society. I also think that Alex Johnstone's argument about the weakening of marriage being at the root of all evil over the past decades is a bit simplistic. However, the bill can only help to strengthen marriage and make it more acceptable to everybody across society.

I would like to thank Jackson Carlaw for his kind words, but he clearly does not want to hear my words as he is not present. He gave a very eloquent speech, but it left me feeling a wee bit empty because when he started to talk about "South Pacific" I was fairly confident that he was going to sing but, unfortunately, he did not.

When I got elected to Parliament in 2011, I realised very quickly that we were going to be part of something special and that Scottish National Party members were going to be part of at least one memorable day and event, which would be the referendum. What I had not quite realised was that there would be other opportunities to do something really historic. Today is one of those

rare days when I can say as a politician that, no matter what happens, even if today is my last day as a politician—and given that the vote goes the way that I hope it will tonight; I do not know what time it will take place now, Presiding Officer, but it will be some time after six—my colleagues and I will have made a difference to improve the lives and rights of many people across Scotland. We should all be proud of that.

Like others, I recognise that there has been a change in society. I recognise what it was like a long time ago and when I was growing up. That we have come to where we are in such a comparatively short period of time in historical terms—although I have been here a fair length of time, to be fair—is something that we should be immensely proud of. As I said in a previous speech, I have no concerns about safeguards with regard to the bill. All the safeguards are in place and I am confident that celebrants and religious bodies will find that to be the case.

In my speech last November on same-sex marriage, I talked about my brother Michael and how he had just contacted me to tell me that he was going to get married. As things often happen, he phoned me very quickly after that and said “I’m not just getting married, James. I’m getting married next Wednesday.” So, I had to contact Joe FitzPatrick, who I have to give huge thanks to because he was incredibly helpful, along with the whip’s team—Bill Kidd, Fiona McLeod and Graeme Dey, who covered for me when I was away—and I managed to get away to see Michael getting married. It was a lovely ceremony that was very small and family oriented.

There were two things about it. One is that I was the only member of our family who was there. That is understandable as it was very short notice; I also have a very understanding boss and I could afford to go. Other members of my family could not afford to go in that time period, and my mother is 79 years of age and she could not travel to Lisbon, so there was a hole. It would have been perfect if members of the family had been able to go. I have no doubt that if we had had the legislation in Scotland, the wedding would have been here, because Raoul has a smaller family than ours and they are more mobile than us, so they would have come over here and we would have had that opportunity. That was a shame.

The other thing is that it did not rain. I looked back to that UK Independence Party comment and I thought, “No—that just can’t be true.” There was no thunder and lightning. It was a lovely sunny day. The sun was even shining through the windows. It was just a perfect, lovely day, so that was really strange.

In my previous speech, I said that my opinion was that they were getting married because they

had got to an age at which they thought that it was right to ensure that their affairs were settled, and I knew that it was a strong relationship. But when I was over there, what really got to me was that I realised just how much the day meant to them. That kind of surprised me. It was the right thing for them to do to ensure that, as they get into their 60s, everything is settled, but it is a marriage based on love, and it was an absolutely lovely thing to see. I was honoured and delighted to be there. I just wish that it could have been here.

I finish with two quotes. One is from more than 2,000 years ago and the other is from more than 150 years ago. The first is:

“The only stable state is the one in which all men are equal before the law.”

If we take it that “men” means the species as opposed to the gender, that is a good quote. I said that because Nicola Sturgeon was giving me a funny look. [*Laughter.*] The other quote is from Robert Ingersoll, who was a civil war veteran, a political leader and a radical orator. He said:

“The true civilisation is where every man gives to every other man every right he claims for himself.”

I suggest that that includes the right to be married. On that note, I am delighted and proud to support the motion.

16:57

Richard Lyle (Central Scotland) (SNP):

Tonight, I will be out of step with the majority of the Parliament, and I regret that. However, I am grateful for the opportunity to speak at what is undoubtedly an historic moment for Scotland. It is historic because the institution of marriage, which has been at the core of our culture for centuries, is on the cusp of being changed forever. Many people welcome that. They say, “Why not have equal marriage? Why deny gay people the right to marry?” They argue that the status quo is discriminatory. I understand that line of argument, which has certainly been embraced by the vast majority of my fellow parliamentarians, but it is not one that I can agree with.

It is my conviction, and the conviction of many thousands of Christians, Muslims, people of other faiths and people of no faith, that marriage is unique—a unique relationship between a man and a woman. In recent months, polls have been cited to indicate that Scotland supports the bill, but I am not convinced that that is the case. Some 54,000 people signed Scotland for Marriage’s petition against the bill and, of the 62,000 people in Scotland who expressed a view during the Government’s main consultation on whether same-sex marriage should be introduced, 64 per cent—almost 40,000 people—said that it should not. Many of my fellow citizens have spoken

clearly, but I am not convinced that we are listening.

Whether or not one accepts that the majority of Scots oppose the bill, the balance of views in the Parliament, where there is near-overwhelming enthusiasm for same-sex marriage, is hugely disproportionate to that in the country at large. That is why the various amendments that John Mason, Siobhan McMahon and I lodged, which were discussed earlier this afternoon, were significant and deserved the support of all MSPs, including those who favour same-sex marriage. Those amendments sought to ensure that the many thousands of Scots who disagree with the bill would have their views respected and protected once the law is changed.

In reply to Mr Harvie's comments on amendment 1, I can say that I was branded homophobic in various emails. I brought my children up to respect people for what they are. Basically, that is how my make-up has always been.

Patrick Harvie (Glasgow) (Green): Will the member give way?

Richard Lyle: No, I will not. I have only five minutes.

There are adoptive parents out there who are frightened that their opposition to same-sex marriage will be misunderstood.

I ask Jackie Baillie and the cabinet secretary to tell the Office of the Scottish Charity Regulator about charitable status, because OSCR ain't listening to the cabinet secretary. He can write OSCR a letter and see where that gets him. I found out as a councillor that written policy counts for more than letters; when someone said "It's policy, councillor," that was fine—we could drive it forward.

My good friend Jim Eadie and I first met when I entered the Parliament. He told me that he was adopted and that he was gay. He is my friend, and I hope that I will still be his after today. I respect his views and I know that he respects mine.

Supporters of the bill claim that the amendments that I mentioned would have permitted discrimination against same-sex couples. That is untrue. The fact that such a claim was made shows why protection is necessary. Not one non-Government amendment was supported, which was disappointing.

Time and again, we have heard supposed reassurances from proponents of the bill that no church will be forced to conduct a same-sex marriage and that religious celebrants will be protected. That is all well and good but, as those who oppose the bill have said repeatedly, that is not the major issue.

As the Rev David Robertson of the Free Church of Scotland said at stage 1,

"My concern is not so much about the clergy—to be honest, we can look after ourselves—as about other people, who might find themselves victims of discrimination."—[*Official Report, Equal Opportunities Committee*, 12 September 2013; c 1451.]

That has happened even before the law has been changed. A former leader of my party, Gordon Wilson, was voted off the board of his local citizens advice bureau in 2011 because of his public support for marriage. Some MSPs who do not support the bill have experienced vitriolic abuse for refusing to back the change in the law.

That is why many people have concerns about the impact that the change in the law will have on many Scots who, for sincere reasons of conscience, cannot endorse same-sex marriage. They are not bigots, as some suppose, but they are fearful, particularly if they are in public service jobs.

In closing, I will say a few words about recent events surrounding St Margaret's Children and Family Care Society. The success of that agency's appeal is great news and demonstrates a welcome dose of common sense. However, the cost, time and effort for that small charity to get the result, and the fact that OSCR sought to remove its charitable status in the first place, underline why we are worried.

The Presiding Officer: You need to bring your remarks to a close.

Richard Lyle: That happened before the law is changed.

I know that I will not win tonight, but I will vote in line with my conscience, in the way that I have always stood up for my constituents.

17:02

Drew Smith (Glasgow) (Lab): The debate is no less welcome for being long awaited. At decision time, Scotland can become the 17th or the 26th country or territory around the world—it depends on how we count it; I will not go into the constitutional issues—to legislate for equal marriage rights for same-sex couples. We will pass what many regard as the last great reform that is required to achieve full equality in law for lesbian, bisexual and gay people.

It is true that equality in law will not immediately mean the end of discrimination in all its forms, but it will mean the completion of the first phase of a campaign that began in Scotland at the end of the 1960s and which achieved the decriminalisation of homosexuality in 1980, as others have said. That landmark achievement was slowly followed by equalisation of the age of consent and, ultimately,

civil partnerships—an imperfect but at the time progressive move towards our vote today. The bill also makes significant progress on the inclusion of trans and intersex people. After today, campaigning for LGBT people—for example, for better sexual health and education policies and against bullying or stigma—will go on, but the crucial point is that it will do so on a similar basis to that for other groups and from the starting point of full legal equality.

While other countries around the world, including our neighbours in England and Wales, have taken the lead, those of us who have supported marriage equality in Scotland have watched and hoped that our day was coming closer. As each country has taken the step, the pressure for change has increased.

In each nation, the story of the fight for equality has been different. Each land has its own progressive coalitions, which have been built up over time and which are unique to the relationships and experiences of its people. However, the discrimination and oppression that too many gay and lesbian people have faced have been all too similar. It is said that the world is becoming a smaller place but, for lesbian and gay travellers throughout the generations, the most far-flung destinations must have seemed familiar, because the reality of discrimination has been a constant and near universal fear, wherever is called home. Therefore, I am proud that Scotland can today join the places where difference is neither to be feared nor tolerated but is, rather, accepted.

When I spoke in support of the bill at stage 1, I said that I wanted to do more than just win an argument for tolerance. Therefore, I also mean something more when I use the word “accepted”. The prize is not that we no longer care who gets married to whom, but that we recognise individual human relationships. The commitment to love another person and to spend our days with and for them can be a very private matter, but it can also be a proudly public one, if that is wanted. To my mind, that is the right that the bill creates, and it is one that, distinct from civil partnerships, should be available in the same terms to all couples, regardless of their sexuality and whether they profess a faith. That is the right that other countries have created, and we should join them. We should do so not just for our own people in Scotland in order that the state is truly the enemy of discrimination among its citizens rather than just the arbitrator, but because history has already taught us that we are on her right side.

In the coming weeks, the eyes of the world will be on Sochi and the winter Olympics there. We will be reminded that the world is not so small and that the attitudes that we rightly condemn in

Russia are far more the norm there and elsewhere than what we might boastfully feel are our own enlightened views.

Each Parliament that has already made the change has done so in its own fashion. In some, there have been tears, hugs and the singing of national or protest songs. Jackson Carlaw took us somewhat towards that, but not the whole way, thankfully. Our chance at history comes at just after 6 o'clock, but it must be living history for much longer afterwards. We need a Scotland in which we renew our determination to eliminate homophobia and to celebrate, not just tolerate, diversity. We need determination that our small—and, I predict, positive—example will help to ensure that we are not for long the latest legalisers of equal marriage but rather are among the early adopters of change that has already taken far too long. It should be remembered that, for many people in the world, we will be just a far-off dream.

Those of us in the Parliament who have campaigned for equal marriage will be pleased with our work today and our work towards today, but there are many days of individual celebration ahead. Those days—not this day—will show that what has been done in the first few countries is more than a dream; it is a hope for all lesbian, gay, bisexual and transgender people, wherever they live and whatever their experience. That is why I feel very privileged to support the bill.

17:07

Linda Fabiani (East Kilbride) (SNP): It is an absolute delight to be in the chamber today and to pass the bill very soon, I hope.

I thank not only all those who have worked hard to bring to fruition the principles that many people have worked for for years but those who have worked hard on the technicalities and have tried to ensure that, as far as possible, as the convener of the Equal Opportunities Committee, Margaret McCulloch, said, everyone was heard with dignity and respect on a subject that evokes strong emotions on all sides.

I am glad that we are here but, for me, it is not really the detail that matters; it is the principle and the ethic that says to me, “This is absolutely the right thing to do.” Everybody can think of people, whether from their childhood or family members, who have been badly affected by the discrimination that has happened. Let us not forget that it was only in 1980, I think, that we decriminalised homosexuality in this country. That is not that long ago.

I want to see the kind of society that has said at a top level, “We’re creating equality by allowing same-sex marriage,” and in which people such as my great-uncle do not have to run down to London

and live apart from their family, as my great-uncle had to do so that he could live with someone he loved. There was also my uncle, who had an absolutely rotten childhood, adolescence and adulthood, very much based on his psyche and his having to live a life that was a pretence. Members will notice that I am not saying their names. That is because there are still people out there to whom that would be a bit of a revelation. I respect the memory of both men; they hid what they were for very valid reasons.

I also want to live in a society in which actors do not have to portray in real life the characters that they portray on screen. Yes, we have come a long way on that but there is still a bit of discrimination going on in that area.

I want to live—and represent the constituency of East Kilbride—in a country in which I do not have the occasional young person coming to me and saying, “I have to admit to everyone that I am gay,” or “I have to admit to everyone that I am bisexual,” and asking, “Do you know anyone who will support me or help me?” I do not want people to have to admit to anything. I want people to just be people and to be the way that they are, and I want everyone to be treated equally in the eyes of the law.

To go back to the earlier discussion about civil marriage, religious marriage and civil partnerships, everyone should be equal and have equal chances and equal opportunities. My colleague Stewart Maxwell was quite right about that. The reality is that we have civil partnerships now—they are there. There should be equality for anyone who wants to take part in any of those options.

I am not married—I have chosen not to be married. Duncan may have something to do with that as well, right enough, so we have chosen not to be married. If we choose to have a civil partnership—if that comes in—it does not matter what the differences are between civil marriage and civil partnership. It will be my choice and absolutely no business of anyone in the chamber or anyone else what we choose to do if the law says that we have that opportunity—that everyone has that opportunity.

I loved Stewart Maxwell’s comment that sometimes people are forced to choose between different kinds of apples; it is not always about choosing between apples and pears. I will leave my colleagues to decide whether I am a soor old Granny Smith or a sweet Pink Lady. [*Laughter.*] Maybe I do not want to hear the answer to that.

Yes, we have done something pretty wonderful today and I am really pleased about that, but let us not kid ourselves that everything is solved just because we put this into legislation. There is still a long way to go. There is still discrimination out

there and there are still a lot of people who need support before we get to the point at which, in reality, it just does not matter a toss what someone’s sexuality is.

I cannot mention everyone who has been involved in the bill but I will mention the Equality Network—

The Presiding Officer: It will have to be brief, Ms Fabiani.

Linda Fabiani: Absolutely. The Equality Network is saying that there is still a lot more work to do to tackle prejudice and to ensure that LGBT people receive equal treatment across society—yes. It is time for change so let us move on and build on what we have done today.

17:13

Jim Hume (South Scotland) (LD): Fairness and equality run through the veins of every true Liberal Democrat I know. We want Scotland to be one of the fairest and most equal places in the world. That is why we support the bill enabling gay, transgender and lesbian couples to marry. When MSPs met to debate the bill back in November, I was pleased to have the opportunity to vote in favour of the bill and I of course remain supportive of the bill.

The bill demonstrates that our society values every person equally, irrespective of their sexuality, and that we regard every relationship as worthy of equal recognition. If two people in a loving relationship want to formalise that relationship through a religious or civil marriage ceremony, that should be the case. They should not be prevented from doing so. In other words, there should be no differentiation between what is available to same-sex or to mixed-sex couples.

I strongly believe that that sense of fairness and equality also runs deep in the psyche of every Scot. Indeed, that view has been reflected in the emails and letters that I have received over the past few months. Key to the whole debate has been the issue of respect for everyone’s opinions and getting the balance right.

The bill as it stood earlier struck a good balance. It was recognised that, in voting to uphold the intention of the bill to allow for equal marriage, it was also important to respect the rights of individuals and faith organisations not to carry out same-sex marriages if they do not wish to. I believe that the stage 2 amendments acknowledged that balance.

As a Lib Dem and someone who was brought up in a household of good churchgoers—with a mother who broke another mould by becoming the first woman elder in the parish—I believe that it is important to do the right thing. Inequality is a form

of oppression and can manifest itself in many forms, some more subtle than others, and to varying degrees. It is true that society has come a long way on gay rights and equality issues, but I do not buy the argument that gay people should be happy with what they have, as though they have already been given some special concession.

The idea that a gay couple should have no legal right to a religious or civil marriage ceremony makes the massive assumption that marriage does not apply to those in a same-sex relationship and that they cannot express their religious view or commitment to marriage. To take that a step further, preventing same-sex couples from marrying is preventing a section of the population from expressing their marriage beliefs, which in my view represents a subtle and creeping oppression.

Back in the 19th century, the businesswoman Anne Lister, whose diaries, which were discovered after her death, revealed much about her private life, said it best when she wrote of her sexuality:

"This is my nature. To act in opposition to my nature would be more wrong for me than to be a married woman. I am living my life with the nature that God gave me. It is perfectly ok".

As an aside, it is interesting to note that Anne Lister should primarily be remembered for being the so-called "first modern lesbian". In fact, she is arguably a role model for women and men to this day. She was an independent businesswoman in her own right and became one of the first women to climb the Pyrenees. She lived her life her way, with the nature that God gave her.

We are not giving preferential treatment to any one group; we are simply saying that everyone, regardless of sexual orientation, should have the same rights. Anything less is inhumane. I am proud to stand up for equality of marriage in Scotland. There can be no excuse for isolating a section of the population for any reason, whether that is on the basis of religious affiliation, skin colour or gender. For that reason, I will be proud to support the Marriage and Civil Partnership (Scotland) Bill through its final stage today, as will, I believe, my fellow Lib Dems.

I should recognise the many constituents who have contacted me and others in support of the bill. We should also recognise the positive campaign, in particular by Stonewall and the Equality Network, throughout the debate. We should of course have respect for other people's views, in the chamber and outside it.

We should also give recognition to Alex Neil for his determination to bring the bill to the Parliament and for the meetings that he held with me and others to ensure that Scotland can be seen as a

leading light for equality. I look forward to voting yes for this historic bill at decision time today.

17:17

John Mason (Glasgow Shettleton) (SNP):

The process has been a long one. I thank members, the clerks and others who have helped with a professional attitude throughout. I first said something publicly on same-sex marriage in August 2011, which was about two and a half years ago, and I realise that others have been campaigning on the issue on either side for a lot longer than that. Therefore, it will be good to reach a decision today; then we can, I hope, get on with other business and with rebuilding relationships, which might have been strained during the process. I have to say that I am disappointed that none of my amendments was accepted today.

I have previously said that I am relaxed about the introduction of same-sex marriage if no one will be disadvantaged by it. However, early on in the process, it became clear that changing marriage would have significant repercussions throughout society. We need to be realistic and accept that this is a significant change in how our society operates. Although some see it as a major step forward on human rights, others feel that a key part of their lives and experience and a key building block of society is being undermined. As we have seen in other countries, same-sex marriage will continue to be an area of controversy even after it is introduced.

Ideally, we all want a society in which everyone is treated equally and minority views are at least tolerated, if not welcomed. However, the fear among some people is that we might see a switch from lesbian, gay, bisexual and transgender people being discriminated against to religious or other people with a traditional view being discriminated against. Will Christians and others be squeezed out of working in the public sector? We are not sure.

Jim Hume: I do not like to say that the member is scaremongering, but does he have any evidence at all of religious organisations being squeezed out?

John Mason: We have gone over some of this already, but it appears that, for example, somebody with traditional committed Christian or Muslim beliefs cannot be a registrar in the public sector.

I do not think that that is the Government's intention, and I accept that some safeguards have been built in. I also accept that we can never have 100 per cent safeguards or know where the courts will go in future. I am therefore disappointed at the Parliament's response to the amendments on that issue that were proposed today.

There are parts of the bill that are not controversial. The controversial part is clearly same-sex marriage. However, the bill comes against a backdrop of questions about the place of religion in society, which will be an issue in the future whether or not Scotland gains independence.

There is a clear trend away from religion these days. Society seems to be becoming increasingly secular and humanist. However, it is also interesting to look a little below the surface and see how people react at times of stress and loss.

We did not take evidence from the Scottish Independent Celebrants Association, but it has spoken to MSPs in Parliament. Independent celebrants report how many people approach them for a funeral not wanting a full church or religious service but still wanting a hymn and a prayer, which the humanists cannot provide.

It was also interesting how many people speaking about the recent helicopter crash who would not normally be seen as religious talked about our thoughts and prayers being with the families of victims and attended church services and mass.

We are in an untidy kind of society that is perhaps not as Christian as I would like or as humanist as Patrick Harvie would like, but we need to recognise where people are at. For many, that includes a bit of faith and religion, at least below the surface.

The relationship between church and state is part of the debate as well. I am clear that church and state should be separate and that the church should not be in a privileged position, as it has been in the past—neither the church nor the state benefited from that.

The bill is not perfect and could have been improved more along the way. However, the key point for me and others is that we may well be, and probably are, opening the door for more discrimination against religious and other people who think a bit differently from the rest of society. I hope that I am proved wrong in that, but the signs are not encouraging.

For that reason, I feel forced to vote against the bill.

17:22

John Finnie (Highlands and Islands) (Ind): I thank the various groups that provided briefings for the debate. One line in the Equality Network briefing said that it would make Scotland fair and more equal if we agreed to the bill, and I agree with that.

The Parliament has an important role in serving the people of Scotland, and we know that the people of Scotland have different genders, races, sexualities and localities.

The committee structure plays a key role in our scrutiny of legislation. Much has been said about the Equal Opportunities Committee. I thank our convener, Margaret McCulloch, for her comments and her résumé of the work that took place. I also thank our valuable committee staff, who were tremendously helpful in providing support to enable us to scrutinise the bill.

A lot of evidence was taken and, like many, I have had a lot of communications. Some of them have not been particularly measured and others have clearly indicated that they have not read the proposals, which is a bit disappointing.

Of particular interest was a line of emails that I got. As someone who has spent all but a handful of years in the Highlands—I was born, was brought up and live there—I found being told that I could not possibly be a Highlander or I would not support the bill to be quite dismissive of an entire population and, indeed, the geography of the place.

In many locations around the globe—sadly, 21st century Scotland is no different—people choose selective tracts from a book of their choice to support various things. That might be girls not being educated; women not being allowed to be doctors or to drive motor vehicles; the mode of dress that can be worn; boys and girls not being allowed to be educated in the same room; the races being segregated; children being beaten; interfaith and interracial marriages being banned; goats being thrown off towers to their deaths; and people who love each other not being allowed to marry.

There have been many entirely reasonably expressed views. I do not go for the hierarchy. We either believe in equality or we do not; there is no hierarchy within that.

I will quote two of the communications that I have had. One is from a monk in an abbey in the Highlands and Islands, who concludes by saying:

“Of course the main victims in your favoured legislation will be children—but they don’t vote, so obviously can be safely ignored”.

I have to say that I will be safely ignoring that gentleman.

I commend the approach to children that is taken by Stonewall Scotland, which says:

“Existing law already states, rightly, that all decisions on adoption or fostering must be based on the best interests of the child. Stonewall Scotland agrees that prospective foster carers and adoptive parents should not be rejected solely because of their views on same-sex marriage. We do

believe, however, that potential adoptive parents or foster carers should be assessed on whether they have a range of skills to support looked after children, including those who may grow up to be lesbian, gay, bisexual or transgender or may be experiencing homophobic or transphobic bullying.”

What a contrast between the views of that proponent of faith adherence and the support that we have had in the way of briefings from equality groups.

Similarly, like other members, I have received a communication from a Free Presbyterian minister, who says:

“If you ignore this warning”—

the warning not to support the bill—

“I am clear from complicity of you dying in your iniquity.”

He adds that his

“conscience will be purged from any involvement in the national sin.”

I have news for the Rev Campbell: I am going to die, and my death certificate will not state that the cause of death was iniquity or involvement in the national sin.

To those sadly loveless communicants, I say that I, too, can quote from a book. The book that I will quote from says:

“A new command I give you: Love one another. As I have loved you, so you must love one another.”

A lot has been made of statistics, and Jackie Baillie has alluded to the social attitudes survey. To me, it is not about who can get the bigger gang together but about which group values equality more. We have heard about the civil registrars and the contrast with the faith adherents, but who would want to get married in a situation involving duress anyway?

It is quite clear to me that one person’s morality is another person’s prejudice. I am sad to say that we have heard a lot of prejudice in relation to this bill. As I have said before, I do not think that there can be any caveats in relation to equality.

We have an opportunity to make history. Not many people get that. There have been vital votes on franchise and slavery, and the future analysis of that has been important. James Dornan will be seen to have acted to make a difference.

I have one final quote—

The Presiding Officer: You need to make it brief.

John Finnie: Martin Luther King Jnr said:

“I have decided to stick with love. Hate is too big a burden to bear.”

I ask others to facilitate the love that would allow people to marry, and to support this legislation.

17:27

Mary Fee (West Scotland) (Lab): In my view, this bill is the single most important piece of legislation that the Parliament has delivered. That is a hard feat to achieve. It is bigger than the smoking ban and it is bigger than the Scottish Independence Referendum Bill. The Marriage and Civil Partnership (Scotland) Bill will deliver real change on equality in Scotland.

We have all heard about the evil consequences that are going to occur and about the effects that same-sex marriage will have on children. However, I am sure that we can all agree that continually talking about same-sex relationships in demeaning and bigoted tones will promote more harm to children, especially those who may have difficulty in accepting their sexuality.

The Bible and the teachings of Jesus are supposed to promote love and forgiveness. However, throughout this campaign, I have seen little evidence of that from certain opposition groups. I ask those who are concerned about and campaign about the consequences of same-sex marriage for children: where is the campaign to stop divorce? In 2011-12, there were 9,503 divorces in Scotland. What of those children and their rights? As the Bible says,

“What therefore God has joined together, let not man separate.”

Is it the case that that law of God is wilfully being ignored? The Bible also explicitly forbids cutting one’s hair and trimming one’s facial hair. The Bible also supports slavery.

I would like to stress at this point that I am not criticising any individual for their religious belief; I am merely pointing out the hypocrisy of certain opposition groups. The Bible has been used in representations to me as a means of reinforcing opposition to the bill. I merely point out a couple of other areas in the Bible that should perhaps be reflected on if groups want to be fair and honest and to have due regard to equality.

Our society has become increasingly liberal, tolerant, accepting and understanding. I hope that that continues over the decades and centuries to come. We have also become more secular; there is a correlation between increased secularism and liberalism. The bill is stronger than it was at stage 1, although there were amendments that were not agreed to that would have increased equality for LGBT couples, especially young transgender adults. In easing the worries of opposition groups, the Scottish and UK Governments have made amendments to the Equality Act 2010 and guaranteed the freedoms that we have been asked to protect today.

As I said in November, enough safeguards are already in place without needing some of the

amendments that were lodged. In our current political landscape, we hear about Scotland becoming a fairer and more equal society. Today, those who perpetuate that statement have the opportunity to take a step towards ending the discrimination that same-sex couples face.

Commitment between two loving and consenting adults, not the ability to create a family, should be the basis for marriage. In many cases, families are created before marriage—again, there is no precondition that must be met before marriage.

In the stage 1 debate, I pointed out that single-parent families are increasingly accepted as normal and that the language used by opposition groups adds to the stigma forced on single parents, especially mothers. As we come to the end of the legislative process, let us remember that, as long as a child has a loving and stable home, it does not matter if they come from a one-parent family or their parents are a same-sex couple or a mixed-sex couple.

Today, Scotland will take a massive stride in equality. We will catch up with our neighbours down south and other progressive nations throughout the world, becoming the 17th nation to make marriage equal. This Parliament has continually acted against the social and moral inequalities that discriminate against LGBT people, and today we will add marriage equality to the list of other actions that we have taken, such as repealing section 28, allowing same-sex couples to adopt and ensuring that LGBT people are protected under hate crime laws.

The work of the Scottish Government and Alex Neil is to be commended. Praise must also go to Tim Hopkins and Tom French at the Equality Network, Stonewall Scotland, the Scottish Transgender Alliance and LGBT Youth Scotland.

I am proud to stand up for social justice, equality and fairness, and today I will be proud to vote for equal marriage in Scotland.

17:32

Kevin Stewart (Aberdeen Central) (SNP): Earlier today, during stage 3, Mr Mason asked us to accept one or two amendments to show that we have been listening. Later, Alex Johnstone said that we should have accepted some amendments as a “token”. We should not agree to amendments or make legislation for tokenistic reasons. We have struck the right balance. On showing that we have been listening, I have been listening to the many constituents who have contacted me. By 10 to one, folks in my constituency have told me to vote in favour of the bill today.

I have respect for people of all religions and am glad that we have the bill that we have. I will quote one of my constituents, who wrote to me just the other day:

“I am a Christian and urge you to remember that there are Christians in your town who wish to support inclusion and equality.”

We must all take cognisance of the views of individuals and not just the views of organisations, which sometimes do not reflect the views of those who participate in those organisations.

That is my wee bit of politicking. All this is about equality. I think about two wee girls in Aberdeen with two wee mummies—not two wee mummies; two mummies. I am going to get into trouble for that. They should have the same rights as any other family. If their parents want to marry, they should be allowed to marry. Those two wee girls may well have married mummies sooner rather than later.

Alex Johnstone talked about strong families; I am a great supporter of strong families. I talked in the stage 1 debate about my family and the strength that I have taken from having parents who have stayed together for many years and who have gone through the joy and happiness and the trials and tribulations of marriage. I hope that others in our society will soon be able to have those same experiences—although maybe with a little less of the trials and tribulations, it has to be said. Like Alex Johnstone, I think that strong families often breed strong societies. He said that marriage should be “a bedrock”. I do not disagree with that statement, either. The only problem that I have, which I hope we will address today, is that folks who love one another and who are of the same sex cannot marry at the present time.

Many folk have said that today is a historic day. I agree. I hope that we take the bold step today to rid our society further of discrimination. Most of all, I hope that we will think about the families that already exist across this country in which the parents are not allowed to marry, and the people who will want to follow the line of marriage in the future.

I said at stage 1 that I will bear no malice, no matter how folk vote on this issue, but I hope that they will vote for the bill, because I think that it is a good piece of legislation, which has been strengthened by the efforts of the cabinet secretary and the many campaigning groups, on both sides, that have contributed to making it what it is. I will bear no malice, but I will make the same appeal that I made at stage 1: think of the future. Think of your sons and daughters and grandchildren, who may well turn out to be LGBT. Give them the same opportunities that many of you had. Allow them to marry.

17:37

Nigel Don (Angus North and Mearns) (SNP): I start by turning to the very front of the bill, which says:

“An Act of the Scottish Parliament to make provision for the marriage of persons of the same sex”.

That is why I, as a Christian, found it very difficult at stage 1 to accept that that was the right way forward. I did not want to redefine a word that has a meaning in literature and liturgy and which has a significance to Christians, which I felt should not be ignored. Others have agreed with that.

At stage 1 we did not have a choice about an alternative route. The bill did not say, “An Act to eliminate discrimination against those of the same sex who might wish to form some legal relationship other than civil partnerships”; it said on its face that we were going to redefine marriage. At that point, I took exception to it and I argued and voted against it.

I felt that the Government could have brought forward something that was based on civil partnerships. In fact, so did the Government; the paperwork says that it did consider that, but it also notes that it had not consulted on it, so it did not do so.

We have moved on. That stage 1 debate is behind us. This Parliament decided by a very substantial majority that the bill is the way forward. At this point I say not that Parliament decided that this is the way forward, but that we decided that this is the way forward.

We have decided that we are going to redefine marriage; I am now left to address the practical consequences of that. I am now looking at a bill that moves to eliminate discrimination against couples of the same sex. I support that, as I always did. If we are going to change the definition of the word, so be it. I will, accordingly, support the bill tonight.

17:39

Mary Scanlon (Highlands and Islands) (Con): I commend my colleague and friend Jackson Carlaw on his speech. As a fellow Conservative, I fully understand and empathise with many of the thoughts and views that he expressed.

I have received many of the emails that John Finnie received, to which I will come back.

I welcome the change in the bill—which not many members have mentioned—that acknowledges the role that humanists, for example, will play in solemnising marriage, by putting belief celebrants on the same footing as religious celebrants. I also welcome the extension to the normal notice period for marriage and civil

partnerships from 14 to 18 days. Those changes have been lost in the main core of the debate today.

I am delighted to be in the Scottish Conservatives, which had in 2004 under our leader David McLetchie, and has today, 10 years later, under Ruth Davidson’s leadership, a free vote. I fully respect the views of all my colleagues and others who choose to oppose the bill.

I was the only MSP to abstain in the 2004 vote on civil partnerships. At that time I could see quite clearly the points that were being made on both sides, so I thought that abstaining was the right thing to do. However, at stage 1 and today again, Jackie Baillie stated that the Scottish social attitudes survey in 2002 showed that 41 per cent of people were in favour of same-sex marriage and 19 per cent were against. We can assume that 40 per cent were undecided. In the 2010 survey, the proportion who were in favour of same-sex marriage rose from 41 to 61 per cent. I was probably one of the 40 per cent who were undecided in 2004, but I will vote for the bill tonight.

I ask myself, “What was my tipping point?” Like John Finnie, I read all the emails that came in, as I did in 2004. The language of some individuals—not churches, but individuals—who opposed the bill was the tipping point for me to vote in favour.

The divide across income groups, geographic areas and religious communities is interesting, with 50 per cent of Presbyterians and 55 per cent of Catholics in favour. In the most deprived areas, 67 per cent support same-sex marriage, and in the most affluent areas the figure is 63 per cent. Whether people are urban or rural, rich or poor, religious beliefs and attitudes are changing.

I thank Mary Fee, because we have all been talking about same-sex and different-sex marriage, and Mary Fee was the only one at stage 1 and today to raise the issue of single parents. I am a single parent. I was married; my husband walked out when my children were aged one and two. I did not ask him to do that; I did not want that to happen. I hope that Mary’s points will be embraced today. When my children went to school in Dundee, my daughter was asked, “Hands up those from a broken home.” I can tell you that that teacher in that school never asked that question again after I visited. [*Applause.*] I believe that whether we are in our role as MSPs, parents or citizens, we should all, individually or otherwise, address that type of humiliation, embarrassment, isolation and bullying, whenever and wherever it arises. I thank Mary Fee.

I do not agree with all that John Mason said about extending marriage to same-sex couples: that is, that it dilutes its value. In fact, I think that it

is a fair and just society that extends marriage to people who love each other, no matter where they live or whom they love. People are equal, and this Parliament is voting to give the same rights to everyone.

Following my vote in favour at stage 1, I received emails saying that I would be struck down by the wrath of God for supporting the bill. Others have mentioned potential discrimination. Just as I would not discriminate against same-sex relationships, I would not move to discriminating against those who hold traditional Christian beliefs. That is why I listened very closely to John Mason's and Richard Lyle's arguments about their amendments, and why I listened equally carefully to the responses by the cabinet secretary. I have supported John Mason's call for a five-year review, which is reasonable.

I read the stage 1 debate and noted that Joan McAlpine said that when she was growing up, she did not know anyone who was gay. Neither did I, while I was growing up in Angus—but "gay" meant something quite different then. I remember going to Links park in Montrose with my father in the early 1960s and asking why the referees were all gay, although that was not quite the word that was used. I do not remember my father's answer very clearly, but the term was used in a very derogatory manner, particularly when the ref's decision did not find favour with the fans.

The Presiding Officer: I am sorry, Ms Scanlon—you need to wind up.

Mary Scanlon: Later on, at Tannadice, my son asked me about the ref's sexuality, and I found it difficult to explain why these mysterious men in black, with all the power and authority on the football field, should be at the mercy of that term.

This weekend, I read a chapter from David Walliams's book "The Boy in the Dress" to my seven-year-old grand-daughter. I hope that she will be much more prepared for the diversity of the real world than I was.

17:45

Christian Allard (North East Scotland) (SNP): First of all, I would like to clarify where I come from on same-sex marriage, then I would like to tell members briefly about how I participated in the work of the Equal Opportunities Committee on the bill, before concluding with what I think the bill is really about for me.

Yes—I come from France, a country that has just passed similar legislation. As Jackson Carlaw hinted, in the debate at the end of stage 1 in November last year, I finished my contribution with a childhood memory of a conversation that I had with my father. On the following day, members

asked me to clarify the reason why I introduced chicken farming to a debate on marriage and civil partnership. I think that the words of my father might have been lost in translation.

I spent an idyllic childhood in rural France in one of those typical French villages. My father ran a chicken farm and I still remember the day, 40 years ago, when he told me about customers of his who lived as a couple in a remote farm nearby. I was struck by the way that my father spoke about this same-sex couple with great respect and in a friendly tone. I wonder what happened to those farmers and how much those two men would have liked to take the opportunity to get married, like every other farming couple in rural France.

I have something else to add about that. We have heard many contributions from members today, and it seems to me that no one has said that we all have prejudices. I have to say, maybe to my shame, that despite what my father told me, I did not twig. When I went to school, and then to secondary school, I was still full of prejudices towards gay people. I could not understand it; I never realised what my father was trying to tell me. Yet, I went to church every Sunday and was even an altar boy. My father did not go to church. He made the excuse that looking after his chickens was a seven days a week job. I went to church and listened to everything, but I also listened far too much to my peers at school.

I changed my mind when I grew up, but I feel that, out there, there are still a lot of people who are like I was when I was young and full of prejudices even though I had a strong family background, such as Alex Johnstone talked about.

I welcome the fact that Parliament and the Scottish Government have introduced the bill. We need to send the strong message to people that same-sex marriage should be more than tolerated—that it should be celebrated.

However, all that I have told you about was in the past and we are here today, perhaps 40 years too late, voting on a bill that will give everyone the right to marry. When I was preparing for the debate last night, I happened to read a message on social media from John Mason, who spoke earlier. I congratulate him on the message that he posted in which he thanked everybody who had contacted him, in particular the people who disagreed with his position, and for doing so in a calm and sensible fashion. The member for Glasgow Shettleston must be commended for his words and his tone—not just then, but today.

I also take the opportunity to offer my thanks to everyone who wrote to me on the issue. As will other members of the Equal Opportunities Committee, I will do my best to respond to the many people who asked me to support the bill.

I listened carefully to John Mason; I also listened to Nigel Don. I urge John Mason to reconsider and to vote for the bill, despite his reservations.

We have heard about the meaning of the word “marriage.” That word does not belong to the state or to any religion; it belongs to the couples who marry, in church or not, whether or not they are same-sex couples, including farmers. The bill is not about words; it is about people.

I pay tribute to James Morton of the Equality Network and Scottish Transgender Alliance, who came to our committee to give evidence and to explain how equal marriage matters to trans and intersex people.

The Presiding Officer: Please wind up.

Christian Allard: I also thank Linda Fabiani for defending the transgender community’s cause. If this bill has achieved anything that we did not expect it to achieve, it has been to get out in the open the transgender community’s agenda.

17:51

Patrick Harvie (Glasgow) (Green): I was not really expecting to hear about chicken farming, Tannadice or “South Pacific”—well, perhaps I was expecting to hear about “South Pacific”—but we have heard some cracking good speeches. I, for one, feel privileged to be a member of the Parliament and to have the opportunity to speak in the debate.

The comments that Marco Biagi read from some of his constituents put me in mind of how I might have felt had this legislation been passed in Scotland when I was coming out—or, more particularly, when I did not yet feel able to do so. The message that we send by passing the legislation will be extremely positive. The response of young people, some of whom are baffled that it is even an issue, will become the mainstream response. A few years down the line, a great many people in Scotland will wonder what all the fuss was about.

I pay credit to the Government, the Cabinet Secretary for Health and Wellbeing and Nicola Sturgeon, who was the previous minister in charge of the bill, the committee and its previous members, and the many campaigners who have worked so hard on the issue. It has taken us a little bit longer than Westminster to get to this point but, partly because of the time spent and the committee’s amendments, we have a better bill as a result.

There has been a good degree of cross-party consensus, which speaks volumes. That was not always the case. From decriminalisation through to the equalisation of the age of consent, the

introduction of anti-discrimination law, the repeal of section 2A, legislation on gender recognition and adoption and fostering, moves towards equal family law, and the introduction of civil partnerships and now equal marriage, we have heard the voices of dissent. I believe that they are diminishing in their number in society at large and in the substance of their arguments, although that persistent opposition remains.

I must say to Alex Johnstone in particular that those arguments have not always been expressed to me in the respectful tones that he described. A vociferous opposition to LGBT equality and human rights exists in our society. Those people have inherited the views of those who objected every step of the way, from decriminalisation onwards. Judging from the correspondence that I have received, some people simply seem baffled at the idea that same-sex relationships should be treated with respect or equality. Often the prejudice is couched in religious terms. I make the case that claiming religious justification for prejudice does not make that prejudice any less objectionable, although I endorse Kevin Stewart’s comments that, very often, the hierarchies that represent that prejudice do not necessarily represent the views of the people whom they claim to represent.

Many people perceive the bill principally in religious terms, but let us remember once again that most people who get married in Scotland choose not to involve religion in any way; indeed, most marriages are fully secular. It is important to assert that religious freedom includes not only freedom of religion but freedom from religion. Those are both important aspects of religious freedom. I have yet to hear—in this debate or in any other so far—any clear, coherent moral argument that same-sex relationships are in any way inferior or less worthy of respect and equal status.

Now that the bill is on the verge of being passed, it is important that we look beyond our current situation and beyond Scotland to countries where the fight for equality and LGBT human rights is not about pensions and inheritance, but is still about life and death. In some of those places, some strands of organised religion and their hierarchies continue to offer the single most consistent source of hostility to LGBT people’s dignity, rights, equality, wellbeing and safety.

As we welcome to Glasgow some of those countries where people are struggling with that question of life and death on LGBT equality, we should take pride in telling the story of Scotland’s progress from being a country that felt unable to decriminalise homosexuality at the same time as the rest of the UK and in which, in Glasgow and Edinburgh, people felt that it was not yet safe to have a pride march—we could not do that here—

to being this country, which is proud to pass equal marriage legislation for this generation and for the future.

17:56

Jim Eadie (Edinburgh Southern) (SNP): I am grateful to speak in the debate on an issue that means so much to me and to so many of us. This is a day that many of us did not think we would see in our lifetime. I am immensely proud that this Parliament will, at decision time this evening, pass into law a bill that will allow same-sex couples to marry. There have been some outstanding speeches from the front benches and across the chamber this afternoon.

I believe that the bill is the measure of a civilised and just society. It is the hallmark of a country that is comfortable in its own skin and which says with quiet dignity and confidence that we value all our citizens equally. Loving and committed relationships between two people should be accorded parity of esteem and equal status before the law, whether they are between two women, between two men or between a man and a woman. Like Marco Biagi, I have been reminded of that by the rich personal testimony that I have received throughout the extensive passage of the bill. Christian Allard is right to say that the bill is about people. It is life changing.

Only yesterday, I received a letter from a woman in my constituency who urged me to support the bill. She said:

"I am in a civil partnership and feel it is second class marriage. The terminology is terrible, 'civil partnership' sounds cold and legal, and I have to explain what it is—that it is marriage but not quite marriage."

She went on:

"I am forced to mark myself as different, as not straight as not married. That is tiresome and I don't want these battles. Talking about my partner shouldn't be about the terminology—it should be about our relationship."

I was humbled to receive a letter today from a young man of 26, who said:

"I have always known that I wanted to be married, not civil partnered, not something other, not something different: married. I had thought we would have to go abroad to do this but thanks to the decision taken today we can marry here in Scotland. I now look forward to what will be the happiest day of my life, marrying the person I love in the place I call home."

I said in the stage 1 debate that Scotland had been a "cold and inhospitable place" for many people—myself included—to grow up in as gay or lesbian in the 1980s and 1990s. I am glad that Scotland is no longer that cold and inhospitable place. I believe that the bill will have a hugely positive impact on our society and on the health and wellbeing of LGBT people across our country.

Future generations of young people in Scotland can grow up as gay and lesbian without the self-doubt and self-loathing that many people of my generation and previous generations faced. They will know that their intrinsic worth as a human being is accepted by the society of which they are members.

Scotland now has one of the most progressive equal marriage bills in the world. We started the process earlier than England and Wales, and we have taken longer in our consultation on and consideration of the legislation, but, like the Equality Network, I believe that the length of time that it has taken has made it well worth the wait.

Scrapping the spousal veto and allowing the option of gender-neutral marriage ceremonies means that the legislation will provide genuine marriage equality for all, including for trans and intersex people. As Linda Fabiani reminded us, 34 years after Scotland decriminalised male homosexuality in 1980, we have the opportunity to remove the final piece of sexual orientation discrimination from Scots law and to create full legal equality for lesbian, gay, bisexual and transgender people.

Many people deserve credit for achieving this milestone in our history. Special mention must go to Tim Hopkins and Tom French of the Equality Network; to Colin Macfarlane of Stonewall Scotland; to the Scottish Transgender Alliance; and to the many others who played their part in bringing us to this day.

We should also remember those who are no longer with us. I think of the Scottish Homosexual Rights Group many decades ago, and people such as Janey Buchan, Robin Cook, Father Anthony Ross and our own Scots makar, Edwin Morgan.

Today is a day to pause and reflect on how far we have come as a society. The mood has been celebratory, as Jackson Carlaw reminded us. This is a day when we come together as a Parliament and as a nation to proclaim the importance of marriage as an institution that is open to all. Men and women across Scotland have new cause to hope for their future, with the wondrous possibilities that may present themselves and the chance to share their lives with the person they love.

Like all of us, I, too, have cause for optimism for my future. Perhaps a personal ad in *The Scotsman*: "Slim, athletic, professional 45-year-old male seeks husband to share his life and passions. Must like a good debate, but not take themselves too seriously. All applications will be carefully considered"—I jest.

This is a profound moment in our nation's history. Although we do not yet live in a society

that is free from prejudice and discrimination, this law is a bold and positive step towards creating a Scotland that is based on the first principles of fairness and justice for all. It is the final step in the journey for equality for the LGBT community in Scotland, and it is one of which I and all of us within and outwith this chamber can be rightly and immensely proud.

18:02

Jean Urquhart (Highlands and Islands) (Ind):

Late in the debate as it is, I am delighted to have this opportunity to state my support for equal marriage. I believe whole-heartedly that this can only be a positive step for Scottish society and in particular for its LGBT community, who have for so long been denied the choice that so many of us have taken for granted: the choice to say "I do".

I pay tribute to the work of Stonewall Scotland, the Equality Network and the Scottish Youth Parliament, which, among many organisations, have been strong, considered and rational voices calling for this necessary change.

As well as highlighting the positives, it is important to reiterate to those who do not support the bill that they really cannot have anything to fear from this move towards equality. I believe that the religious safeguards that are currently proposed, whereby religious institutions are permitted, if they so wish, to hold equal marriage ceremonies, suitably protect both institutions that do not wish to do so and those that do. There are institutions, such as certain parts of the Jewish faith and the Quakers, that wish to conduct equal marriage ceremonies, and to disallow that would in itself be faith-based discrimination.

Several countries across the world have already legalised same-sex marriage, including a number that are signatories to the European convention on human rights. Religious freedom has remained in place for those with traditional views on marriage, and I suggest that that will also be the case in Scotland.

Among its many provisions, the Equality Act 2010 makes it illegal to deny a person or an organisation access to public services—or to deny charities support—based purely on views on same-sex marriage. The act ensures that no duty is placed on any religious body or individual celebrant to conduct these ceremonies. The existing law already rightly states that all decisions on fostering or adoption should be based on the interests of the child, not on the views of the prospective parents.

Marriage does not belong to any one organisation. Many people in the LGBT community wish to be married in order to have equal status in society. Civil partnerships do not put same-sex

couples on an equal footing. As human beings, they do not wish to be treated differently from anyone else. I believe that the bill will help to make Scotland a more equal society.

Many in the LGBT community want to be married in accordance with their religion, and many religions are in favour of same-sex marriage, including Unitarians, Quakers, humanist-liberal Judaists, the Metropolitan Community Church and the Open Episcopal Church. Like other members, I have received correspondence from some Church of Scotland ministers and from observant Protestants, Catholics and people from other denominations in which they express their support for same-sex marriage, so we must not believe that everyone in every church feels that the bill is wrong.

The evidence overall suggests that the bill has public support. Opinion polls have consistently shown that the level of support for same-sex marriage is around two thirds of those polled. The 2010 Scottish social attitudes survey found that, when asked the question "Do you agree or disagree that gay and lesbian couples should be allowed to marry?", 61 per cent of respondents said that they agreed; only 19 per cent said that they disagreed. Perhaps Scotland really is moving on.

The Labour Party, the Liberal Democrats, the Scottish National Party and the Green Party all had equal marriage proposals in their 2011 election manifestos, with varying degrees of commitment, and a Conservative-led Government has introduced same-sex marriage in England and Wales.

I can remember when homosexuality itself was considered a criminal offence. Scotland has come a long way in a relatively short space of time. I hope that the passing of the bill will form one more link taking us towards a progressive, equal and tolerant Scotland. I whole-heartedly support the bill.

The Presiding Officer: We now move to the winding-up speeches. Margaret Mitchell has six minutes.

18:06

Margaret Mitchell (Central Scotland) (Con):

That the bill will be passed this evening has been a foregone conclusion since the overwhelming vote in favour of it in November last year. That being the case, I believe that supporters of same-sex marriage could have moved some way to try to allay the fears and accommodate the different but equally passionate and legitimate views of those on the other side of the debate. I am therefore saddened that the proposed amendments to the bill that specifically sought to

protect freedom of speech and religious belief have not been agreed to, as those amendments would have led to better, more robust legislation.

I note that the submission from Stonewall Scotland stated that it

“is clear that the freedom to hold and express the belief that a marriage can only be between one man and one woman is already, rightly, robustly protected by law.”

If that is so, there should have been no difficulty in making sure that that freedom was set out in the bill. However, Stonewall Scotland took a rather skewed view on amendment 26. It stated:

“This amendment, however, seeks to elevate one belief above others and would enshrine in law that same-sex relationships are uniquely worthy of criticism.”

Today, a compromise was offered by those opposed in principle to the bill, in the form of amendments that were lodged in an effort to clarify and strengthen the legislation. However, disappointingly, there has been no corresponding empathy shown or quarter given by the majority of those who support the bill.

Marco Biagi: Will the member take an intervention?

Margaret Mitchell: If Mr Biagi does not mind, I am expressing the minority view and I would like the time to develop it.

That situation is a sad reflection on our Parliament, as there is no doubt that the bill sets in competition two equality strands: the right not to be discriminated against on the basis of sexual orientation, and the right to religious belief. It is worth pointing out that, had that lack of empathy prevailed with those, including me, who are opposed to same-sex marriage but who voted in favour of civil partnerships for same-sex couples, the Civil Partnership Act 2004 would not have been passed.

Kevin Stewart: Will the member give way?

The Presiding Officer: I do not think that Ms Mitchell wishes to give way.

Margaret Mitchell: I have made the reason for my position on interventions quite clear, Mr Stewart.

Quite simply, it would have been wrong not to support the 2004 act, because that legislation addressed the unjust discrimination against same-sex couples that existed in law at that time.

The role of Government should be to ensure fairness under the law for those who hold differing beliefs. Despite that, the Scottish Government ignored the results of its own consultation on same-sex marriage, with two thirds of those who responded to the same-sex marriage question indicating their opposition.

Furthermore, in legislating for a redefinition of marriage, the Government has eroded the boundary between state civil provisions, where it has a role to play, and religious belief and teaching, where it does not. It has done so in the name of equality, but equality is about fairness; it is not about making everyone the same. The indisputable fact is that the bill diminishes the deeply held views of those who consider that marriage is between a man and a woman. There is nothing fair in causing those opposed to same-sex marriage to feel apprehensive about expressing that view, yet that situation will now prevail in Scotland.

The majority of contributions in this closing debate have been passionate, witty and decidedly upbeat—not least, the contribution from my colleague Jackson Carlaw—with members expressing the view that the introduction of same-sex marriage tackles discrimination. But let us be clear: terrible and vile discrimination still exists against same-sex couples. It is not to be found in these reasoned amendments, as some seem to believe, but, rather, in the intolerance of certain religious teaching and ethnic minority cultures—here in Scotland, the UK and globally. The bill does absolutely nothing to tackle that issue. If it did, it would have my overwhelming support this evening.

The bill will inhibit people from expressing their religious beliefs. In a democratic society, the ability of the minority to feel free to air their views is fundamental. The bill undermines that ability and, in doing so, has not achieved fairness or equality but instead has elevated the beliefs of one group of society, to the detriment of another. For those reasons, I regret that I will not be voting for the bill this evening.

18:12

Jackie Baillie: I say at the outset that I regret some of the comment in the previous speech, which struck me as being out of step—even with those who have disagreed with the bill. We have heard powerful testimony and experience from a number of members, and there have been excellent contributions from across the chamber. I will attempt to do justice to most of them, but members will forgive me if I run out of time.

It may come as a surprise to people outside the chamber, but we often agree across the parties. We are capable of working together, although that might not be evident when they look in on Thursday's First Minister's questions. I welcome the First Minister to the chamber. I think that we can agree that we are proud of Parliament and of how we deal with difficult issues that inspire passion on all sides.

There was substantial committee scrutiny, substantial external scrutiny of the bill and quite a bit of comment on top of that. Like Jackson Carlaw and many others here today, I want to pay tribute to all the campaigners. With only a few exceptions, they have engaged maturely in the debate. I have no doubt that their contributions have made today a historic day.

Jackson Carlaw was almost singing from “South Pacific”. I am not sure whether that is a good thing or not; I will leave it for others to judge. I am always happy to take an intervention, if he wants to regale us with song, but I put it down to the excitement of the occasion. Indeed, his observation, which was echoed by Mary Scanlon, about those in the Tory party who had to strangle their sexuality, earned a laugh of substantial recognition. I will leave that sticking to the wall.

In a considered contribution, Marco Biagi brought the voices of his constituents directly into the chamber and, in an emotional and well-thought-through speech, made this debate very much about them and what we now do for them.

Margaret McCulloch, ever the convener of the Equal Opportunities Committee, was rightly pursuing the cabinet secretary right to the end on the question of converting to marriage civil partnerships that have been conducted outside Scotland. I hope that the cabinet secretary will take some of the considerable time that we have at our disposal to respond to her points in his closing speech.

James Dornan spoke about his brother’s marriage in Lisbon; I was jealous of the sunshine of Portugal that he brought into the chamber. He was right to say to Alex Johnstone that the bill can only strengthen marriage. It is about celebrating all marriages and it underlines the benefits that flow from marriage. As the cabinet secretary said, this is about a nation that cherishes love.

As Drew Smith said, demonstrating love and commitment to each other can be a private thing for many couples; for others, it is a proudly public matter. On that note, I will correct Jackson Carlaw. I know that he is not often wrong, but I am sure that he will take what I say in the intended spirit. It is not just Neil Bibby and Mark Griffin who are engaged to be married; Drew Smith got engaged to Jillian Merchant on Christmas eve. I suppose that I should declare an interest—I am not sure what our register of members’ interests requires—because she used to work for me, so I take some credit for bringing the two together. I say to Jackson Carlaw that, for the error that he made, Drew Smith will send him the gift list in the post. [*Interruption.*] I ask the Cabinet Secretary for Finance, Employment and Sustainable Growth to stop heckling from a sedentary position.

In all seriousness, I say that John Finnie was right. As we listened to the debate, it was clear that the measure is not about a hierarchy in equality. People either believe in equality or they do not; there is no pick and mix. I am pleased that Parliament came to the same conclusion with a series of amendments.

I hesitate to say that Mary Fee has been married for 36 years to Brian. She told us all at a Burns supper last week that he has bought her presents including a lawnmower and even a pan loaf. That is a clear example that shows that, even with the most extreme provocation, marriage is about love and commitment that endure.

Kevin Stewart and I have often disagreed, and about many things, but he was correct to say that legislation should not be tokenistic. Legislating is about doing what is right and what will stand the test of time.

In her usual quirky way, Mary Scanlon reminded us all that we have a responsibility to challenge discrimination, as she did, whether it is in the classroom or on the football pitch in interesting circumstances.

Christian Allard treated us to an exposition on chicken farming moving into the 21st century. He was right to say that what we are doing today is celebrating same-sex marriage.

Patrick Harvie said that no clear, coherent or moral argument has been heard in the chamber against same-sex marriage. He reminded us of the story of our progress; he said that we should share that progress with countries that come to the Commonwealth games and that we should use the games for a positive purpose.

What can I say to Jim Eadie? I look forward to the invitation to his wedding, as do most members.

In the stage 1 debate, Alex Neil was right to say that

“we are not redefining marriage ... the bill does not in any way redefine ... marriage. It does extend the eligibility for marriage, which is the key point of the proposed legislation. People in Scotland who have been ineligible for marriage will now be eligible for marriage and for that marriage, and the love that it represents”—

irrespective of whether it is same-sex marriage or otherwise—

“to be recognised by the state”.—[*Official Report*, 20 November 2013; c 24691.]

That is crucial.

In front of the First Minister, I pay tribute again to Alex Neil. That does not happen often, so Alex Neil should savour it—although it probably will not do his career in the SNP much good. Alex Neil has piloted the bill through Parliament with considerable skill, for which I thank him.

Today, we take a decision on the essential character of Scotland and on how we see ourselves. Equal marriage is about equality, fairness and social justice. Let us vote for it. It is time for change.

The Presiding Officer: I call Alex Neil to wind up the debate. I would appreciate it if the cabinet secretary continued until 6.30.

18:19

Alex Neil: Thank you very much, Presiding Officer. It is never a problem to do that.

I begin with a plea to Jackson Carlaw, who said that he will not go to the party tonight. I think that he should go to the ball tonight. If he is worried about his age letting him down, I will give him a loan of my slippers so that he can get home safely and well.

I pay tribute to the work of Nicola Sturgeon, who demonstrated the bravery and vision to initiate the bill in the first place. Without her contribution, we would not be here today agreeing to—I hope—the bill. [*Applause.*]

I pay tribute to those on both sides of the argument, who have, with very few exceptions, conducted the argument both in and outwith Parliament with a great deal of dignity and respect for everyone's points of view. That is how things should be.

It is fair to say that the people who are worried about freedom of speech in Scotland should not be worried at all, having listened to this debate and to the entire debate over the past two and a half years, because freedom of speech is alive and well on all sides in Scotland, and that is also how things should be.

I want to answer the precise and fair question that was asked by Margaret McCulloch in her role as convener of the Equal Opportunities Committee and as an individual MSP. She asked specifically about overseas civil partnerships and converting them into marriage. Obviously, I appreciate the views that have been expressed on allowing people who are in civil partnerships that have been registered outwith Scotland to change their relationship to a marriage in Scotland, if they so wish. Assuming that the bill is passed, we will treat that as a priority and aim to lay an order as soon as possible. The powers in section 7A of the bill are wide enough to cover all relationships from around the world that are recognised as civil partnerships in Scotland.

Therefore if, following consultation of stakeholders and other jurisdictions, the view is that all overseas civil partnerships should be covered, we will do that. We want to ensure that we are not doing couples a disservice by putting

them in an uncertain position with regard to the legal status of their relationship, so we will work with the committee to ensure that there is an early resolution of that issue.

More widely, I agree with Jackie Baillie and thank her for her very kind comments about me. Again, this has been an outstanding debate that has done Parliament very proud.

I think that all the members who are opposed to the bill and were the authors and supporters of amendments that we discussed earlier said in their speeches that they are concerned that none of the amendments was passed. That is not because there was a lack of consideration of those amendments or a knee-jerk reaction. We considered each and every one of the amendments in great detail and decided not to accept them for the reasons that I outlined.

However, in Parliament's 15-year history, no piece of legislation—there is no exception—has had as much consultation as this bill. We have gone through various stages of consultation and have done much more consultation than our colleagues down south. That was the right thing to do. I agree with Patrick Harvie; as a result of the consultation, we have ended up with a better bill than would otherwise have been the case, and with a better bill than the legislation down south.

From listening to people, I am aware that there is no precedent in any jurisdiction anywhere in the world that has passed such legislation, for the many protections that we have in the bill. There are five sets of protections for people who are opposed to same-sex marriage or who do not wish to perform same-sex marriages. First, the system is a voluntary, opt-in one. That is a protection. Secondly, the amendments to the Equality Act 2010 represent a series of protections—in particular, for celebrants and churches. Again, the protections are stronger than those in the UK legislation.

Thirdly, there will be protections in the education guidance that my colleague Mike Russell will publish shortly. In addition, there are protections in the prosecution guidelines that the Lord Advocate has already published and—with regard to many of the issues—there is protection in the fact that, under the Scotland Act 1998, Parliament must embed the European convention on human rights in all its legislation.

The provisions in many of the amendments that were debated today are covered more robustly in some of the legislation that I have mentioned. Indeed, the reason for not accepting a number of the amendments was that much of the existing legislation—in addition to the bill that is before us and the draft amendments to the UK Equality Act 2010—is stronger than the wording of some of

those amendments. The legislation is not confusing, but is straightforward and clearly understandable, and will be absolutely adhered to in its implementation.

One example, which was mentioned earlier, is Siobhan McMahon's amendment concerning the hiring of property and facilities. A very specific element in the draft amendments to the Equality Act 2010 relates to people who are using premises on behalf of a religious organisation, and states that they cannot be discriminated against for refusing to allow those premises to be used for same-sex marriages.

I believe that, as Jackie Baillie said, we have struck a good balance. We are extending the freedoms and rights of organisations such as the Unitarian Church and the Quakers that want to perform same-sex marriage, and the rights of people of the same sex to marry and have their marriage recognised in law. In so doing, we are also safeguarding the rights of churches and celebrants who do not want to perform same-sex marriages, and we are protecting the right of free speech so that people can continue to express their opinion for or against same-sex marriage in an open, free and democratic society.

The balance of measures that we have introduced is very fair. It reflects the diversity of opinion in our society, and at the same time it can take us forward.

The priority now is to get the secondary legislation in place and to get the amendments to the Equality Act 2010 agreed. I give that commitment to members—I cannot give a guarantee, because it depends on the amendments' passage through Westminster, although I put on the record the excellent co-operation that we have had from Maria Miller and her officials in the UK Government. Following the passing of those amendments and the secondary legislation we will, ideally, see the first same-sex marriages in Scotland this year. [*Applause.*] That sends out a loud and clear message.

I finish by saying this: I was brought up, as every member in the chamber probably knows, in a mining village in South Ayrshire—

Members: Oh!

Alex Neil: It was south of the Ayrshire Mason-Dixon line. Dreghorn, where the Deputy First Minister comes from, was north of that line; I note for her sake that my village was called Patna.

I was christened in the United Free Church and married 36 years ago in the same church. I always remember the philosophy in that mining village. Our motto, if we had one, was the same as I think it is in every mining village and in many other communities in Scotland: "Live and let live."

My belief is that couples of the same sex can fully realise their potential, fully live out their aspirations and fully live out and show their love only if those people are able to marry the person whom they love who is of the same sex. We should let live; let live those who want to get married to someone of the same sex and those who want to perform marriages of people of the same sex, and let live those who are not in favour of that because of religious belief, so that they are not forced to do something that they do not want to do. If ever there was a motto to sum up the Government's and the Parliament's approach to the bill, it is live and let live.

I believe that, when the history of the Parliament is written, if we pass the bill, as I believe we will, today will be one of the great historic days of the Parliament, not just because of the provisions of the bill but because of the message that it sends out about the new Scotland that we are creating in the 21st century—a Scotland where we all believe in live and let live. [*Applause.*]

Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014

18:31

The Presiding Officer (Tricia Marwick): The next item of business is consideration of motion S4M-08913, in the name of Fergus Ewing, on the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014, which is United Kingdom legislation.

Motion moved,

That the Parliament consents to the making of the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014, a draft of which was laid before the UK Parliament on 5 December 2013 and which makes provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.—[*Fergus Ewing.*]

The Presiding Officer: The question on the motion will be put at decision time.

Decision Time

18:32

The Presiding Officer (Tricia Marwick): The first question is, that motion S4M-08913, in the name of Fergus Ewing, on the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014, be agreed to.

Motion agreed to,

That the Parliament consents to the making of the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014, a draft of which was laid before the UK Parliament on 5 December 2013 and which makes provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.

The Presiding Officer: The next question is, that motion S4M-08915, in the name of Alex Neil, on the Marriage and Civil Partnership (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Buchanan, Cameron (Lothian) (Con)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)

Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Rowley, Alex (Cowdenbeath) (Lab)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

Against

Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Brown, Gavin (Lothian) (Con)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McGregor, Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

The Presiding Officer: The result of the division is: For 105, Against 18, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Marriage and Civil Partnership (Scotland) Bill be passed.

[*Applause.*]

The Presiding Officer: That ends decision time.

Self-immolations in Tibet

The Deputy Presiding Officer (Elaine Smith):

The final item of business is a members' business debate on motion S4M-08842, in the name of Maureen Watt, on self-immolations in Tibet. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes with grave concern that at least 127 Tibetans have self-immolated, often fatally, since February 2009; understands that these actions are largely acts of protest against restrictions on religion, the Tibetan language, access to employment and the degradation of water resources and grazing lands; expresses concern at what it understands has been the state's attempts to prevent accurate reports of self-immolations reaching the media; condemns what it considers the criminalisation of family members and sometimes witnesses to the incidents; believes that 11 countries urged China to improve the human rights of Tibetans at the UN Human Rights Council in Geneva on 22 October 2013, and commends the work of the Scottish Centre for Himalayan studies at the University of Aberdeen, the Grampian Tibet Support Group and other groups across Scotland in highlighting human rights and supporting cultural and educational links with Tibet and beyond.

18:35

Maureen Watt (Aberdeen South and North Kincardine) (SNP): It is quite difficult to follow that historic vote.

I thank all colleagues who signed my motion to allow it to be debated. I also thank the supporters of Tibet who are members of the cross-party group on Tibet and the members of the Tibet support group Grampian for their tireless work in my area in fundraising for cultural and educational projects in Tibet and highlighting human rights issues there to the people of Grampian, sometimes on cold and windy days on Banchory High Street.

My thanks also go to Dr Martin Mills, the director of the Scottish centre for Himalayan research at the University of Aberdeen, whose knowledge of what is happening in the region is a great asset. I thank him for his briefing. I cannot forget the passionate supporters of Tibet from the University of Edinburgh who add much to our cross-party group meetings.

The main reason for bringing the motion to the Parliament is to highlight the extraordinary and distressing actions that some Tibetans are moved to take in protest against Chinese policies in their region. In the past five years, 127 Tibetans have self-immolated—or, in other words, set themselves alight—overwhelmingly resulting in death.

Self-immolation began in 2009. In the early days, it was mainly Buddhist monks in the Tibetan areas of Kham and Amdo, which lie outside the Tibetan autonomous region. The practice began at

Kirti monastery in Ngaba. During the Chinese Communist Party's 18th national party congress in Beijing in November 2012, tragically, almost one Tibetan a day was self-immolating, by which time it was mainly farmers, nomads, students and schoolchildren.

Since then, self-immolation has decreased, but that has mainly been due to extremely draconian oppression by the Chinese authorities. There has been a heavy military crackdown in communities where self-immolations have occurred—restrictions on movement, the closure of satellite communications, restrictions on mobile phones and bans on the sale of SIM cards. In many cases, friends and relatives have been threatened or bribed by authorities so that self-immolations are denied or even covered up. There have been threats that state support and services such as electricity will be withdrawn from whole communities that are associated with self-immolations and that monasteries that have held the funerals of self-immolators will be closed.

It should be said that self-immolation seems to be part of a wider and escalating pattern of protest and public suicide in the People's Republic of China but, in Tibet, the Chinese authorities view those protests as splittist or about sovereignty. That has led to the collective punishments that I described and the application of the crime of intentional homicide to all those aiding, abetting, encouraging or even photographing self-immolation. There have been widespread communications blackouts, and prison sentences have been imposed for disseminating information on such protests.

As only 4 per cent of any self-immolation protests have involved a demand for independence, we must ask what is driving people to do this. It is a response to restrictions that are being put on religious freedoms, language rights, access to employment and the destruction of water resources and grazing lands by large-scale mining projects.

The restrictions on Buddhist religious life remain one of the dominant bones of contention in Tibetan areas, with the day-to-day management of Buddhist monasteries being increasingly dominated by party officials, and impositions being placed on large religious gatherings.

Language restrictions exist, as Tibetan has been increasingly phased out as the language of instruction in Tibetan state schools, hence the self-immolation by students and—distressingly—schoolchildren.

The pollution of water resources and grazing lands has been the result of the substantial growth in the mining of oil, copper and gold resources, which has also resulted in the large-scale

relocation of populations. Airport construction has also attracted self-immolation protests, along with other forms of protests. For example, the construction of Gannan airport has been resisted because it has involved building on a mountain that is sacred to local Tibetans.

The Chinese Government has been encouraging unrestricted migration into the Tibetan region, and this has been particularly noticeable in urban Lhasa.

In reading up for this debate, I was struck by the writing of Tsering Woeser, an ethnic Tibetan human rights activist who was educated in Beijing and who, as a result of her abilities in Mandarin and English, has been able to communicate to the outside world the plight of her people and what she calls the Chinese Government's attempts at "beautifying" Lhasa, the Tibetan capital, which involves modern infrastructure being built at the expense of the city's historical architecture. Woeser has called on the United Nations Educational, Scientific and Cultural Organization to stop the destruction of the ancient city of Lhasa, which is part of the destruction of the traditional Tibetan landscape, environment and culture.

There have been many delegations to China, led by the First Minister, the Cabinet Secretary for Culture and External Affairs and other members of the Scottish Government. How can we persuade the Chinese authorities that the repression of culture is not a sustainable way forward in any country? Would the cabinet secretary consider writing to UNESCO to encourage it to do more to protect Tibetan heritage sites, and thereby the culture, and negate the pressure that results in some Tibetans feeling the need to undertake the horrific act of self-immolation?

18:42

Anne McTaggart (Glasgow) (Lab): As a member of the cross-party group on Tibet, I am keen to contribute to this important debate on the subject of self-immolation by those who protest against the questionable human rights record of China in the region.

I thank Maureen Watt for securing parliamentary time to consider the significant issues that are raised in the motion. I acknowledge her long-standing record of campaigning on human rights breaching, which she should be rightly proud of—*[Interruption.]* I am sorry, but I have forgotten my written speech and am doing it from my phone. I ask members to bear with me.

Through my work with the group, I have become increasingly aware of the practice of self-immolation. I understand that 127 instances of self-immolation have been recorded in Tibet since 2009. In many cases, this form of protest is fatal,

and it illustrates the increasing desperation of Tibetans, who have suffered extreme oppression at the hands of the Chinese Government.

Perhaps most concerning are the efforts of authorities in the region to conceal the true number of recorded self-immolations, so that the world cannot comprehend the scale of unrest in Tibet.

International observation tells us that restrictions on freedom of religion, degradation of water sources and a curtailment of media reporting are just some of the issues that the Tibetans face.

As Maureen Watt said, it has been reported that family members of those who have self-immolated face criminal charges through their association and that even witnesses to the events can face serious punishment from the Chinese authorities.

It is clear that there is an emerging international consensus to improve the lives of those living in Tibet and to hold China to account for its human rights record in the region. It is only through a greater understanding of the events that are taking place in Tibet that we will be able to build a coalition of resistance against oppression and state interference in the lives of those living there.

I acknowledge the excellent work that has been carried out by the Scottish centre for Himalayan research at the University of Aberdeen and the Tibet support group Grampian to highlight the extraordinary human rights abuses that often go unnoticed in the region. Work such as that will be instrumental in highlighting the daily struggles of Tibetans and can be part of the wider efforts to bring about a sustainable solution to the continuing abuses of the Tibetan population by the Chinese authorities. I thank Maureen Watt again for bringing the issue to the Parliament and I apologise again for reading my speech from my phone and not my paper copy.

18:46

Jamie McGrigor (Highlands and Islands) (Con): I thought that we were all meant to have our telephones switched off.

I congratulate Maureen Watt on securing time for the motion and raising an extremely important issue that really needs to be debated.

As we are all aware, the situation in Tibet has, for a long time, been very unstable. Recent increases in self-immolations, and subsequent actions taken by the Chinese authorities, mark a further decline in the region, which is highly unfortunate.

I echo the words of Hugo Swire, Minister of State at the Foreign and Commonwealth Office, in calling for unrestricted access for international

media, diplomats, help organisations and charities to Tibet. Transparency in Tibet, and access for the surrounding world, could have a cooling-down effect on both sides, which might de-escalate the situation and prevent further tragic loss of life.

Reports point out that the majority of recent self-immolations are the result of everyday oppression of the right of Tibetans to practise their religion and of severe restrictions on the use of the Tibetan language. As the Tibetan people are a minority group in China, with a distinct language, cultural heritage and religion, they are, by international law and conventions, protected against discrimination and allowed to practise their religion. That is clearly set out in the Universal Declaration of Human Rights and the Vienna declaration. With respect, it is deeply regrettable that the Chinese authorities seem to be ignoring even the most basic human rights of the Tibetan people.

With China's recent election to the United Nations Human Rights Council, I sincerely hope to see a changed approach from the Chinese authorities towards the Tibetans. Furthermore, I strongly believe that the respect of universal human rights will lay an important cornerstone in the stability and harmony of the region—something that Tibet and its people deserve.

China's rise to being one of the great powerhouses of our age is truly remarkable. However, history has shown time and again that without social progress, economic growth and the consolidation of that growth will not be sustainable. By respecting the human rights of not only Tibetans but all the ethnicities within its vast borders, China will remain an economic powerhouse. That is surely in China's own interest, but it could also help to stabilise the whole region, which, without doubt, would be in the interests of us all.

The suffering of the Tibetan people must come to an end. Mighty China should ensure that all its citizens have the rights they deserve. Both sides should refrain from violence and extreme forms of protesting, so that any further loss of life can be avoided.

I am convinced that if the Tibetans, with their age-old culture, and the Chinese work together as equals, great things will be achieved. By allowing the Tibetans to practise their own religion and live in accordance with their culture, the region will stabilise and harmony will replace chaos and oppression.

The Deputy Presiding Officer: Just before we move on, I should clarify that the Presiding Officer has ruled that electronic equipment can be used in the chamber to aid speeches. The discourtesy would be in using electronic equipment for other

purposes. I call Alison Johnstone, to be followed by Roderick Campbell.

18:50

Alison Johnstone (Lothian) (Green): I am very pleased that we are having what I believe is the first debate on Tibet in the Scottish Parliament. Many thanks go to Maureen Watt for bringing this important issue to the chamber and to all those who campaign on these issues.

The cross-party group on Tibet has published an extremely detailed and helpful briefing. The difficulties of obtaining much of the information must have been vast, both logistically, in the face of a communications blackout, and emotionally, in the face of this distressing topic.

What I was most struck by in the briefing was the fact that these self-immolations are not an irrational or spontaneous form of protest. People might have felt desperate, but they have thought long and hard about their options; they are people who have planned their self-immolation, often in great detail, and who feel that it is the best option available to change the appalling situation that they and their friends and family find themselves in.

The self-immolations have been in response to the huge human and environmental costs of large-scale mining operations, the replacement of the Tibetan language with Mandarin in schools and severe restrictions on Buddhist religious life.

The briefing for the debate describes the lack of religious freedom as the

“linchpin of Tibetan protest, and the central focus of Tibetan self-immolators' grievances.”

The spike in self-immolations at the time of the national party congress when power was handed over to the new generation of leaders demonstrates how politically aware the protests are. Twenty-seven people self-immolated almost on the same day. It is very difficult for us to imagine what it is like to decide that self-immolation is the best course available; it demonstrates the extreme stress and the repressive conditions that Tibetans are living under.

The other striking thing about these protests has been the state response—the attempted information blackout and the attempt to portray protesters as manipulated victims or mentally ill. Protests have been followed by a police crackdown and mobile phone networks have been shut down, internet cafes have been closed and satellite dishes have been destroyed, all to prevent communication.

Garte Jigme, a monk and author, was sentenced to five years in prison for drafting a

book about the self-immolations. Laws have been passed to criminalise self-immolators' friends and families in an attempt to brand the protesters as victims of coercion. The charge of "intentional homicide", to which Maureen Watt referred in the motion, has been used against monks who are said to have encouraged self-immolation and people who have uploaded pictures after the event.

How should we react to this? What should we in Scotland do? China is a major, growing trade partner. The Scottish Government celebrated Chinese new year by announcing Scottish exports to China worth £560 million in 2013. We should ensure that we use these important trade links to promote human rights. Scotland is rightly proud of its internationalist outlook and we should make use of that to create a positive impact on people's lives.

I know that respect for human rights and the rule of law is seen as a guiding principle in the Government's China strategy. I ask the cabinet secretary to elaborate, as far as she can, on how that principle is embedded in the Scottish Government's relationship with China. I also hope that the Government will be open to receiving any Tibetan political leaders who visit Scotland in the future.

We are a small country but an internationalist one. We should be supporting human rights at every turn, in Tibet today, and in the rest of China, too, where many people face similar problems, not least the Uyghurs in north-west China.

18:54

Roderick Campbell (North East Fife) (SNP): I refer members to my registered interest as a member of Amnesty International. I welcome the opportunity to speak in the debate and I congratulate my colleague and co-member of the cross-party group, Maureen Watt, on bringing the debate to the chamber. Like Maureen, I thank the University of Edinburgh's Tibet group for its work with the cross-party group.

Like many others, back in October I was pleased to see the United Nations Human Rights Council discuss the situation in Tibet. As Maureen Watt indicated, 11 countries at that summit, including the United Kingdom, urged China to make improvements in terms of respecting the human rights of the people of Tibet. It has been only four months since that call was made, so it is difficult to tell whether it has made any impact, but judging by the Chinese Government's response it has not taken that criticism well. Within days of the summit in October, the Chinese Government accused the international community of trying to politicise human rights and said:

"The best persons to know human rights in China are Chinese."

In this war of words, it is essential to be able to see both sides of the story. That certainly does not mean that the Tibetans' plight is in any way more tolerable, or that there is an easy solution to be found. From the Chinese point of view, Tibet is and always has been part of the People's Republic of China and China therefore feels that it should have a say in the Tibetan system of government, including the selection of the Dalai Lama, whom Tibetans traditionally believe to be a reincarnation of the previous Dalai Lama.

The situation is often portrayed as a battle for Tibetan political independence. That view is mistaken, according to the Dalai Lama himself, who said on Sunday:

"A non-violence method cannot have a one-side victory and one-side defeat. Then confrontation will come leading to violence. With this belief, we are not seeking independence from the People's Republic of China."

The heart of the problem, therefore, is not a simple matter of political sovereignty, but rather China's oppression of Tibetan culture, traditions and structures of semi-autonomous government. As a highly centralised, nominally communist state, it is hardly surprising that China, pushing for uniformity across its territories, should be accused of an aversion to cultural and political diversity. However, there is never any excuse for the abuse of human rights: established codes that are accepted by a vast majority around the world as basic standards for human decency and compassion.

Self-immolation is a horrific and desperate cry for help that those fortunate enough to live in a democracy can hardly begin to understand. When 127 people are prepared to literally set themselves on fire for their cause, other countries must take heed and exert appropriate pressure, whether that be diplomatic or otherwise.

The Dalai Lama has called for a non-violent resolution to the conflict. As I understand it, a satisfactory resolution for His Holiness would simply be an end to the oppression and persecution of Tibetans at the hands of the Chinese authorities and respect for Tibet's cultural, social, religious and political autonomy within China. That is not an unreasonable goal.

At this time of significant economic change and political reform in China—a time when China is forging ever stronger trade links with western countries—we must make it absolutely clear at every opportunity that human rights must be respected. China is changing and it can and should seize the opportunity to change its approach in Tibet.

We should all hope that a non-violent resolution to the conflict can be achieved, not just because it is in the interests of the Tibetan people and their right to self-determination, but also because it is in the long-term interests of China. Instead of being seen as a sinister oppressor of diversity, China will become a respecter of human rights and a responsible global citizen with whom the international community will have no reservations about doing business. Respecting the rights of the Tibetan people to celebrate their own culture and organise freely will benefit Tibet and China alike. The first step on that path is an end to persecution. With persistence and dedication, I am sure we all hope that that sensible message will take root in Beijing.

18:59

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): I thank members for their contributions to this important debate. There is worldwide recognition of Scotland's commitment to democracy, the rule of law and fundamental human rights, all of which I would like to bring to bear on the debate.

Scotland uses its international engagement as an opportunity to help increase respect for and understanding of human rights worldwide, not through lecturing but through pragmatic discussion with our international partners about how we can support their progress towards being states that respect and progressively realise human rights.

I note that there are widespread and long-standing concerns in Tibet about freedom of religion, linguistic rights, access to employment and the right to water, all of which were ably set out by Maureen Watt. Let me be clear that the Scottish Government condemns human rights abuses, wherever they occur. Upholding basic civil and political rights is a core duty of the state, and individuals must be free to celebrate their cultural traditions and demonstrate their faith in any society.

The Scottish Government is committed to engaging with the Chinese Government on human rights as part of our overall engagement. It is only through engaging with China that we can expand our relationship to bring benefits to both countries, to help bring positive change to human rights throughout China and hope to solve global challenges such as climate change and poverty.

China's five-year plan outlines ambitious plans for balanced and sustainable economic growth, promoting social equality, environmental protection and energy conservation. In developing the Scottish Government's China strategy, I was keen that it should complement China's plan for growth. That is why respect for human rights and

the rule of law is one of the four guiding principles that we set out upfront in our China strategy, and those principles will underpin all Scotland's dealings with China.

Scotland is justly proud of its reputation for ethical business practices and knows that human rights and the rule of law are key to long-term economic success and social stability. Through adherence to the guiding principles of the China strategy, we will continue to support China's process of modernisation and internal reform and the need to balance the demands of economic development with social justice.

I was greatly saddened by the disturbing reports that at least 127 Tibetans have self-immolated, often fatally, since February 2009. Self-immolation is a dramatic and desperate gesture and we urge the Chinese Government to work with local monasteries and communities to resolve the underlying grievances that have led to these self-immolations. We call upon all parties to engage in substantive dialogue to address Tibetan concerns and relieve tension.

When the Scottish Government has had human rights concerns we have raised them and will continue to do so. When the First Minister was in Beijing in 2011, he spoke in the Communist Party Central School about Adam Smith and the lessons he has to teach us about modern issues such as climate justice. We have taken practical action to support that agenda in the form of a £3 million climate justice fund and we will continue to demonstrate leadership in championing climate justice at home and abroad.

On his most recent visit, the First Minister again used the philosophies of Adam Smith to argue that social progress must accompany economic progress. In a speech to the prestigious Tsinghua University, the First Minister said that the balance between the two approaches in Smith's "The Wealth of Nations" and "The Theory of Moral Sentiments" demonstrates that the social cohesion brought about by a fairer society is crucial to building sustainable and balanced economic recovery.

Maureen Watt made an important point about UNESCO heritage and I will consider what can be done in that regard.

When I visited China as cabinet secretary for education, I raised the Scottish Government's concerns about freedom of religious expression, transparency and access, and the situation in Tibet, during a meeting with China's vice-minister of education. I did so again in my current role during a meeting with the Chinese consul general in May 2012.

Part of the conversation about human rights takes place between states, but engaging with the

international human rights system is also a key part of the process for any modern, responsible nation. Scotland has welcomed this scrutiny through the UN's universal periodic review of the UK's observance and implementation of international human rights standards in 2012. Through that process, the members of the UNHRC noted and welcomed our strengths as well as identifying areas in which there might be further progress. China has also recently gone through that very process. The fact that China submits itself to that form of international scrutiny is encouraging and I hope that it will lead to positive developments in China, as it takes on board and seeks to implement the recommendations it has accepted.

All countries across the world are grappling with how they might ensure better protection of, respect for and realisation of human rights. Scotland is no different. Members will recall the launch of and debate on "Scotland's National Action Plan for Human Rights"—our first—on 10 December, international human rights day. A key outcome of the plan is a better world, which will be delivered by ensuring that Scotland

"gives effect to its international obligations at home and"

abroad, and that we

"respect, protect and fulfil human rights in our international action."

In Scotland and overseas the Scottish people do things differently—not merely because we can, but because we want to. We are a modern, responsible nation preparing to join the global community of nations as an equal member.

The Scottish Government is committed to creating a Scotland that realises human rights and plays its part to create a world in which the human rights of all are protected, respected and realised. We want to have a different conversation here. Scotland has a good story to tell and best practice to share with the rest of the world—just as we have much to learn from others.

Meeting closed at 19:05.

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