PARLIAMENTARY DEBATES

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Public Bill Committee

DIVORCE, DISSOLUTION AND SEPARATION BILL

Second Sitting

Tuesday 2 July 2019

(Afternoon)

CONTENTS

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Saturday 6 July 2019

The Committee consisted of the following Members:

Chairs: Dame Cheryl Gillan, †Steve McCabe

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Charalambous, Bambos *(Enfield, Southgate)* (Lab)
† Courts, Robert *(Witney)* (Con)
† Duffield, Rosie *(Canterbury)* (Lab)
† Gaffney, Hugh *(Coatbridge, Chryston and Bellshill)* (Lab)
† Green, Kate *(Stretford and Urmston)* (Lab)
† Heaton-Jones, Peter *(North Devon)* (Con)
† Hughes, Eddie *(Walsall North)* (Con)
McMorrin, Anna *(Cardiff North)* (Lab)
† Maynard, Paul *(Parliamentary Under-Secretary of State for Justice)*
† Onn, Melanie *(Great Grimsby)* (Lab)
† Prentis, Victoria *(Banbury)* (Con)
† Qureshi, Yasmin *(Bolton South East)* (Lab)
† Slaughter, Andy *(Hammersmith)* (Lab)
† Tracey, Craig *(North Warwickshire)* (Con)
† Trevelyan, Anne-Marie *(Berwick-upon-Tweed)* (Con)
† Warman, Matt *(Boston and Skegness)* (Con)

Jo Dodd, Mike Everett, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 2 July 2019

(Afternoon)

[Steve McCabe *in the Chair*]

Divorce, Dissolution and Separation Bill

2 pm

The Chair: Welcome, everyone. May I remind you of Mr Speaker's advice that you should switch off or silence electronic devices and that you should not have tea or coffee in the Committee Room?

We now begin line-by-line consideration of the Bill. No amendments have been tabled, but I expect to allow stand part debates on most clauses, which should allow hon. Members plenty of opportunity to scrutinise the Bill. We have to proceed in the order set out in the programme resolution that was agreed this morning.

Clause 1

Divorce: removal of requirement to establish facts etc

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

The Chair: Minister, do you wish to make any opening remarks?

The Parliamentary Under-Secretary of State for Justice (Paul Maynard): I will see what hon. Members have to say and then round up.

The Chair: That is entirely up to you. I call Eddie Hughes.

Eddie Hughes (Walsall North) (Con): May I begin, semi-light-heartedly, by declaring my interest as a Catholic, which informs my position? At the national parliamentary prayer breakfast in Westminster Hall this morning, there was a discussion about the overlap between politics and religion. There are some areas in which I find the two to be inextricably linked, and this may be one of them.

When I entered into marriage as a Catholic, I felt wholeheartedly that it was for life and that there was simply no way out of it; my wife decided otherwise, and we ended up getting divorced. For my part, because I felt that I had stuck to the sanctity of marriage from a Catholic point of view, I was kind of relieved by the idea that it was possible to apportion blame and use the idea of adultery as a basis for the breakdown of the marriage. However, I appreciate that in some cases that may not be preferable. My problem with the Bill is that I feel it will make divorce easier. When a contract is easy to get out of, people enter into it more lightly.

Melanie Onn (Great Grimsby) (Lab): I hear the hon. Gentleman's perspective, but I wonder who he thinks it serves in the long run to apportion such blame.

Eddie Hughes: I completely understand the hon. Lady's point. That is why I am trying to set the context: my very personal view is that the system worked in my particular case, but I completely accept that it will be different for others, as we heard in our evidence session this morning.

My point is simply that we have all visited websites that have asked us to tick a box to agree to terms and conditions. It is highly doubtful whether any of us has ever read all the terms and conditions before ticking the box, because we know that we are entering into a contract that will be really easy to get out of. We have all done it—we have all pressed the button to enter into a contract really quickly, because we know that it is easy to get out of. I am scared about any move in that direction with regard to marriage, because my personal belief is that it is more important than that, as a contract and a spiritual union.

Anyway, I have some points and questions for the Minister about clause 1. The written and oral evidence submitted to the Committee by Mr Hodson raises several key points that really engage with the clause and that arguably highlight the need for amendments that I hope the Government will consider.

The 20-week reflection period is clearly of huge importance. The Bill is about removing fault from divorce, not about minimising the opportunity within the divorce process for couples to gain access to mediation and have a rethink. This may come as a surprise to some right hon. and hon. Members, but in some instances the first occasion on which a spouse finds out that their marriage is in difficulty is the commencement of divorce proceedings. That is the first opportunity they have, with that knowledge, to try to put things right. At a time when the annual cost of family breakdown to the Exchequer stands at £51 billion, according to the Relationships Foundation's annual assessment, it is imperative that policy makers and legislators seize every opportunity provided by the 20-week reflection period to maximise the opportunities for mediation and reconciliation. Without any expression of commitment to the importance of marriage, the Bill will sound very hollow.

One key measure by which the success or failure of the removal of fault in the legislation will be judged will be the extent to which it creates a better environment within which couples can rethink and save their marriage. To this end, the 20-week reflection period defined in clause 1 is clearly of the utmost importance. At the moment, on the basis of the evidence submitted by Mr Hodson, it seems vulnerable on several points.

First, in a case in which one member of a couple initiates divorce proceedings, if the 20-week clock starts ticking from the moment that they initiate, as clause 1 currently proposes, the other spouse will on some occasions inevitably end up with less than a 20-week reflection period. That is clearly neither fair nor transparent. Will the Government amend the Bill so that it is clear that the 20-week clock will only start to tick from the moment it is clear that both members of the couple know about it?

Secondly, in order for the 20-week reflection period to work well, it is plainly important that a good part of the 20-week period, if not all of it, is made a litigation-free zone, so that the focus can be on mediation. That must extend to ancillary financial litigation. Will the Government amend the Bill so that at least most of the 20-week period, if not all of it, is made a litigation-free zone, including ancillary financial litigation?

Thirdly, will the Government consider changing the point in the process at which the partner seeking the divorce should lodge their statement of irretrievable breakdown? Having it at the start, as the Bill proposes, makes it extremely difficult for the other partner to respond constructively if the intention is for a period of reflection.

Finally, mindful of the importance of the 20-week period referred to in clause 1 for reconciliation and mediation, what new provisions will the Government make to ensure that all couples are offered effective reconciliation and mediation specifically during this period, in an effort to increase the numbers of divorce proceedings that are not concluded, thereby increasing the number of marriages saved?

Yasmin Qureshi (Bolton South East) (Lab): It is a pleasure to serve under your chairmanship, Mr McCabe. I put on the record the fact that the Opposition do not object to this legislation, which is one reason why no amendments or new clauses have been tabled. We welcome this piece of legislation, which has for many years been required and called for, and it is great that the Government have brought it to the House. This morning, Members heard from experts in this area who deal with these types of cases day in, day out, and it was quite clearly their unanimous opinion that this legislation is important, welcome and needed.

No one goes into a marriage expecting it to fail, but it is an unfortunate reality of life that couples may choose to go their separate ways. It is even more unfortunate that, when they pursue a divorce, they do so under archaic law. Among the five permissible grounds for divorce are adultery, desertion and unreasonable behaviour, which involve the allocation of blame to one party. That is unfair and could damage a couple's children as well.

For decades, campaigners have been asking for this change to the law. This situation was crystallised recently in the case of Owens *v.* Owens, which ended up in the Supreme Court. Sir James Munby, then president of the family division of the High Court, said in 2017 that

> "the law which the judges have to apply and the procedures which they have to follow are based on hypocrisy and lack of intellectual honesty. The simple fact is that we have, and have for many years had, divorce by consent, not merely in accordance with section 1(2)(d) of the 1969 Act but, for those unwilling or unable to wait for two years, by means of a consensual, collusive, manipulation of section 1(2)(b)."

We heard about that this morning. It is interesting that in Scotland, where the requirement for fault has been abolished, only 6% to 7% of divorce applications are based on fault, yet in England 60% are based on allocation of fault. That raises the interesting question, as Professor Trinder said this morning, of whether we are worse behaved than the Scots. It is not that. In Scotland, people do not have to go through the intellectual dishonesty, as Sir James Munby said, of creating issues of fault.

The Minister will set out the law as it stands, but I point out that if a couple want to divorce in less than two years, they need to start pointing the finger of blame, with one citing the other's adultery, unreasonable behaviour or desertion. That in itself causes unnecessary strife. However, in most cases, neither party contests a divorce, so they can go their separate ways.

The need to apportion blame, and ratchet up the acrimony, is one of the main reasons why the Opposition want to see an end to fault-based divorce law, not least because of its impact on children. The ground of unreasonable behaviour, for example, requires allegations from one spouse against the other that are hardly ever challenged and can be exaggerated, which will inevitably exacerbate the relationship between the parties and make arrangements regarding children even more difficult. It is therefore unsurprising that most of the legal community supports the changes. About 1.7 million people have assigned blame in a divorce process. Many need not do so, so again legislation is very important.

The Law Commission has called for the current fault-based system to be scrapped. In fact, it recommended that in 1996. It has made several criticisms of the current law, of which many hon. Members are aware, but perhaps they are worth repeating because some believe, and indeed the hon. Member for Walsall North alluded to the fact, that somehow such reform will lead to more people filing for divorce. In a number of cultural and religious communities divorce is actually very easy but the divorce rate is tiny. I do not accept the suggestion of a correlation and that the divorce rate will spike because of a change in the law. It is about societal issues or particular challenges in people's lives and communities. I do not think a correlation can be seen between changing the law and an increase in the rate of divorce from looking at other countries, cultures and societies where there is a more open or easier divorce system.

One of the problems with our current system is that the law is confusing and misleading. It says that the only ground for divorce is that a marriage has "irretrievably broken down," but that can be proved only in one of five ways, three of which involve fault. Therefore, the fact used as the peg on which to hang a divorce petition may not in any way bear relation to what caused the breakdown in marriage. The law also pretends that the court is conducting an inquiry into whether and why the marriage has broken down when in fact it does no such thing. Even if a petition is defended, it requires only that the fact is proven.

The current system is discriminatory, favouring those who can afford to live apart for two years before seeking divorce, with the remedies that go with that. Many poorer parties, including many who are victims of domestic violence or abuse, cannot afford to separate unless and until they get orders, which are obtainable only on divorce. Matrimonial home orders under part IV of the Family Law Act 1996 were originally intended to provide a sensible interim housing solution, but the provisions of our current law exclude parties from being able to access it.

The current system is unjust. Adultery and unreasonable behaviour suggest that one party has to blame the other, but many of the technical bars under the old law were abolished. There is little or nothing to stop the more blameworthy one relying on the conduct of the less

[Yasmin Qureshi]

blameworthy one. It is difficult, expensive and may be counter-productive to defend or cross-petition to try to put matters right.

2.15 pm

In any event, which of us is qualified accurately to assess blame for any relationship breakdown? Under the current law, it is always a matter of blame. That provokes unnecessary hostility and bitterness because it is arbitrary and unjust, and the respondent cannot put his own side of the story across. That can therefore add more anger, pain and guilt, and cause even more problems for the parties concerned. Evidence has shown that it can make things worse for children as well. Often children suffer when parents separate, especially if the divorce is acrimonious.

In October 2017, a large-scale research study by Professor Trinder, who gave evidence this morning, was published, entitled "Finding Fault? Divorce Law and Practice in England and Wales". The study very much dealt with these matters, and it was great to hear Professor Trinder this morning talking about the research, which confirms that the legislation is necessary and welcome.

The reforms will bring many benefits to separating couples. The legislation will have positive effects on children and will mean that they do not have to talk about one parent blaming the other. It will also mean that the process can be a lot cheaper, and people will not have to go through such emotional turmoil. We have heard the figures about the effect on children, and it has been agreed that the majority of the population of this country has come to the conclusion that taking fault out of divorce is a sensible way forward. I think it is universally accepted that parents fighting with each other and attributing blame has an effect on children.

For all those reasons, we welcome the legislation. To facilitate its passage, we have not tabled any amendments, but we ask the Government to consider two things. The first is the extension of legal aid. Although the reforms to modernise divorce are welcome, I would like the Minister and the Ministry of Justice to consider reintroducing legal aid for early advice. The Law Society, which represents about 140,000 solicitors in England and Wales, has said that legal difficulties around divorce are exacerbated by far-reaching cuts in the justice system, which means that problems often escalate when early legal advice is unavailable.

In cutting legal aid, the Government failed to recognise that solicitors who provide early advice are a significant source of referral to mediation, avoiding costly court hearings. Without early advice from a solicitor, many people do not know that the option of mediation exists, or even how to access it. Will the Minister reflect on the research that has shown that legal aid cuts have forced more people into a do-it-yourself justice system? I certainly hear a number of cases in my advice surgery of constituents who end up in court dealing with unfamiliar procedures as they attempt to resolve the future of their children, homes and finances. I am sure that I am not the only Member who has come across constituents with such issues.

Since the Government implemented the Legal Aid, Sentencing and Punishment of Offenders Act 2013, there has been an increase in the number of litigants in person in the court system. The Law Society argued that not only have the changes failed to divert people away from the courts, but

> "they have created additional pressure on the courts as they have to deal with higher than expected case volumes and delays caused by those acting without lawyers being unfamiliar with the processes."

This leads to unnecessary costs to the taxpayer, because it obviously requires longer in court. If the litigant is represented, matters will be dealt with a lot more quickly. With unrepresented defendants, a matter that would take 10 minutes if somebody had legal representation may take two hours or so. The courts will be running for far longer. The situation causes a lot of clogs in the system at the moment. Will the Minister consider that point? I know that it is not part of the Bill, but this is an opportunity for Labour to flag a concern.

Secondly, many charities supporting victims of domestic abuse are obviously very supportive of the introduction of no fault. They hope that the reforms will make obtaining a divorce simpler for the most vulnerable, especially by preventing any post-separation abuse when a victim has cited the violence as the fact on their petition. Leaving an abusive partner is a dangerous time for victims and the current complexity and length of the divorce process can compound these risks.

An aspect of the Bill is that, where a marriage has broken down in a case of domestic abuse, in reality, there is a limited legal effect of the fault. Those who can afford a solicitor will be advised that they do not have to set out the domestic abuse within the application, as the fault-based fact used to apply for a divorce is not scrutinised thoroughly by the court and rarely has any impact on financial proceedings. It cannot be used as proof or evidence of domestic abuse in subsequent proceedings, such as child contact proceedings. Many people are not aware of that. Women without legal advice are therefore more likely to set out the real cause of their marriage breakdown and are placed at greater harm as a result.

This is an important issue. The Minister probably knows that Women's Aid raised concerns during the consultation on the Bill because it does not remove the bar on petitioning for divorce in the first year of marriage. This rule can leave women who are suffering domestic abuse trapped during that year. Has the Minister listened to the concerns of charities acting for survivors of domestic abuse? Perhaps the Ministry of Justice can explore this at another time. I hope that he will consider the one-year rule and legal aid. The Opposition will not vote against the clauses or table any amendments.

Paul Maynard: It is a pleasure to serve under your chairmanship, Mr McCabe, and to see so many people in the room, discussing what will be a very important piece of legislation. It is rare that we deliver social change in this place. It often occurs at a glacial pace. However, there are locks on the great canal of British history. Every so often, the locks open, the water flows and the ship of state moves on. It never occurs by unanimity. There will always be some in the avant-garde driving the canal boat through the locks, navigating carefully and ensuring that all the locks open and shut in synchronicity. Others may be less at the forefront—more at the bow of the ship perhaps, questioning, querying, holding to account and analysing the detail. Both are important as we consider any item of social change, and

it is right that Parliament reflects all these views. As my hon. Friend the Member for Walsall North has demonstrated, it is very rare to achieve unanimity on any social issue, not just among colleagues in this House but across the country as a whole. I would never object to anyone raising concerns about this sort of legislation when it comes before the House.

We all come to Bill Committees with expectations and enthusiasm. When I served on the Committee that considered the Deregulation Bill in 2014, we spent at least 45 minutes discussing the idea of abolishing the age limit for purchasing chocolate liqueurs. There was a great, furious controversy about how many chocolate liqueurs one had to eat to become inebriated, and no consensus was achieved. I therefore hope that we might achieve a somewhat more broad—in fact, unanimous—consensus on this Bill, which frankly is far more important than the age at which one can purchase a chocolate liqueur.

This Bill is exceedingly important to millions of people up and down the country who are facing the prospect of divorce, have gone through it in their past and have strong views as a consequence, or who are currently in a marriage and considering what they intend to do. Its provisions, taken together, provide for reformed legal requirements in England and Wales by which a marriage or civil partnership may be legally ended through a court order for a divorce or dissolution, or by which an order for separation may be made allowing the parties to a marriage or civil partnership to remain in a legal relationship, but to live apart.

I will start by stating what I hope is agreed by everyone, and is a core Government belief: that marriage is vital to our functioning as a society. It is deeply sad for all those involved when a marriage or civil partnership is beyond repair. The decision to seek a divorce or dissolution of a civil partnership is an intensely personal one. The Government have heard calls to reform the legal process so that it does not make matters worse—calls that are supported by evidence, including that which we have heard this morning, about the harm done by the current legal process and how it is out of step with reality.

The Bill does not seek in any way to diminish the importance of the commitment made when two parties enter into a marriage or civil partnership with each other; that is a profound and deeply personal commitment between two people. I declare an interest: like my hon. Friend the Member for Walsall North, I am a Catholic, and I personally believe that marriage is a sacrament in the sight of God. Equally, I recognise that not everybody shares that point of view. We are looking purely at marriage as a civil institution; clearly, many people from many different faiths and none will have religious concerns, but today we are looking at the law on the dissolution of a marriage.

Relationships can, and ultimately do, fail. When a marriage or civil partnership breaks down and is beyond repair, the law must deal with reality, by creating the conditions for people to move forward with the minimum of acrimony and agree arrangements for the future in an orderly and constructive way. Above all, the legal process should not exacerbate conflict between parents, which is especially damaging for children. The process must better support and encourage parents to co-operate in bringing up their children.

The evidence is clear that the current legal requirements needlessly rake up the past to justify the legal ending of a relationship that is no longer a beneficial and functioning one. The requirement for one person to blame the other if it is not practical for them to separate for at least two years can introduce, or worsen, conflict at the outset of the process—conflict that may continue long after the legal process has concluded. Allegations about a spouse's conduct may bear no relation to the real cause of the breakdown and can be damaging to any prospect that couples will reconcile or agree practical arrangements for the future. In the extremely difficult circumstances of divorce, the law should allow couples to move on constructively when reconciliation is not possible.

I will now deal with clause 1, which relates to divorce as a whole. This clause is key to the Government's whole approach to this Bill and its principled approach to reducing conflict in divorce proceedings. Other clauses regarding the legal requirements for judicial separation, the dissolution of a civil partnership or the legal separation of civil partners reflect that same approach with the appropriate modifications. Clause 1 substitutes for section 1 of the Matrimonial Causes Act 1973 a whole new section 1. The current section 1 contains the grounds for divorce, the legal requirements that a party must satisfy to establish those grounds to the satisfaction of the court, and the powers of the court to grant the divorce if so satisfied.

The sole legal ground for divorce—that the marriage has broken down irretrievably—is retained. Under the existing section 1, a petitioner for divorce is required to show one of the five facts to evidence irretrievable breakdown. Three of the facts relate to the other party's conduct in terms of adultery, behaviour and desertion, and the remaining two relate to the continuous separation of the parties to the marriage before the petition for divorce is filed. In new section 1, the requirement to show a fact is removed and is substituted by a requirement that the divorce application be accompanied by a statement that the marriage has broken down irretrievably. The new statement is to be conclusive evidence of irretrievable breakdown, and where such a statement has been validly made the court must make the divorce order.

2.30 pm

I want to make it clear that the legal process for divorce cannot save a marriage when the relationship has already irretrievably broken down. Only 2% of divorces are currently contested, and research shows that most often the decision to contest is motivated by the desire of a respondent party to dispute conduct alleged by the petitioner. Since clause 1 removes the use of both separation and conduct-based facts, the ability of a respondent party to a divorce to dispute allegations about conduct falls away.

The ability of one party to a marriage to apply for a divorce order is retained, but clause 1 provides, for the first time, the option for a married couple to make an application jointly, reflecting cases where the decision to divorce is a mutual one from the outset. The Government want to ensure that when the decision to divorce is shared, the legal process reflects that mutual decision.

The current process by which a marriage is ended in two legal stages is retained, but the terminology of the 1973 Act is updated to match the more modern approach in the Civil Partnership Act 2004. The first decree of

divorce, currently the decree nisi, will become a conditional order of divorce. The second decree, currently the decree absolute, will become the final order. The removal of Latinate terminology is, I believe, long overdue and will, I hope, be welcomed. As now, the applicant for the divorce must confirm to the court that it may make the conditional order. That will not follow automatically just because an application for divorce has been made. The conditional order does not legally end the marriage; it merely signifies that all the legal and procedural requirements have been met and that the court is satisfied that the marriage can be brought to a legal end. It provides a final opportunity for an applicant to reflect on the decision to divorce, as at conditional order stage the parties remain married.

Clause 1 retains a minimum period of six weeks between the conditional order and when an application may be made to the court for the final order of divorce, mirroring the current period between decree nisi and when the petitioner may apply for the decree absolute.

Kate Green (Stretford and Urmston) (Lab): I wonder what the Minister thinks the purpose of that six-week delay really is. What does he think will happen in these marriages during that six-week period?

Paul Maynard: Part of the objective, I believe, is to improve the financial arrangements. People may wish to delay a little longer until such a point. It is not a maximum period; it is a minimum, and the process might well take longer. It is about ensuring that we take a progressive, step-by-step approach to bringing the marriage to an end, and people may wish to tie up further loose ends, which may take longer than six weeks. There has always been a six-week gap to ensure, if nothing else, that all the paperwork is in order.

Crucially, however, new section 1(5) introduces into the legal process of divorce a minimum period of 20 weeks between the start of proceedings and when a party, or either or both parties to a joint application, may confirm to the court that the conditional order may be made. Those two periods together will now mean that in nearly all cases a divorce may not be obtained in a shorter period than 26 weeks, or six months. The 20-week period is a key element of the reformed legal process. For the first time, a minimum period has been imposed before the conditional order of divorce is made. The intention is to allow greater opportunity for the applicant to reflect on the decision and to decide arrangements for the future where divorce becomes inevitable.

The prospect of a couple reconciling once divorce proceedings have started is low, but our intention is that the legal process should still allow for that possibility. It is never too late for a couple to change their mind, which is one reason why we have decided to retain the two-stage process for divorce.

Separately, the new section 1(8) inserted by clause 1 retains the ability of the court in an individual case to shorten the period between decree nisi and decree absolute, which are now the conditional order and the final order, and also extends this discretion to the new minimum period between the start of proceedings and when confirmation can be given that the court may grant the final order or divorce.

I will come on to some of the points that have been made by my hon. Friend the Member for Walsall North and by the shadow Minister, the hon. Member for Bolton South East. My hon. Friend made some interesting and helpful points about how we can ensure, as I have just referred to, that this is as considered a process as possible, and how we can best utilise the 20-week period that I have just set out.

As my hon. Friend may have picked up during the evidence session earlier today, there is more going on to reform the divorce process than just what is in the Bill. There are a number of online initiatives to try to make the process smoother for those going through it, and one thing that we will look at is what changes we can make to that online process to signpost people towards mediation of some sort, counselling and so on, to make sure that they are aware of the broad range of options available to them, which they might not have thought of when they initiated the divorce process.

My hon. Friend also made a point regarding the Law Society's concerns as to when that 20-week period should start. We have explored this at some length during the consultation. Starting the time period from the acknowledgement of service, as some have suggested, could incentivise an unco-operative party to delay a divorce and could enable a perpetrator of domestic abuse to exercise further coercive control, which is why we have erred on the side of starting it earlier than that.

It is also worth flagging the caveat that we should bear in mind at every stage of this process. When we talk about mediation at this stage of a divorce process, it is often around finances or childcare. The mediation that my hon. Friend and I might think of as laymen is more a form of marriage counselling and relationship support. We should always be careful about that: when we initiate a divorce proceeding, mediation takes on a slightly different meaning from what it might perhaps have during a marriage. As I mentioned to the hon. Member for Stretford and Urmston, 20 weeks allows people more time to sort out their finances, in as constructive a way as possible.

The shadow Justice Minister mentioned the one-year bar on divorce and asked for the reason for that. I confess that I too have asked officials of the first rank what was in the Bill and why this might be. We consulted on it before the introduction of the Bill and there was certainly no broad consensus or hard and fast evidence either way. Many felt that it went against the grain of reforms that recognise marriage as an autonomous troth, as indeed did the Law Society and the Association of Her Majesty's District Judges. Faced with a lack of consensus and a lack of hard evidence at this stage that the bar causes hardship or is a problem, we propose to keep the status quo. That does not mean to say that the law can never be changed, but we do not believe that it would be the right step at this stage.

Understandably, the shadow Justice Minister raised the issue of legal aid and indeed legal support for those going through a divorce. She will be more than aware that legal aid is already available for mediation for couples who have finances or child arrangements that are in dispute. This provides a non-litigious route, resolving issues and helping families to move forward constructively. We are also investing some £5 million to support innovation across the sector that will help people to access legal support as close to their community as possible.

The shadow Justice Minister rightly made a point about litigants in person. As I have said to her in the past at the Dispatch Box, we are doubling our investment in our litigant in person strategy, but the wider reforms that I have just mentioned with regard to online processes for divorce should make it simpler and more straightforward for people to initiate proceedings online, so they would have less need for active legal help at that stage of the process. The reform programme, the litigant in person strategy and the legal support action plan are all about opening up newer avenues to access legal support that are not just about someone getting that legal help as they come through the courtroom door.

On that particular note, I beg to move that the clause stand part of the Bill.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

JUDICIAL SEPARATION: REMOVAL OF FACTUAL GROUNDS

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

The Chair: Does anybody wish to participate in debate on clause 2? I do not see anyone who does. Minister, do you wish to make any concluding remarks?

Paul Maynard: I am not sure people will have the patience for me to read out all my notes on every clause.

The Chair: There is no requirement.

Paul Maynard: I do feel I ought to. My notes are now all shorter than they were for clause 1. It might help Members if I make it clear for the sake of the record that clause 2 refers to the idea of judicial separation, by which a party to a marriage may obtain a judicial separation order. Judicial separation is rarely used nowadays, with fewer than 300 judicial separation petitions made annually in comparison with around 110,000 petitions for divorce. We recognise, however, that divorce is not an option for some couples because of deeply held religious or other beliefs. Judicial separation therefore continues to provide an important legal alternative for those couples, and that is why we have decided to retain it. Clause 2 broadly reflects the changes made in clause 1 and applies them to the issue of judicial separation. I commend the clause to the Committee.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 3

DISSOLUTION: REMOVAL OF REQUIREMENT TO ESTABLISH FACTS

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

The Chair: Minister, do you wish to make any opening remarks? Does anyone else wish to participate in debate on clause 3? I will take that as a no. Minister, do you wish to say anything in conclusion?

Paul Maynard: I was going to take clauses 3 and 4 together.

The Chair: You may refer to them both, but we have to take them separately.

Paul Maynard: The only point I will make to colleagues is that, just as we had judicial separation in clause 2, clause 3—and indeed, clause 4 for that matter—refers to civil partnerships and the Civil Partnership Act 2004. It once again takes all the elements I referred to in clause 1 and translates them on to the Civil Partnership Act 2004 so that that is also up to date from where we are currently.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clauses 4 and 5 ordered to stand part of the Bill.

Clause 6

MINOR AND CONSEQUENTIAL AMENDMENTS

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

Bambos Charalambous (Enfield, Southgate) (Lab): We support the Bill very much. We had some concerns about the powers that the Lord Chancellor would have in relation to clause 6, but given that they are so limited in scope, we do not propose to object to them. However, we do not wish it go unnoticed that we have concerns about Ministers having—I will not call them Henry VIII powers in relation to divorce proceedings—draconian powers in pushing forward legislation that would remain as primary legislation. I will leave it at that. We do not oppose this clause, but I wish to put on record that we have wider concerns about Ministers' powers.

2.45 pm

Paul Maynard: I was going to say a few words on this clause, so I am grateful to have the chance to respond to the debate. The hon. Gentleman makes a perfectly fair point about the delegated powers. We got the idea from the Civil Partnership Act 2004, which was introduced by the hon. Gentleman's party. We are reflecting the changes in that Act in the Bill. The powers we are conferring on the Lord Chancellor were exercised by the High Court with the introduction of the Matrimonial Causes Act 1973. In 2004, when the legislation was updated, it was decided that the power was better vested in the Lord Chancellor for civil partnerships. We are now catching up across the broader spectrum of proceedings with that decision to move the power from the High Court to the Lord Chancellor. I can justify the devolved powers in question even to myself, and I can even call them Henry VIII powers.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Schedule 1 agreed to.

Clauses 7 to 9 ordered to stand part of the Bill.

Paul Maynard: On a point of order, Mr McCabe. It is customary to give a lengthy thank you to all those who have participated in the Bill. I fear I would end up

[Paul Maynard]

making a speech longer than any other speech if I tried to do so, but I thank all Members for their contributions, even if they have been silent contributions of good will emanating towards us. That is good enough for me.

More importantly, I thank all the officials who have worked hard on the Bill for many months. They may even be disappointed that we have taken only 47 minutes to progress it through Committee. I will put them at their ease, because if it is only 47 minutes, it means there is far less chance for me to muck it up at any stage. There will be a sigh of relief at the Ministry of Justice, I suspect, that I have been hidden from scrutiny by taking a bit less time. I thank all my officials and I thank you, Mr McCabe, for chairing the Committee so adeptly. You have facilitated our rocket-powered canal boat moving down the great canal of British history through one more set of locks.

Yasmin Qureshi: Further to that point of order, Mr McCabe. I place on record my thanks to all Members who have attended today and those who spoke in the Chamber on Second Reading. I thank you, Mr McCabe, for your excellent chairing of this Bill Committee.

The Chair: It is certainly close to a record, Minister, but it must be down to the quality of the Committee.

Bill to be reported, without amendment.

2.49 pm

Committee rose.

Written evidence to be reported to the House

DDSB01 Resolution
DDSB02 Dr Sharon Thompson, Cardiff University
DDSB03 The Law Society for England and Wales
DDSB04 Sue Kincaid
DDSB05 James Brien
DDSB06 Nicholas D. Hart (retired former solicitor)