

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

Public Bill Committee

## MARRIAGE (SAME SEX COUPLES) BILL

*Fourth Sitting*

*Thursday 14 February 2013*

*(Afternoon)*

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Written evidence reported to the House.

Examination of witnesses.

Adjourned till Tuesday 26 February at five minutes to Nine o'clock.

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**The Committee consisted of the following Members:**

*Chairs:* MR JIM HOOD, † MR GARY STREETER

Andrew, Stuart ( <i>Pudsey</i> ) (Con)	† McDonagh, Siobhain ( <i>Mitcham and Morden</i> ) (Lab)
† Bradshaw, Mr Ben ( <i>Exeter</i> ) (Lab)	† McGovern, Alison ( <i>Wirral South</i> ) (Lab)
† Bryant, Chris ( <i>Rhondda</i> ) (Lab)	† Reynolds, Jonathan ( <i>Stalybridge and Hyde</i> ) (Lab/ Co-op)
† Burrowes, Mr David ( <i>Enfield, Southgate</i> ) (Con)	† Robertson, Hugh ( <i>Minister of State, Department for Culture, Media and Sport</i> )
† Doughty, Stephen ( <i>Cardiff South and Penarth</i> ) (Lab/Co-op)	† Shannon, Jim ( <i>Strangford</i> ) (DUP)
Ellison, Jane ( <i>Battersea</i> ) (Con)	† Swayne, Mr Desmond ( <i>Lord Commissioner of Her Majesty's Treasury</i> )
Gilbert, Stephen ( <i>St Austell and Newquay</i> ) (LD)	† Williams, Stephen ( <i>Bristol West</i> ) (LD)
† Grant, Mrs Helen ( <i>Parliamentary Under-Secretary of State for Women and Equalities</i> )	
† Green, Kate ( <i>Stretford and Urmston</i> ) (Lab)	Kate Emms, Alison Groves, <i>Committee Clerks</i>
† Kirby, Simon ( <i>Brighton, Kemptown</i> ) (Con)	
† Kwarteng, Kwasi ( <i>Spelthorne</i> ) (Con)	
† Loughton, Tim ( <i>East Worthing and Shoreham</i> ) (Con)	† <b>attended the Committee</b>

**Witnesses**

John Wadham, General Counsel, Equality and Human Rights Commission

Robin Allen QC, Cloisters, Equality and Human Rights Commission

Rachel Robinson, Policy Officer, Liberty

Liz Bramley, Head of Engagement and Diversity, the Co-operative Group

Craig Parr, teacher, Schools OUT

Joe Hayman, Chief Executive, PSHE Association

Very Rev. Jeffrey John, Dean of St Albans

Alice Arnold, broadcaster

Brendan O'Neill, journalist

Mark Jones, Partner, Ormerods Solicitors

## Public Bill Committee

Thursday 14 February 2013

(Afternoon)

[MR GARY STREETER *in the Chair*]

### Marriage (Same Sex Couples) Bill

#### Written evidence reported to the House

MB 23 PSHE Association

MB 24 Equality and Human Rights Commission  
(further supplementary)

#### Examination of Witnesses

*John Wadham, Robin Allen QC, Rachel Robinson and Liz Bramley gave evidence.*

2 pm

**The Chair:** We begin our proceedings in our final evidence session. We welcome our first set of witnesses. Thank you for being with us this afternoon and being prepared to give evidence. I ask you to introduce yourselves for the record and then we will move straight on to questions.

**Robin Allen:** My name is Robin Allen and I am head of Cloisters barristers chambers. I have worked in the field of equality and human rights since the mid-1970s, and have advised all the earlier commissions, the Equality and Human Rights Commission, the Equality Commission of Northern Ireland and a lot of others, on human rights and equalities issues. I have been particularly asked to advise the Equality and Human Rights Commission on the Bill.

**John Wadham:** I am John Wadham, the general counsel of the Equality and Human Rights Commission, a staff member.

**Rachel Robinson:** I am Rachel Robinson, a policy officer at Liberty.

**Liz Bramley:** I am Liz Bramley, head of employee engagement and diversity for the Co-operative Group.

**The Chair:** Thank you very much. The first question is from Chris Bryant.

**Q333 Chris Bryant (Rhondda) (Lab):** Are the provisions in relation to pensions in the Bill fair?

**Rachel Robinson:** Although we are incredibly supportive of the Bill as a whole, that is one area where we feel there is still a substantive inequality in it. Committee Members may know that Liberty recently represented before the employment tribunal John Walker, who challenged the decision of his occupational pension scheme provider to provide substantially less in survivor benefits for his civil partner than would have been available to a spouse in a mixed-sex relationship.

At the moment, the way that survivor benefits accrue in occupational pension schemes means that civil partners and, under the Bill, same-sex spouses would be entitled

only to those benefits that have accrued since 2005. That creates real tangible inequality for same-sex couples. We think it is a shame, in a Bill that is in general so progressive and a positive step forward, to see that inequality perpetuated.

**Q334 Chris Bryant:** How many people do you think that applies to? Obviously, some occupational pensions have a more generous provision than the law requires them to have.

**Rachel Robinson:** Absolutely. We hear from the Government that two thirds of occupational pension schemes already provide equality parity in provision for same-sex and mixed-sex couples. We imagine that on that basis the liability to occupational pension schemes will be very limited. However, for the individuals who are affected, the personal impact will be great. For example, in the case of our client John Walker, the survivor benefit available to his civil partner would have been £500 per annum, as opposed to £41,000 per annum for a spouse. To help demonstrate the real inequality, had John Walker today decided to end his civil partnership and marry a woman he had just met, she would be entitled to the full amount of that survivor benefit, while his civil partner, with whom he has been in a relationship for a long time and made a civil partnership with as soon as it was possible, is not entitled to that. That is a real inequality.

**Q335 The Chair:** Does anyone else wish to comment on pensions at this stage?

**John Wadham:** Obviously, the Equality and Human Rights Commission welcomes the Bill. It is a very important step forward to equalise relationships. Obviously, it would be sensible that the rest of the difficulties and discriminations were tidied up. So we take the same view that it would be sensible for the consequential equality issues to be dealt with within the pension schemes more generally.

**Q336 Kate Green (Stretford and Urmston) (Lab):** May I follow this argument about pensions a little further? Would the change in the legislation that you are seeking provide for state pensions or only occupational pensions?

**Rachel Robinson:** Our concern here is with occupational pension provision. We do understand that there is an issue with differentiation between widows and widowers in other aspects of the regime, but as far as we are concerned the real substantive inequality here is with occupational pension schemes. We are only suggesting an amendment that equalises treatment within occupational pension schemes.

**Q337 Kate Green:** Would that be both public sector and private sector occupational pensions?

**Rachel Robinson:** We understand that at the moment for public sector pensions there is equality of treatment, or civil partners are treated in the same way as widowers. The real inequality is in the fact that for private occupational pension providers there is an exemption from the duty to make equal provision for same-sex and mixed-sex couples.

**Q338 Kate Green:** I do not think the Equality Act 2010 specifies that. I do not think it says specifically that it is private sector occupational pension scheme providers, does it?

**Rachel Robinson:** In our consultation with Government on this until very recently it has been clear, for example when we were taking forward our case challenging the same provision in relation to civil partnerships, that the liability they foresaw arising from the case was a liability to private pension schemes. I understand that recently there have been attempts to formulate an argument that there will be some impact on the public purse here. As far as we can see from our legal analysis, however, that is not the case. In fact, what we are looking at here is a small increase in liability to private pension firms, which, in any event, deal in risks and uncertainties. That is the nature of the work that they do.

**Q339 Kate Green:** I note what you say, and therefore I assume that you do not see this as especially burdensome on private occupational pension providers, not so much in terms of cost—although you might want to comment on the likely cost to them—but in terms of the management of their pension schemes.

**Rachel Robinson:** As far as we are concerned, there will be a very small increased liability. The Government's concern about there being a retrospective liability on such schemes is rather misplaced, as far as we can see. It rather implies that there would be some way for such schemes to predict how many members of a particular scheme would be gay, how many would go on to form a civil partnership and how many would be survived to any significant extent by a partner, which are all incredibly speculative. Individuals who are in same-sex relationships pay in to their schemes in exactly the same way as everybody else, and it is simply unfair that they be asked to bear this additional burden and be treated in this unequal way.

**Q340 Tim Loughton (East Worthing and Shoreham) (Con):** The submission we have had from the Equality and Human Rights Commission, which I think is good and makes some interesting points, raises some concerns about the legal position for a minister in a Church that opts in but who does not want to conduct same-sex marriages. The submission states:

“However, our legal opinion suggests the bill in its present form could amount to the state acting unlawfully by interfering with the freedom of religious organisations...to enforce their religious doctrines within their particular organisation.”

Can you elaborate on that and what it would take to remedy that in the Bill, if it can be remedied?

**Robin Allen:** I think I was the author of that bit, so the baton has been handed to me. As you will know well from your earlier discussions, the Bill has been built on this idea of a quadruple lock of freedom of conscience. The commission's overarching view, as I understand it, and certainly we think this is overwhelmingly right and correct, is that the Bill treads a careful and thoughtful line in protecting freedom of conscience.

In clause 2, there is a provision that essentially says that a minister—I use the word minister to cover all sorts of religious persons who conduct ceremonies—cannot be compelled to conduct a ceremony that they do not agree with between same-sex couples. The situation that

gave us some concern in the commission was that of a religious organisation that opts in for doctrinal reasons, so the doctrine of that particular religious organisation agrees with the concept of same-sex marriage, but a possible employee or office holder—call it what you will—who has the responsibility for conducting those ceremonies does not agree with that doctrinal change.

As things stand at the moment, on one reading of clause 2, that organisation would not be able to discipline or take action against that individual who was in doctrinal opposition with its organisation on this particular point. It may be that that is a policy decision for the Government to take in promoting the Bill, and that the best way to secure full protection of individual conscience is to have clause 2. But it is the point at which the individual conscience of a minister within a religious organisation comes into conflict with the doctrine of the organisation itself that we are a little concerned about.

I see the difficulty, because it could be said that a couple want to get married but the minister refuses. The couple then go to the organisation and say, “We can't get married, even though you agree with this policy. What are you going to do about it?” The question then is what happens if the organisation removes that minister or disciplines them in some way? Is the individual who has a conscience problem being compelled in some form or another? That is the conflict.

**Q341 Tim Loughton:** Do you think that the legislation should clearly enable the organisation to discipline that individual? This brings in the bigger argument: in order to comply with the law, should a whole organisation—I am mostly talking about non-religious organisations; I realise you are talking about ministers—have to employ only people who are compliant and in favour of same-sex marriage? Or do you think we should, in your personal view, enable flexibility so that as long as an organisation offers that service, it does not require every single person employed by or affiliated to that organisation to go along with it? Do you think that is a sustainable situation, or should everybody have to comply, and therefore the organisation would have the power to discipline, backed up by the law?

**John Wadham:** The first question is quite right. If you are a member of a religious organisation or Church, you can request that organisation to marry you. In a sense, it is not for you to choose whether you have a particular minister, so to that extent I think the policy is correct. Individuals should not be able to go looking around for people who might have conscientious objections or religious beliefs contrary to the views of the organisation. In a sense, that is an issue for the organisation itself.

Our anxiety, however, is that irrespective of whether that couple can take proceedings or cause trouble, the organisation—as a religious organisation that establishes its own doctrine, or the doctrine is derived from the way in which it was set up—should be able to ensure that it can take action against its own employees and its own ministers. Our anxiety is that the Bill may prevent that from happening. From the point of view of the couple, we are not concerned. It is more about the freedom of the religion to organise its own affairs without the state—in this case the law—saying, “You are not allowed to discipline this person,” which would be a step too far. It would be an interference with religious freedom for that particular religious organisation.

**Q342 Tim Loughton:** So you favour 100% conformity by every member?

**John Wadham:** No. If the religious organisation does not want 100% conformity, that is entirely up to that organisation. But if it does want 100% conformity, it is not for the law to step in and say that they cannot have that. These two policy objectives could be resolved by amending the Bill so that you do not allow a same-sex couple to force an individual to marry them, but at the same time you allow the religious organisation to police its own ministers and staff. I think that that is possible. The two things are a bit mixed up and we are a bit anxious about that. But obviously, I would not want that to take away from the importance of the Bill.

**Q343 Tim Loughton:** I understand that. Conversely, then, we had cases in the European Court of Human Rights involving civil partnerships and a registrar who said that he or she—I cannot remember which—could not perform those ceremonies. You are not in favour of flexibility: if that authority had said, “We will accommodate her, and we will have six registrars who will do everybody and one who will only do some,” that would not be permissible, as far as you are concerned, and she should have been forced to do all or nothing, along with everybody else.

**John Wadham:** I do not think that those are parallel circumstances. A registrar’s responsibility, as a public official, is to deliver a service to the wider public. As for a member of a Church or a religion, the responsibility of that person is to follow the doctrine of the Church or religious organisation. Those are two different things. We are saying that it is for the religious organisation to be allowed to police those circumstances. That is not on a parallel with the Ladele point.

**Robin Allen:** I would add two things. I do not disagree with anything that has been said by Mr Wadham, obviously. One short point: it might achieve the aim that the commission has in mind here—I am not saying that it will definitively do that, because we have not had enough thinking time on this issue—if clause 2(2), which states that a person

“may not be compelled...to conduct a relevant marriage”,

contained the idea that, “A person may not be compelled by a couple wishing to get married”. That would certainly go some way in curing the defect that we think arises.

My second point is whether the points that we have articulated, and have been debating, mirror the situation for Ms Ladele. The short answer is that I agree entirely with Mr Wadham: they do not. Ms Ladele is a registrar of marriage, and all registrars of marriage are paid to work for the state in its various emanations to provide the service of conducting civil marriage ceremonies. The Bill redefines the concept of civil marriage. That is the answer, in short.

**Q344 Jim Shannon (Strangford) (DUP):** Thank you for coming along. I have a couple of questions for clarification. Recently, the Roman Catholic adoption agencies have made a clear stand on their concerns about adoption and about how the law will constrain and restrict them with regard to things that they feel, biblically and religiously, they cannot do. I would like your opinion on that.

Mr Allen, I think you mentioned giving some advice to the Northern Ireland Human Rights Commission. I had a meeting with that body back in early December, speaking with its members at some length. I would be keen to get your opinion, because obviously the Northern Ireland Assembly took a decision not to agree to same-sex marriage. What is your opinion today? I asked for its opinion and would like to get yours.

**Robin Allen:** If you will allow me to interrupt for just a second, I have given no advice to the Equality Commission for Northern Ireland on this issue at all.

**Q345 Jim Shannon:** That is fair enough. I have already heard its opinion, so I was keen to see whether your opinion was similar, but you are not going to tell me that.

The Equality and Human Rights Commission is well known for intervening in cases where Christians and people with religious beliefs are taken to task on an issue, whatever it might be, whether it be foster care, provision of services in B and Bs, and so on. How many times have you supported a claim brought by a traditional Christian, and how many cases have you pursued against traditional Christians?

**John Wadham:** The answer to that is that, in the most recent case decided, which was the case of Eweida, we intervened in the European Court of Human Rights to support her case, and I am very pleased that she was successful. The commission has a very difficult job in the sense that it promotes equality and human rights across the board, so it wants to ensure that lesbians and gays have rights and equality, and are not discriminated against; but, as I have tried to indicate, the main point that we have debated so far is giving religious organisations as much freedom as we possibly can. That is our wish.

A year ago, I met with all of the Christian organisations, and many others, to work with them to try to support as many cases as possible in which they believed that their religious rights were being interfered with or that they were being discriminated against in relation to their religion. That has always been my approach during the period that I have been at the commission. It is also our public stance.

It is problematic that there are some religious individuals who have decided for doctrinal and other reasons to discriminate where it is unlawful, including, for example, the denial of access to bed and breakfasts. I am sympathetic to those who do that for those religious reasons, but it is unlawful, and it is unacceptable for gays and lesbians to be turned away from commercial premises for reasons that are not acceptable. It is possible, and I think we are trying our best to resolve those issues, but it is a hard job to do and we try and do it as best we can. Not everyone likes what we do, and we are criticised from all sides. I do not know whether that is a result or not.

**Siobhain McDonagh (Mitcham and Morden) (Lab):** That is life.

**Q346 Jim Shannon:** I asked for the numbers. Perhaps if you do not have the details today, you could reply with the numbers of those traditional Christians that you have supported and those that you have not. It is in *Hansard* that the request has been made.

I asked you a question about Catholic adoption agencies and their concerns about how the measure will legally change their position in relation to adoption. Can you give us some reassurance on that?

**John Wadham:** The difficulty for the Committee with the Bill is that it is becoming a focus of a significant number of issues. As far as I understand it, there is no effect whatsoever in relation to the Catholic adoption agencies' ability to promote their services or not. The issue here is about marriage for same-sex couples. As Robin has already said, this is an important development. It is an incredibly good Bill, and I would not want other issues to get in the way of the Bill going through Parliament and getting Royal Assent as soon as possible.

**Q347 Jim Shannon:** People have very real concerns.

**John Wadham:** I understand that there are genuine concerns. Collectively, this society is developing new ways of trying to support not only the rights of lesbians and gays, but also the freedom of religion of many different religious organisations. The Bill is an important part of that development, but it does not solve the other problems, which are still difficult to resolve.

**Q348 Tim Loughton:** If a foster couple belonged to a faith organisation that had opposed the legislation and they expressed their own opposition to same-sex marriages as being legitimate and, as a result, a local authority no longer used them as foster carers, would you support the foster carers? Would there be a case to be made in support of them?

**John Wadham:** The key issue in relation to adoption and foster care is the interests of the children. In a sense, it is possible—I hope it will continue to be the case—that the religious or political views of the foster parents or the potential adopters are irrelevant to whether they can look after the children. If foster parents, or those who want to adopt, actually say, “Some kinds of sexuality are unacceptable or not genuine,” there are real issues about whether the local authority or the organisation can place children with them. It is impossible to know what the sexual orientation of those children will be as they grow up or explore such issues, and that creates difficulties, but foster parents of all religions and of all persuasions can deal with that. Some individuals will not be able to do so, and that is a difficult assessment for the local authority. A person's religious or political views, however, should not get in the way of them being able to look after children. The question is whether they will treat the children fairly and equally, and some people's religious views prevent them from treating children equally. That presents a problem for the local authority.

**Q349 Tim Loughton:** That is my point. I entirely agree that the paramount consideration must be what is best for the child. I assume that the actual answer to my question is, yes, you would defend them. Can you define the threshold at which it becomes detrimental for the child to be in the care of parents who hold those views? Clearly, if they were to express those views by being malicious towards gay people generally, or, if the child turned out to be gay, they were prejudicial to the child, that would not be in the interest of the child.

**The Chair:** Tim, this is a marriage Bill.

**Q350 Tim Loughton:** But the point about parents holding the view that same-sex marriage is not legitimate is germane to this debate, which is about the principle. If people hold that view, at what point does it have serious repercussions on their ability to look after a child, even though they may be brilliant foster carers?

**John Wadham:** I have to answer the question in exactly the same way as the earlier question. The issue is not about people's political or religious views, but about how they treat the children, so it is impossible for me to decide in advance. If somebody is opposed to the Bill, that does not make them unable to look after children, whether they are gay, lesbian or are developing their own sexuality. Of course, that is completely wrong. There will be circumstances in which people who have religious views will not be able to treat children fairly and equally, and that is when the local authority will not be able to place children with them.

**Robin Allen:** One of the subtleties of the Bill is that it allows for opt-ins and opt-outs, so individuals who hold different views about the nature of marriage from what civil marriage will become after the Bill is passed will not have a mark of Cain upon them for evermore. The Bill recognises that people have different views about what religious marriage is and what civil marriage should be. I do not think it is possible to state that there is a threshold at which holding those different views will cause difficulties in an adoption context.

Turn it around and look at it from the other point of view. Adoption decisions are never solely about the adoptive parents. They are almost always primarily about the children. *[Interruption.]* In law it certainly is true, and that is the important thing for you because you have got to get the law right, and you have got to state what the law is. The enforcement of the law is a different issue.

**The Chair:** Thank you. We are going back to the Bill with Chris Bryant.

**Q351 Chris Bryant:** That seems like quite a challenge. Can I just ask the Co-op, because you are obviously an employer, what your answer to the question about pensions is, and what do you already provide to your staff?

**Liz Bramley:** We have a number of pension schemes, but our main pension scheme, which is open to all of our people, actually uses the terminology “qualifying partners”. In terms of how people nominate the benefits of their pension scheme, we already recognise any significant nomination that they have. I think we will have to go back and look because we have probably got some old schemes, and some schemes where the rules were written a very long time ago. I am not a pensions expert, but we can certainly investigate the impact of that, if it is of interest.

**Q352 Chris Bryant:** But survivor benefits would be exactly the same for whoever you nominate, regardless of whether they are your wife, or whoever else you nominate?

**Liz Bramley:** Yes, absolutely. Or even if there was no ceremony at all, and the people were just living together, regardless of sexuality or gender.

**Chris Bryant:** Which is exactly the same as the parliamentary pension, in fact.

**Q353 Kate Green:** May I ask your views on the implications of the Bill for transgender people?

**Rachel Robinson:** We understand that the provisions around pensions will have an impact for trans couples around occupational pensions. For example, a trans couple where one partner transitions to become the same gender will find themselves as same-sex spouses—after paying into the scheme in the same way as mixed-sex couples and expecting to receive survivor benefits—unable to receive those benefits. The Committee has already heard from a representative who deals specifically with the rights of the trans community. Our main and principled point about this is that we are pleased to see that trans couples will not have to end their marriage in order to legally transition. That is obviously an incredibly important point for us.

**Q354 Kate Green:** Do you think there is any need to reintroduce the fast-track procedure for gender recognition?

**Rachel Robinson:** I am afraid I am not sufficiently able to give the detail about that, but we think that for transgender couples the process should be as accessible as possible.

**John Wadham:** I am afraid I did not hear the details.

**Q355 Kate Green:** I asked if you felt there was any need for or any advantage to reintroducing a fast-track procedure for gender recognition, which used to exist under the Gender Recognition Act?

**John Wadham:** I think that it is good to see the measures in the Bill as they are, and I think they should have been implemented some time ago. Anything that we can do to resolve the difficulties experienced by some particular individuals who have been waiting for this—whether or not as a fast-track process—we should do quickly, as soon as the Bill gets Royal Assent.

**Q356 Jim Shannon:** Your organisation has in the past, I think, funded training for the British Humanist Association on religious freedom, which obviously would have an impact upon the redefinition of marriage and where we are in this debate today. Could you give us some indication of how you came to support that organisation and perhaps why not directly religious organisations?

**John Wadham:** I am sorry, I missed the beginning of that.

**Jim Shannon:** ECHR funded training for the British Humanist Association on religious freedom. I wonder how that gives you balance and fair play for other organisations and how they see that?

**John Wadham:** During the first few years of the commission, we had a budget of about £10 million, which was given to us specifically to fund all organisations, including religious, humanist, secular and so on. We spent that money in the best way possible. The fact that we gave money to one organisation does not in any way suggest that we are beholden to that organisation any more than to any other. We gave money to other religious organisations. I am afraid I do not have the details in front of me, but obviously we can get back to you with that later.

**Rachel Robinson:** As a human rights organisation—as the commission decides and tries to provide support for fundamental rights across the spectrum of rights and

freedoms—that is exactly what Liberty has done throughout its history. The question today has been quite specific, but we are very keen to get it across that, while we have this one concern about pensions, we are really delighted to see a Bill that marks a real landmark development in equal rights. We are delighted that the Government have gone to such efforts to ensure that the values, beliefs and traditions of religious organisations are protected and respected. We think that they have done that incredibly cleverly and in a fail-proof way, and we very much support the spirit of this Bill.

**The Chair:** Thank you very much.

**Jim Shannon:** Can we get those figures, Mr Streeter, and listen to how the £10 million was spent? Just a breakdown of the organisations that benefited?

**The Chair:** I am sure if Mr Wadham would like to send us those numbers that would be very helpful. Other than that, thank you very much indeed for coming today and giving us your evidence. It has been most helpful.

#### Examination of Witnesses

*Craig Parr and Joe Hayman gave evidence.*

2.34 pm

**The Chair:** Thank you very much indeed, Mr Hayman and Mr Parr, for coming and giving evidence today. If you would like to introduce yourselves for the record, then we will leap straight in with some questions for you.

**Craig Parr:** I am Craig Parr.

**Joe Hayman:** Joe Hayman. I am the chief executive of the PSHE Association. PSHE is personal, social, health and economic education.

**Q357 Chris Bryant:** I always get my h's and my s's the wrong way round in the stuff that you do, which you are in favour of and I am very favour of—sex and relationship education and all the rest of it. Do you have any problems with the Bill in terms of what teachers will or will not be able to teach? Does it make life more difficult or easier for them, or does it not make any difference at all?

**Joe Hayman:** The first thing that I would stress is that PSHE is a challenging subject to teach. There is a range of challenging issues that are approached every single day, from sex and relationships education through to gambling, alcohol, drugs and all kinds of different issues. PSHE teachers are very skilful, but they need more support. In terms of this specific Bill, the range of issues that we will discuss are already being discussed in schools and playgrounds across the country, and I therefore do not envisage a major change from our perspective.

**Craig Parr:** I have spent the morning teaching year 7s about puberty, and we do that because of PSHE. It is not statutory, but it should be statutory. I am very glad that citizenship is not being kicked off the curriculum, although in the wash-up of the previous Labour Government it was. That was a shame and it has held us back.

**Q358 Tim Loughton:** Mr Streeter, I do not think that we have had a submission from Schools OUT, so it might be useful if you, Mr Parr, said who you are, who you represent and what your basic points are.

**Craig Parr:** The National Union of Teachers, of which I am a member, has put a submission in and I would go along with that. Schools OUT is an organisation that works with schools and interested parties to create a climate where children can feel happy, out and proud.

**Q359 Tim Loughton:** Is it a charity?

**Craig Parr:** Yes. It is made up of members like myself who teach in schools. I teach in a school in Camden. Schools OUT is made up of interested parties. We work on having days—in February, it is LGBT history month—where we promote diversity within the curriculum, whether students are gay or lesbian or not. It is about promoting diversity in our classrooms.

**Q360 Tim Loughton:** Thank you. That is helpful. Can I ask a representative from the PSHE Association something? On your note, which I thought was a good note, I absolutely agreed that this is a really difficult subject and that the Government need to do more to ensure that we have proper and good-quality sex and relationship education, because it is a bit of a lottery at the moment, as we know. In your note, you make the point that PSHE, and SRE within that, is a subject often taught by non-specialist teachers and that it is particularly challenging for them to deal with it.

Personally, I think we should have many more specialist teachers doing it, but we do not. It may be Mrs Miggins who is a geography teacher—I always quote that—who has a couple of free periods on a Thursday afternoon and so is in charge of SRE for this term. How do we deal with those teachers who find themselves teaching SRE, whether they want to or not, who have strong objections to what the Bill will do? It is not just about teaching facts and what the law says. They will be challenged for their view. Although you say it is good practice to try to keep opinions out of it—I do not disagree with that—inevitably they will come into it, so what happens in those circumstances?

**Joe Hayman:** Good-quality PSHE teaching is all about presenting a balanced argument and supporting children and young people to develop the skills and attributes that they need to make up their own mind on a given issue. As I said earlier, PSHE takes in a wide range of challenging issues. There is an issue, as you say, about the training for teachers and it is too often delivered by non-specialists. Your point about a strong source of conviction on an issue could be equally applicable to a specialist and a non-specialist.

We would stress that teachers should be able to go into the classroom and provide balanced information based on fact from authoritative sources. If they do not feel that they can do that on a matter of conscience, there may be some way that they can exchange with another teacher within their department. We do not think that it is ultimately in the best interests of a child to be taught on any given issue by a teacher who feels compromised. I do not think that that is a good experience for the teacher or for the child, but I would stress that teachers have the opportunity to contribute to the school putting together its sex and relationships education policy, alongside parents and community members, and,

therefore, they should have the opportunity to feel that they have been part of developing that process in the first place.

**Tim Loughton:** You used the phrase “may be some way” that they could do a—

**The Chair:** Tim, we will come back to you in a second. Plenty of other colleagues want to speak.

**Q361 Kate Green:** To what degree, if at all, do you think that this legislation could impact on homophobic bullying in schools?

**Craig Parr:** First of all, I think that it starts from the top, so the Children’s Minister should have voted for equal marriage in Parliament because that would have sent messages to other people. I commend the Conservative Government for bringing through this legislation, but that is where it should start. For example, I was having this debate with my year 7 form group yesterday. I asked, “What’s in the news? What are people talking about?” and a young girl brought up the equal marriage debate. All of the class bar one agreed that gay and lesbian people should have the same rights to marriage as other people. One young girl—she was a young Muslim girl—said, “I don’t agree with equal marriage because of my religion.” We tried to explore that issue some more, and another girl put her hand up and said that she was also a Muslim, but she agreed with equal marriage because of her religion and because she believed that we should not decide who can and cannot get married; that was not our place in society. So, because of her religious beliefs, she believes in equal marriage.

On the homophobia question, there is a huge problem in schools with homophobia. I teach in a good school in Camden and we do not have major problems with homophobia, but in many schools, especially in rural areas and small communities, there is a big issue. Lots of work is being done through Schools Out—a really good DVD called “FIT” was sent out by Ken Livingstone—and there has been work around that, but it is still a problem and the Department for Education should do lots more in trying to tackle homophobia. We should promote homophobic bullying policies—all schools should have policy on homophobic bullying—and, through statutory citizenship and PSHE, this stuff would be discussed more openly.

**Q362 Stephen Williams (Bristol West) (LD):** The piece of written evidence from the PSHE Association was very good. It refers to the age-appropriateness of teaching certain aspects of sex and relationship education. What is currently the age at which marriage and family life is taught to children?

**Joe Hayman:** I think it is important that schools have the opportunity to develop their own sex and relationship education policy and we can provide advice to them. It is really important that parents, community leaders and teachers are consulted. I am not trying to avoid answering your question, but I would stress that it is really important for that to be determined at a local level while taking advice from organisations that are aware of the best practice in this situation. I think a local decision, with parents, community leaders and teachers, and informed by good practice.

**Craig Parr:** At the age of five, kids should be learning about their bodies, how to eat healthily and how to be good citizens. Then, in year 7, which I had today, when they are 11, they will learn about puberty changes that happen to the body as they become teenagers, and then in year 10 they learn about the mechanics of sex, how to be safe and things like that. It should happen from a very young age.

**Q363 Stephen Williams:** That covers the biology of it. I was more asking about the family structure and household structure, but I did not quite get a clear answer. For instance, would you expect year 6 children to understand that children may have two dads, two mothers and that family life is complicated?

**Joe Hayman:** I think I would stress that that awareness is going to be built up regardless of what happens in the classroom. I would stress again—not to play down the importance of the Bill—that these are issues in the lives of children and young people across the country now, regardless of what happens in this room.

**Q364 Stephen Williams:** So what we are doing here need not necessarily change current practice in schools? Is that what you are getting at?

**Joe Hayman:** No, I do not believe that it should. We believe that the current guidance and legislation should cover the implementation of this legislation. That is not to say that that guidance and legislation could not be updated, but in terms of this particular piece of legislation we do not think that it makes a material difference.

**Craig Parr:** But it will change attitudes and behaviour. I'm gay. My brother is 10 and he knows that I have a partner. I did not sit him down and go, "I am gay." He just saw that I was in a relationship with another man. Victoria in my class has uncles who are gay and in the class discussion she spoke about their relationship. Children are not born with prejudice; they do not have these issues. It is we as individuals and as a society that give them these issues. So they should absolutely be told about these things and experience them from a very young age.

**Q365 Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op):** Following on from comments earlier about the impact on children in schools of passing this legislation, I want to ask a more general question about the wider debate around the Bill in the media, Parliament and elsewhere. The vast majority of the debate, certainly in Parliament and in this Committee, has been conducted with great courtesy, even between opponents and proponents, but that has not always been the case. Indeed, I think that some of the very strong statements made by organisations can have quite a damaging effect. Can you tell us a bit about how you have seen that impact individual children in classes you or your organisation has worked with?

**Craig Parr:** The debate is good because we are having the debate. Some Committee members are obsessed with teachers being disciplined because they may express views that go against what we have said. If you look at the teacher standards released by the Department for Education, we have a duty to treat pupils with dignity and build up relationships of mutual respect, and we

must also show tolerance and British values—I do not know what British values are, but we must work on showing what those things mean and what they are.

Look, for example, at another issue that could be controversial—abortion. Most teachers—70% of the British public believe that abortion or the right to choose should be there, and more than 65% of surveys show that we should have equal marriage. These are two controversial issues that people hold beliefs on, but I, as a teacher, obviously have to give a balanced view. I obviously support equal marriage, but I will say that some people do not and that that is their right to choose, and that as individuals, religious people or just as citizens, fundamentally, we should not put our opinions and values on other people. As I said, the general debate is good, but in certain newspapers it is being polarised between for and against.

**Q366 Stephen Doughty:** What do you think the impact is on individual children of some of the more strident opinions that have been put forward?

**Craig Parr:** I think that the children in my form just do not see it as an issue. It is an issue that they do not have, because they think, "Why don't they already have equal marriage?" They know about civil partnerships, which should be open to heterosexuals too—there should be full equality. I know that the Bill is not looking at that, but I know that it has been put forward before. Young people are concerned, as they are concerned with human rights and about people being treated fairly and equally, but do they talk about this at the school gates? I am sure not.

**Joe Hayman:** I would add that on a range of different issues that PSHE covers there are strident opinions on all sides. Forgive me for these labels, but some people might consider some laws to be too liberal or not liberal enough. There are strong views on all sides about those laws. What we advise in terms of best practice is creating an atmosphere in the classroom where the issues are discussed in a balanced way with respect for people who hold a range of different views. If I may say, it seems that that is the sort of environment that the Committee is creating as well.

**Q367 Jim Shannon:** Mr Parr, you commented that people can have opinions and at the same time be protected. I am sure you are aware of the recent poll that indicates that some 40,000 teachers would have difficulties with this redefinition of marriage and how it would affect them in their teaching in schools. They would have some difficulty—indeed, probably great difficulty—over how they can be involved in the training and the teaching and with how that will affect their conscience.

Ever-mindful of that—this is a substantial number of teachers—if the Bill should see its conclusion on Third Reading in the Houses of Parliament, if that is where it ends up, how would you address the issue of those with very clear religious beliefs who have a conscience in relation to this matter? Do you see a criteria or guideline being set down under which teachers may say, "Yes, there is such a thing as same-sex marriage," and that being as far as it goes, or do you see it going beyond that? Be ever-mindful of those people who have a conscience, whom I referred to earlier.

**Craig Parr:** I would say that, first, we do not need any more criteria set from the Department for Education. We have enough. We are busy sorting out the new raft of implications from that, so I would say no more policies. You say 40,000 teachers—out of how many?

**Q368 Jim Shannon:** That is the poll that has come out on it.

**Craig Parr:** Out of how many teachers who teach in the UK? It is a very small percentage.

**Q369 Jim Shannon:** We have had Church groups here this morning representing 5,000 or 10,000 people out of millions of people, so do not tell us about statistics and numbers.

**Craig Parr:** You talked about this idea of conscience. The conscience of a teacher is to teach. That is their first premise in a school. My conscience—my beliefs—take a back foot when I am teaching children. I must teach them the absolute things that they need to know. When we are talking about more controversial subjects and issues, as long as you are giving a balanced view on same-sex marriage, abortion and many different things, that is absolutely fine.

You can say, “I do not believe in equal marriage because I believe that a marriage is between a man and woman,” although I do not know who decided that. It must be balanced, and we must also say that other relationships do exist. Most of the time, if you came to my school and you said, “A relationship between a man and a woman is absolute,” they would tell you that it is not. They would tell you that they belong to relationships in which there are two mums, there is one mum, there is a mum and dad, they are adopted or they are fostered. These are the sorts of family that there are.

**Q370 Jim Shannon:** I am aware of the facts of the case, and I am well aware of the issues. The issue that I am trying to get out of the gentleman is, how does he see protection for those people who have a different point of view from his?

**Craig Parr:** Absolutely. I respect your views and theirs—I absolutely do—but, as I said, my job is to educate children, not to tell them what I think and what I believe.

**Joe Hayman:** I think it would probably be quite helpful to refer back to the Department for Education’s guidance on the Equality Act 2010, which states quite clearly that

“having a view about something does not amount to discrimination.” The guidance also states:

“However, if a school conveyed its belief in a way that involved harassing, harassing or berating a particular pupil... then this would be unacceptable”.

I think that is a fair position.

The only other point that I would make is that we are already dealing with a wide range of issues where legislation may come up against people’s individual moral or religious conscience; abortion might be a good example. There is a very tiny number of cases where it amounts to disciplinary action. I think two of the safeguards that we have are the involvement of teachers, along with community leaders and parents, in putting together a school’s sex and relationships education policy,

and therefore their opportunity to feed into that process and to be involved in it, and the teacher exchange that I referred to earlier on. To answer your question, Mr Loughton, those exchanges already take place in relation to issues such as abortion or divorce, for example.

**Q371 Tim Loughton:** I will pick up from where I was cut off on that point earlier.

I entirely agree with what Mr Hayman has said: some way, sensibly, should be found to accommodate teachers who have a problem. We are potentially talking about 40,000 teachers, which is rather more than the combined membership of the three religions that we had earlier. It is 10% of all teachers, according to a poll, and however accurate that is, it is a substantial number of teachers.

How do we do it? That is the problem. When we asked the Secretary of State for Education about this, he completely ducked the question and just kept referring to “inappropriate teaching”. Would you support, absolutely, protection under the law for a teacher who declined to be the Mrs Miggins seconded to do SRE as part of PSHE on a Thursday afternoon because he or she felt that his or her view might come into conflict? If he or she said, “Can I not do that?” but the school said “No, you must,” would you support the teacher who wanted to opt out, rather than risk saying something that might be deemed, in the language of the Secretary of State, to be “inappropriate teaching”, whatever that means?

**Joe Hayman:** I would come at it from a different angle in the hope that I will still answer your question. I do not think that the educational experience of a child—and we should think of the pupil first—is going to be helped particularly by someone who feels that they are forced into a classroom against their will to deliver a lesson with which they do not agree. I would strongly hope that, because of the protections I talked about earlier, such as teachers’ opportunity to feed into the SRE policy, we are only talking about providing a balanced picture of the situation. Included in that would be explaining that in a democracy laws are passed, but that does not necessarily mean that everyone agrees with them. We are only expecting those standards of best practice, but I think—

**Q372 Tim Loughton:** But we are not talking about fact, necessarily; subjectivity is involved. In sex and relationship education, the sex bit is quite a lot about fact, but the relationship bit is a lot about subjectivity. A counsellor at Relate said, “I have a problem doing civil partnerships. I think that person was wrong. Therefore, can’t we accommodate?” The law said, “No,” and that person lost their job. The same could apply to the teacher here. It is likely to apply to more people, because there are more people who have a problem with same-sex marriage than who now have a problem with civil partnerships. How do we protect that teacher with this law?

**Joe Hayman:** I do think these issues are taking place anyway. You cited the 40,000-teacher figure, and I have no reason to doubt it, but I would be interested to see a similar poll on teachers’ feelings about abortion, for example, because that has obviously been a legislative fact for a long time. When I talk about teaching facts, I think everyone in the room would at least want teachers

to teach the law of the land, but also the fact that, in a democracy, people have different opinions. That is a fairly balanced position. Ultimately, the exchanges I talked of earlier do take place and should continue to do so, and teachers should not be forced to deliver a subject or opinion in which they do not believe—I just do not think that that is good for the child.

**Craig Parr:** It is a shame that we are still obsessing about the question of teachers being disciplined over things they may not believe in.

**Q373 Tim Loughton:** It is an important point.

**Craig Parr:** It is an important point, but I think it has been dealt with. In PGCE courses, what we should be doing, Tim, is promoting diversity, so they should be going to sessions and training. Of course, some teachers, such as the one I spoke with this morning, are uncomfortable about telling boys about puberty—she did not know much about it. I took over and that was fine. We negotiated that between us and she spent some time with the girls. If it were statutory in courses, that would really help.

We are probably talking about many older people in the profession, although that is a generalisation. It did not help that the Government scrapped the regulatory body that dealt with discipline in the teaching profession, because it could have been dealt with in that way, but people are protected in their contracts under the Equality Act 2010.

**Q374 Stephen Williams:** It is just over seven years since I persuaded my then colleagues on the Education Committee to do a really good report on bullying, and particularly homophobic bullying, which led to Stonewall and the previous Government—just to say something nice about Mr Balls—taking the issue on and putting some good guidance in place for how to deal with homophobic bullying in every state school. There were problems around the country with parents saying, “I do not want my children to know about this,” even though it was an anti-bullying policy. Over time, I have seen that largely disappear in my constituency in Bristol. Is it your experience as a PSHE teacher that there is less resistance to discussing homosexuality openly in school now?

**Joe Hayman:** I am not a PSHE teacher, but I can say on behalf of the organisation that concerning evidence is still coming through from Ofsted about homophobic bullying, which it has classed as a major concern. Some of the normalisation process that you are talking about may be happening, but I would not be in the least bit complacent. In fact, we remain concerned about homophobic bullying in schools.

**Q375 Stephen Williams:** Just to clarify, I was not asking about the prevalence of homophobic bullying, but rather the resistance from parents and others to the teaching, whether through citizenship, PSHE or drama—you mentioned the “FIT” play earlier. Is there now less resistance to this being a core part of the curriculum?

**Joe Hayman:** I would not be able to say. The key point is that I remain concerned about the Ofsted figures on homophobic bullying.

**Craig Parr:** You are talking about the Stonewall report, which I think was published in 2008—

**Stephen Williams:** Which was two years after the Education Committee.

**Craig Parr:** There was a problem with a minority of students actually committing suicide and missing exams. It is an issue, because 50% of LGBT kids are missing large proportions of school.

Parents can of course say to teachers, “Can we not have them in lessons?” I teach in a school in which there are large Muslim and Somali populations. We send letters out and have meetings, and no parent has objected to any students being in such lessons, because you sit down and explain the importance of diversity, especially in a city such as London.

Just going quickly back to Tim’s point, teachers are more worried about pensions, pay, the curriculum and GCSEs. They are not worried about this issue. Ofsted looks at schools and thinks about how they include diversity within the curriculum and what they do as a school, so they are monitored on that.

**The Chair:** Well done. The final question is from Tim Loughton.

**Q376 Tim Loughton:** I am sorry if Mr Bradshaw does not want me to go into this, but it is an important point for teachers for whom it will be an issue. I entirely agree with everything the speakers said that was in order about the need to have better-quality teaching of diversity. I absolutely agree with all of that. We are really bad at it at the moment and need to be much better.

Whatever my views on civil partnerships, which I absolutely support, or on same-sex marriage, I and many among those 40,000 potential teachers are worried—we will obsess about it—about why teachers will have any protection, given what happened to the Relate counsellor who was not able to have that sort of sensible accommodation? Mr Hayman may have mentioned some version of this, but a teacher should have protection and should be able to say, “I am not the right person to do this at all.” If I was in a same-sex relationship, the last person I would want to go to for guidance counselling would be someone who did not agree with same-sex relationships. I think you agree with my position that we need to make the Bill watertight, so how can we guarantee in the Bill that teachers can say, “That is not for me; I opt out,” or can purely express a view—without them haranguing or harassing, which is clearly inappropriate teaching? The problem that we have is that the Secretary of State for Education did not define “inappropriate teaching”. Without new guidance from the Department, we are going to have a problem. Do you agree that those two safeguards are essential if we are to achieve what we all want?

**Joe Hayman:** I agree with your position. The teaching standards to which Mr Parr referred earlier, the guidance from the Department for Education on sex and relationships education and the Equality Act 2010 already provide a framework under which we can work. You then have the safeguard of school governing bodies interpreting that legislation and guidance. I do not see that this presents an additional issue. I return to my earlier point: regardless of what the Committee decides, such matters—not only same-sex marriage, but divorce and abortion—are being discussed in playgrounds

and classrooms across the country. Whatever is decided, people on both sides will have strong views. The guidance and the legislation provide the framework that we need.

**Craig Parr:** I think the coalition Government are about getting rid of red tape, so having more legislation would cause harm. We have the 2010 Act, which contains safeguards, and teaching standards, and head teachers are generally quite reasonable, so if teachers say that they are not comfortable, they will generally not make them do it. If that does not happen, they can go to their union and seek advice.

**The Chair:** Thank you very much for your evidence this afternoon. We do appreciate it, and we are very grateful.

### Examination of Witnesses

*The Very Rev. Jeffrey John and Alice Arnold gave evidence.*

3.5 pm

**The Chair:** Good afternoon to our next two witnesses. Thank you very much for being here. We know who you are, but please introduce yourselves for the record.

**Dr John:** I am Jeffrey John, the Dean of St Albans.

**Alice Arnold:** I am Alice Arnold.

**Q377 Kate Green:** Do you think it is the role of the Government and Parliament to redefine marriage in the way the Bill is doing?

**Dr John:** I wish that it were not Government and Parliament doing it alone in the face of objections from the Church. I do not actually agree that the Bill redefines marriage. It seems to me that marriage stays the same as a result of the measure; we are simply making a decision about admitting a different kind of person to it. I would compare it with the ordination of women in '92. When the Church of England ordained women priests, we did not say that we were redefining priesthood or the sacrament of ordination; we were simply admitting the other half of the human race into it. It is that kind of change. It is a much less radical and revolutionary change, theologically, than it has been presented as.

**Alice Arnold:** I agree completely; I do not think it redefines. I think everybody knows what "married" means in general terms. I am here simply as a member of the public who is gay. I think everyone understands—children understand—what the word "married" means.

**Q378 Mr Ben Bradshaw (Exeter) (Lab):** Jeffrey John, I have asked every other representative of a religion this question. Some of those opposing the Bill base their opposition on their understanding of Scripture and the role of tradition in their faith. How has your understanding of Scripture and the role of tradition led you to a different conclusion?

**Dr John:** That is potentially an extremely long answer. I have written on this at some length. Essentially, I do not think that the sayings about marriage in Scripture—certainly in the New Testament, which is obviously more relevant from a Christian perspective—really address the situation that we are in today. Paul, for example, who is really the person who counts in the New Testament,

since he is the only one who ever addresses the issue of homosexuality in any sense, clearly never takes into account the situation of two adult Christians wanting to commit to each other for life.

I think that Paul makes two assumptions about homosexuality, which make what he says not directly relevant to where we are. First, Paul clearly believes that homosexual acts are committed by essentially heterosexual people. That is why in Romans 1 he talks about exchanging "the natural use". It is quite clear in the way that that is written that people have chosen to do that; it is not that they are homosexual by nature or orientation. He simply does not work with that concept.

Also, I want to argue that Paul was attacking the prevalent forms of homosexuality that he saw in the Greek society around him—namely pederasty and paedophilia. I have no wish to defend either of those.

**Q379 Mr Bradshaw:** My understanding is that you would support the Church of England opting in to this law. Do you not think that that is a rather distant prospect, given that it does not even yet properly recognise civil partnerships?

**Dr John:** I do not know; we live in hope. I am hoping that the Pilling report, which you know is coming out shortly, may recommend some acceptance of civil partnerships. There are already noises in the wings suggesting that the bishops are moving round to becoming much more positive about them. I think we saw a bit of that on Tuesday. I am hopeful that that will be the first stage, but I hope that we will go beyond that ultimately—I am sure we will go beyond it ultimately, actually—to blessing same-sex marriages. We will get there, but I think the delay is more political than theological at the moment.

**Q380 Jim Shannon:** I am keen to get your ideas in relation to how this will affect teachers and registrars. Would you support there being sufficient protection in place to safeguard teachers who may have to teach something that they are unhappy with from a religious point of view? Would you support that in relation to registrars as well? I know the Church has a very set opinion at the moment. I would like to hear what protection you think could be put in place to ensure that teachers and registrars are protected.

**Alice Arnold:** I am not a Church person.

**Dr John:** I would certainly want to defend the conscientious right of any teacher to state his or her own Christian conviction about marriage, even if that disagreed with mine. I think that is fine. It is important, though, that such a teacher also puts forward the other opinion. We would expect that in a good teacher, whichever direction they were coming from. Of course, it is important to protect children in schools—children from same-sex families, for example—from belittlement, criticism or bullying in school. A teacher would have to be very careful not to foment that kind of negative attitude to any children in the class in the way that he or she taught their view.

**Q381 Jim Shannon:** That is your opinion on teachers. Do you feel there should be similar protection for registrars in local councils in relation to marriage?

**Dr John:** I am sorry, I cannot hear what you are saying.

**Jim Shannon:** You will have to come to Northern Ireland to learn the accent. Do you feel that registrars should have equal protection?

**Dr John:** I would not be against that, personally, I have to say. I think it would be sensible if local councils and so on made individual provision for registrars who seriously find that a difficulty, rather than simply sacking them. I would want to treat that on a humane, ad hominem basis.

**Q382 Kwasi Kwarteng (Spelthorne) (Con):** This is directed at the Very Rev. Jeffrey John. We have what is called a quadruple lock so, as I understand it, if two people of the same sex who are Church of England parishioners wish to get married in the Church of England, and their priest wishes them to be married and is quite happy for them to be married in his or her church, that is impossible under the Bill, is it not? What are your thoughts about that?

**Dr John:** I think it is highly regrettable that the Church feels the need to have these triple or quadruple locks. My main worry about it, frankly, is the image of the Church that it puts to ordinary people. My fear is that people will judge God by the Church on this issue. God is infinitely more compassionate and positive about gay people than the Church, in my view. The love of gay people comes from God, and I think God wants to bless, strengthen and protect that love, desperately. I think the Church is horribly misrepresenting God in opposing that, so I am very unhappy. Given the political situation of the Church, I can understand why that lock has been demanded, but I am very fearful that the Church is forgetting its own Gospel in making that demand.

**Q383 Kwasi Kwarteng:** So if you had your choice, in terms of amending the Bill, you would remove the quadruple lock, would you?

**Dr John:** I would not want to amend the Bill to force it on the Church, no; I do not think that that would be right. It is up to people like me, within the Church, to argue with the Church and to try to help it move along to a more Christian position.

**Q384 The Minister of State, Department for Culture, Media and Sport (Hugh Robertson):** I have a question for Alice Arnold. You have a very high-profile civil partnership, which always seems, in all that we read about it, an incredibly happy partnership.

**Alice Arnold:** It is.

**Q385 Hugh Robertson:** Probably, like most partnerships, it has its moments. Can I ask a very simple question: what would the ability to get married add to your life?

**Alice Arnold:** It would be a massively important thing. When someone says to me, “Are you married?”—a very common question, which we are all asked—I say, “No, but I am in a civil partnership.” I would love not to have to say, “No, but—”; I would really love just to say, “Yes.” For all intents and purposes we are married, in the sense that everybody understands the word “marriage”.

We have lived together for 10 years, we have joint bank accounts, we do everything together. Our nephews and nieces regard us as married; everybody we know, including our parents, regards us as married. But we have never used the term because—I used to be a magistrate—we are not allowed to, so I have to say, “I’m not married; I’m in a civil partnership.” I would love not to have to say that. I would love to just be like everybody else and say, “Yes.” That is the difference it would make.

**Q386 Kate Green:** There are a couple of anomalies in the Bill in terms of the way that same-sex married couples will be treated, as opposed to opposite-sex married couples. For example, we heard earlier about the differences in pension rights that the Bill proposes. There are also differences in the significance of the consummation of a marriage. What is your view on those anomalies? Do you have concerns about them?

**Alice Arnold:** I do not have concerns about consummation—this is the divorce element of the Bill. I think that is quite clearly covered—there is an allowance for either desertion or unfaithfulness, which would be unreasonable behaviour. It is not that difficult to say, “My partner’s left me for somebody else; that’s unreasonable behaviour.” We do not have to go into the sexual ins and outs of that. It is fairly clear to everybody that that is an irretrievable breakdown of the relationship. I cannot see that it would cause a problem—I cannot see a gay couple saying that they will have to discuss consummation in front of a court in order to get divorced. I just do not see it as a problem. I think the definition is there, in “irretrievable breakdown” and “unreasonable behaviour”.

**Q387 Kate Green:** Let me ask Jeffrey John, one of the points that was made to us earlier in the week by some representatives of the Churches was that procreation was one of the fundamentals of marriage in the eyes of their Church. What is your view on that argument?

**Dr John:** Procreation is clearly not a sine qua non of marriage. Scripturally, it is not even the first purpose of marriage. God makes Eve for Adam because it is not good for man to be alone; indeed, in modern marriage services the companionship element of marriage is now put first. And of course, the Church has always married couples who are beyond the age of child bearing—this point has been made again and again—so I do not really understand why people cling to that view.

Can I say something about the previous question? I am worried about the continuing inequality in the Bill as regards civil partnership. I do not understand why civil partnership remains for gay people, but not for heterosexual couples. My worry is that civil partnership may bring about the very thing the Church says it fears, which is that somehow the idea of faithfulness and monogamy will be diluted. The danger of civil partnership, if it is there alongside marriage, is that it will be seen as “marriage-lite”, as it were, with a lower standard of fidelity. That seems to be a real danger. I was quite surprised when Maria Miller said on Tuesday—or hinted, at least—that civil partnership is continuing because the Church is asking for it. I find that quite ironic, because the Church will be accomplishing the very thing it says it wants to avoid, which is to undermine the call to unbreakable fidelity in marriage. I very much want to stick to that call to fidelity, and I am worried that continuing civil partnerships only for gay people will undermine that.

**Q388 Kate Green:** So do I understand that you are saying not that you want to see civil partnerships to be no longer possible, but that you think they should be equally possible for opposite-sex and same-sex couples?

**Dr John:** I think civil partnerships should be equally unavailable to gay and straight people.

**Q389 Kate Green:** Unavailable—okay, thank you. What would you do, therefore, about people who are currently in civil partnerships?

**Dr John:** I think they should have the choice of converting it to marriage, and I am sure the overwhelming majority would want to do that. The second best would be to have equal civil partnerships for both; what I think is not acceptable is having them only for gay people.

**Q390 Mr David Burrowes (Enfield, Southgate) (Con):** Let me take a view shared by another individual—who speaks not on behalf of the Church of England, but on behalf of an individual in the Church of England, like yourself—who said in submission to the Committee that he is disappointed by the Marriage Bill. He says:

“Adopting this bill gives us another anachronistic law in that it allows same sex couples to marry but the laws around the consummation and dissolution of those marriages remains strictly heterosexual. It feels to me a bit like the Deed of Union in 1536 when Welsh people were ‘accepted’ as English citizens as long as they gave up their Welshness!”

He then says:

“What the equal marriage Bill doesn’t say to LGBT people”—this is different, indeed, from what Alice Arnold said—“is ‘you are accepted as who you are’ it says ‘you are acceptable because you conform’.”

Do you agree?

**Alice Arnold:** I am not quite sure what you mean by that. Are you saying—

**Q391 Mr Burrowes:** I am simply saying what Mr Jones says. He is basically saying that there are still inequalities in the Bill and there is still a need to conform to a “hetero-normative ideal” of marriage.

**Alice Arnold:** I think that whatever marriage is will be up to the couple that are married. I am not sure that a gay couple would be thinking, “Oh gosh, I’ve got to conform to the heterosexual ways of marriage,” whatever they are—I assume they are different for every heterosexual couple; I do not know. I do not think most gay people I know would feel moulded by having to conform to something.

I do think there is the issue with civil partnerships that some women particularly, straight or gay, feel very strongly that marriage has a patriarchal overtone that they do not like. That could be a bit of an issue for some people. I am not sure what my conclusion is on that. Clare and I would get married—that is what we would do: we may not have a big celebration, but we will certainly get a piece of paper—but I do not think that would make us conform to anything other than what we already are.

**Dr John:** It was a bit difficult to follow what the chap was saying. He sounded a bit like the 1960s or 1970s early radical gay people who wanted to say that, somehow, promiscuity was inherent in being gay and perhaps one ought to conform to that. I am extremely hostile to that view. I think the vast majority of people need the kind of covenant framework in which to live and love someone else in order to achieve their maximum fulfilment and happiness in life, and I think it applies equally to gay people and straight people.

**Q392 Mr Burrowes:** Just to go back, would you say that the concern about this anachronistic law in relation to consummation and adultery still has to be dealt with, or is it fine as the Bill says, or should we move to a point where we do not make a big deal of this in relation to marriage per se?

**Dr John:** I am not sure about the details of the law of adultery as it stands. I would like the assumption to be, for gay people and for straight people, that sexual fidelity is an absolute demand of the marriage bond, and that should be made clear in the legislation, however that is made clear.

**Q393 Stephen Williams:** Alice, you mentioned earlier that you would like to marry Clare Balding, but you also admitted that you are not particularly religious. I wondered what sort of wedding you would like to have.

**Alice Arnold:** Probably just a big party.

**Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op):** Are we invited?

**Alice Arnold:** No, none of you are coming.

**The Chair:** Feel free not to answer. This has nothing to do with the Bill.

**Stephen Williams:** There was a serious question: would you like a humanist wedding, for instance?

**Alice Arnold:** No. For people going forward who have not done a civil partnership, obviously they would get married. I have to say, as a couple who have done our civil partnership—it is a horrible expression but we are civilly partnered—we actually already had a ceremony in a registry office with a registrar and witnesses, and we had a massive party. We both feel quite strongly that we probably do not need to do all that again, and I am not one for retaking vows—I think that you make a vow for life and we made them—so we do not need to do it again. We will get a piece of paper and then probably throw a party. Humanist, religious—none of that comes into it for me. People going forward will not have to deal with the changing over of the piece of paper and paying £20 or whatever. They will get the married thing straight away, and good for them. I wish we could have done.

**Q394 Stephen Williams:** And no presents either, I suppose, if you do not have a second ceremony. Dr John mentioned the politics of the Church on several occasions. Is the Church of England’s resistance to going down this line more to do with the international dimension of trying to keep African Churches in particular on board? Is that why the Church of England is in such a tangle over its attitude to homosexuality, or is it an intra-Church of England schism?

**Dr John:** It is both. There is a significant minority within the Church who are vehemently opposed to any sort of same-sex relationship and who fairly frequently threaten to secede in one way or another. Of course, it is the case that the majority, or nearly the majority, of Anglicans are now in Africa, many of them in Anglican churches or living under Governments that are severely homophobic—I think I can use that word in that instance—and where gay people are in some danger. I fear that it is the case that what the Church of England does about this subject in various departments is far too much conditioned by a wish to appease the churches in Africa.

**Q395 Simon Kirby (Brighton, Kemptown) (Con):** Dr John, following on from that, are you a lone voice in the wilderness, or are there others clearing the way in the Church of England for same-sex marriage?

**Dr John:** I am certainly not a lone voice. There are a lot of people who agree with me. I suspect that it is now a majority of people in the Church who would agree with me. Certainly a very great majority would agree that there should be some kind of recognition for civil partnerships, such as a blessing ceremony or whatever. We are very much moving in that direction. I think that quite a significant part, if not the majority, of the Church's leadership agrees with me, but many—most of them—feel that they cannot say that in public. One of the problems that we have in the Church of England is that there is a real divergence between the teaching that is put forward publicly on these issues and what is said and done privately. We have a real gulf between the public morality of the Church and the private morality that is used by bishops and Church leaders in the study, as it were. That is very worrying. It is one of the most corrosive things at the heart of the Church, which we need to address.

**Q396 The Lord Commissioner of Her Majesty's Treasury (Mr Desmond Swayne):** Just two brief questions for the dean. First, with respect to maintaining civil partnerships for same-sex couples, do you not accept that there might be a case where there would be a number of same-sex couples who would accept that the orthodox teaching of their Churches as currently stated is that marriage is not for them? They would therefore accept that civil partnerships are the right thing for them until the position of their orthodox Churches changed.

Secondly, taking you back to St Paul, do you consider that St Paul's teaching might have been more informed by his experience of the public sexual indulgence, both heterosexual and homosexual, associated with temple cults and prostitution, which, in effect, amounted to a form of idolatry, and that it was that which informed his epistles, rather than individual relationships?

**The Chair:** Your remarks might want to refer to the Bill as well.

**Dr John:** May I take the second part first? Clearly, Paul does associate this with idolatry in Romans I. As I mentioned, I think that Paul had in mind the prevalent forms of homosexual practice that he saw in society around him, namely pederasty and paedophilia. We do not know so much about what really went on in the temple cults, so I am not sure about that. Would you remind me of the first question?

**Q397 Mr Swayne:** It was on continuing civil partnerships for those people who would accept the Church's current teaching on marriage.

**Dr John:** I could sympathise with them, but I would disagree with their theology, because the fact is that there is no theology that would justify a civil partnership that was sexually active and not based on the kind of marriage covenant theology that underpins marriage. There is not really a difference, theologically. Provided the covenant is absolutely faithful and based on monogamous promises, I would say it is de facto a marriage anyway. So there is not really a theological difference that they ought to be taking a stand on. What I think is going to happen, however, politically is that the Church will first of all bless civil partnerships and will ultimately bless marriages. In doing it that way, it will be completely incoherent theologically, but that does not really stop it.

**Q398 Mr Bradshaw:** That certainly would not be a first for the Church of England. Given what you say about, in your view, the majority of ordinary members of the Church of England and many senior clergymen and parish priests being sympathetic, and given the experience of what happened when divorcees were remarried for the first time, you say that you would not want the Church to be forced to do anything. What about a permissive regime in the Church of England that allowed individual parishes that wanted to do so?

**Dr John:** I think that would be marvellous, and I think it would be more genuinely Anglican. I hope that is where we end up. At the moment, of course, there is a complete block on any progress whatsoever, and that is what is so inequitable about the present situation. It was slightly annoying on Tuesday listening to the exchange with the Bishop of Norwich, because everyone, in a rather jocular way, was talking about the wonderful breadth and comprehensiveness of the Church of England, but on this subject it is not at all broad or comprehensive; it is extremely exclusive, and I think we would be in a much more genuinely Anglican and Christian position if people were allowed to follow their conscience on this.

**Q399 Mr Bradshaw:** Although to be fair to the Bishop of Norwich, he made it quite clear that he did not agree with the Church's official position on civil partnerships.

**Dr John:** Yes, although I am not sure what he was saying, because of course the Church of England is still saying that civil partnerships ought to be non-sexual. That is still demanded of the clergy if they are in civil partnerships.

**Q400 Mr Bradshaw:** May I ask a broader question? We have heard from a lot of religious representatives in the course of these two sittings. What strikes me, as a member of the Church of England and someone who would like to be married, is that these different religious representatives seem to me to believe completely different things but they all call themselves Christians. There seem to be those who, for dogmatic reasons or reasons of adherence to literal readings of Scripture, could never countenance a change. There seem to be others, however—you, the Quakers, the Liberal Jews and even the Bishop of Norwich—who are edging towards a different place. How are these positions ever going to be reconciled?

**Dr John:** I am not God. I do not know. Religion is fissiparous by nature, and I do not know how they will be reconciled. On this subject, I think they will be reconciled by seeing that love works in exactly the same way between two people of the same sex as between two people of different sexes. It is seeing it that will convert people in the end.

**Q401 Tim Loughton:** I have two questions for the dean. Carrying on from your wish to have, perhaps, a pick-and-mix situation in the Church of England, I think logically that is absolutely right, but who would determine whether a parish could have a vicar who would conduct same-sex services? At the moment, we have this rather dodgy arrangement whereby certain dioceses are reserved for very conservative bishops, including my own, which has broken down in one or two cases. Would it be up to the parochial church council? Would it be up to the bishop? Where such appointments are in the hands of the local squire, as was indeed my father's parish when he was a practising vicar, would it be up to the squire? Who would determine it?

**Dr John:** The natural solution would be the one that obtains now with respect to remarrying people who have been divorced. That is up to the parish priest, in consultation with the bishop and with the consent of the PCC. I think it would probably work in exactly the same way perfectly well.

**Q402 Tim Loughton:** And if there is a discrepancy between the bishop and the PCC, they get the veto, do they?

**Dr John:** I do not think that ultimately the bishop can overrule the parish priest in terms of marrying divorcees. I am not absolutely certain about that. I think that a parish priest does have an absolute right, ultimately.

**Q403 Tim Loughton:** Can the bishop not remove his licence?

**Dr John:** I do not think so, not for remarrying divorcees. I am on slightly shaky ground here.

**Q404 Tim Loughton:** My second point—before I get cut off again—was that you made the point about registrars, a completely different issue, and you said, and I entirely agree, that we should be able to make individual arrangements for registrars and not single them out. Of course, that cannot happen in law; it has been challenged in the European Court. Do you think that to achieve that we would need to change the Equality Act 2010? I think we should. Do you think that would strengthen the Bill? Would you support and campaign for that?

**Dr John:** I am not sure. What I would like to see would be more common sense applied, on the ground in individual cases. I suspect it is in most cases where people have that kind of conscientious objection. I am sure there are far more registrars.

**Q405 Tim Loughton:** It is not backed up in law, as we have now found out.

**Dr John:** No, it is not backed up in law.

**Q406 Tim Loughton:** So, would you like to see it backed up in law?

**Dr John:** I think it would be a good thing to do, provided it did not trespass too much on other rights. I am sure there would be a balance.

**Q407 Mr Burrowes:** Just to check a point. In the light of the formal position of the Church of England that we heard on Tuesday, do you think that the current provisions in the Bill relating to the quadruple lock are sufficient? The Church's present position is that it is not in favour of same-sex marriage. Do you think that the locks in the Bill are sufficient and adequate?

**Dr John:** Yes, and as was clear on Tuesday, so do the official organs of the Church. Clearly they are sufficient.

**Q408 Mr Burrowes:** You say that the majority of the Church of England are with you on your view. Do you have any evidence for that?

**Dr John:** No, not apart from such statistical surveys as have been taken. I did a quick review of them yesterday. Some of them are a bit ambiguous, I have to say. On the whole, I think there is evidence of a very clear movement towards the direction of acceptance. The clear majority of the Church would be in favour of some sort of blessing or dedication service that would accept civil partnerships, as a way of affirming gay relationships. Whether a clear majority is yet in favour of same-sex marriage I am not sure.

**Q409 Mr Burrowes:** If the Church were to accommodate your view of same-sex marriage, would that mean the church service and the vows would have to change?

**Dr John:** I imagine they would have to change to some extent, but I would not expect them to be essentially different.

**Q410 Mr Burrowes:** Would that reflect on a change in the meaning and purpose of marriage?

**Dr John:** In my view, no.

**The Chair:** Thank you. The last two questions are from Simon Kirby and Stephen Doughty gets the final question.

**Q411 Simon Kirby:** My question is to Alice. You and Clare are two high-profile people. Apart from marriage bringing the two of you joy, what message would it send to younger people?

**Alice Arnold:** That is why I am here, to talk about that. We think we don't know very many homophobic people. You may think that Clare and I swan through life without any homophobia. I would encourage any of you to search our names on Twitter on a Saturday night and have a look at what you see there. It is really filthy and incredibly hurtful. I do not let Clare see it most of the time, but it is really out there.

So, you can live your life as a gay person, surrounding yourself working for institutions that have equality and feel quite happy about it, until you see that, and you realise how vicious it is out there. Any legislation that brings us true equality will affect the generation below us. It is not going to help us. There are still those homophobic people out there. I hope it will help people in 20 or 30 years' time, who will see that we are truly equal, and some of that homophobia might disappear. That is my plea.

**Q412 Stephen Doughty:** I could not agree with you more, Alice. I am a practising Christian but I do not believe my faith has a monopoly on marriage. There is a crucial thing that we are missing. We have got into a lot of debates about the impact on churches and religious organisations, but one of the crucial aspects of the Bill is the opening up of civil marriage to same-sex couples. As a non-religious person, reflecting on what you have heard of the debate, what do you feel when you see that going on? Do you think that bit is being lost?

**Alice Arnold:** I do. Everything seems to centre on the religious objection, but two thirds of people don't get married in a church—two thirds. Yet all the debate seems to centre around religious objection. Loads of us do not have a religion. It is not important to us; what is important to us is the law, and I believe that that should be separate from religion. Of course for people who want to get married in a church or have their civil partnerships blessed or whatever, that is their choice, but the law of this country has to be equal to everybody. People make a choice about whether to be religious or not; I don't make a choice about whether to be gay. There has been far too much weight put on the religious argument. I think we should get back to what an ordinary person feels.

**Q413 The Chair:** Would the dean like a final comment?

**Dr John:** I am sympathetic to that view, but of course, at the same time, I am biased and I think that the religious arguments have to be dealt with.

**Alice Arnold:** I know that they have to be dealt with, I just think that they are all that is dealt with.

**Dr John:** But I am really sorry—I would like to apologise on behalf of the Church for making it so difficult.

**The Chair:** Thank you very much indeed to both witnesses. You have been very helpful and informative and we are very grateful to you. Thank you for coming and we wish you well.

#### Examination of Witnesses

*Brendan O'Neill and Mark Jones gave evidence.*

3.41 pm

**The Chair:** Thank you for being with us this afternoon. Would you kindly introduce yourselves for the record? We will then get straight down to questions.

**Mark Jones:** I am Mark Jones, a solicitor in private practice specialising in employment and discrimination law.

**Brendan O'Neill:** I am Brendan O'Neill, a journalist and editor.

**Q414 Kate Green:** Can you tell me what you think would be the disadvantages of allowing same-sex couples to marry?

**Mark Jones:** I act for a number of individuals. As a solicitor in private practice I get calls and e-mails all the time from people who are concerned about their workplace situation. I also have a particular reputation that means a lot of people with religious conscience issues in the workplace approach me. Putting myself to one side and speaking on their behalf, the sort of problems we come across are workplace conversations, for example where somebody has asked their view: "What do you think about marriage? What's your definition of marriage? How do you feel about same-sex marriage?" They give their honest view, whether informed by religious belief or not. Perhaps they say, "I believe that marriage is the union of one man to one woman for life, to the exclusion of all others." The other person says, "I have a different view," and perhaps takes offence and says, "I feel that you are a bigot because of your view."

**Q415 Kate Green:** But is that a reason not to let people marry? I accept that there may be argument and dissent, but is that a reason for preventing same-sex marriage?

**Mark Jones:** You asked me what problems could arise.

**Kate Green:** Yes, and I am now asking a follow-up.

**Mark Jones:** Okay, shall I not answer that?

**The Chair:** Answer the first question first and we will see how we go.

**Mark Jones:** I'm grateful, thank you. The concern is that being described as a bigot, homophobic or a discriminator is obviously an extremely uncomfortable experience for that individual and creates a workplace conflict, which is often resolved by the person resigning.

As for your follow-up question, does allowing same-sex marriage create a problem for an individual? It does for an individual's work situation—for example, a registrar whose personal conscience is that they are unable to form a same-sex union because they believe that it is contrary to their conscience. So for them, yes, I could see that it could cause a problem.

**Brendan O'Neill:** For me, the problem with same-sex marriage is that it intensifies state intervention into private life and into the area of love and commitment. Of course, I recognise that the state has always brokered and overseen marriage and has administered it in recent times, but the Bill gives the state greater leeway to define the meaning of marriage—the moral meaning of it—which is something that it has not done previously. The meaning of marriage has always been decided by communities over great numbers of centuries. Now, you have a situation in which marriage is being thrown open to redefinition by the state, not simply brokering by the state, and I think that is a step too far for libertarians such as me.

**Q416 Mr Burrowes:** Beyond the marriage ceremony, where do you see that problems could arise as a result of the Bill, in terms of applications of the public sector equality duty, and other issues like that?

**Mark Jones:** Leaving aside the impact on registrars, for example, and looking at other workplace situations, the situation for teachers is the one that is most concerning, partly because it is closest to home: I am married to a teacher myself. As regards the public sector, I do not know whether the individuals here have had the opportunity to see the opinion of John Bowers, QC, but I have had the opportunity to read it, and he expresses some concern about the impact of the public sector equality duty upon people within the teaching profession.

There are two aspects. First, there is the element of whether somebody needs to present a positive image of same-sex marriage that they might feel personally uncomfortable with. That could be when answering questions from pupils—they may perhaps give the caveat of their own opinion, which of course may lay them open to taunting from individuals, such as being accused of being a bigot, or whatever—or in staff room discussions, where there is an exchange of views. In terms of a positive duty, the public sector equality duty introduces that positive obligation to present marriage in a particular way. I do not have an issue with marriage being presented positively, but for those who may draw a distinction between same-sex marriage and heterosexual marriage, I can see great difficulties.

**Q417 Mr Burrowes:** Beyond the schools, can you see it impacting in further ways? We have had the Adrian Smith case, and there are things like that that have been presented. Can you see it impacting in those ways?

**Mark Jones:** I can see that anywhere where there is a conversation. For example, in the Adrian Smith case, the gentleman made Facebook comments. The observation of the judge was that those were not inappropriate comments when made on Facebook, but they were viewed inappropriately and acted upon. There was also another case, *Chondol v. Liverpool City Council*, in which another gentleman, Mr Chondol, said to a person to whom the council was providing a service, “Do you believe in God or go to church?” He was disciplined for that, that being gross misconduct. In that case, the employment judge said that that expression and that view were not unreasonable, but because the employer had taken the view that it was an unreasonable view, and would have taken that view whether or not it was informed by a Christian belief, or any other belief—that difference of opinion—there was no element of discrimination. In any workplace in which there will be discussion and there could be a conflict of opinion, should people struggle to resolve that conflict because of their personal views, I can see difficulties: people will be criticised for having expressed perfectly reasonable, temperate views.

**Q418 Mr Burrowes:** What would you recommend for the Bill, to deal with those issues?

**Mark Jones:** I think that people need to be given some assurance that these are conversations that they do not need to be afraid of having. The vast majority of people are perfectly able to have those sorts of reasonable discussions.

**Q419 Mr Burrowes:** But in terms of legislation, is there anything that needs to be put in the Bill in relation to the Equality Act 2010, or anything like that?

**Mark Jones:** I would want to see provision for reasonable accommodation as a principle: that there is the ability for those views to be reconciled and that, whether or not somebody takes offence, it is a question of whether or not the view has been reasonably expressed and can be accommodated. Secondly, I think there should be provision for freedom of conscience, so that that conscience can be accepted in the workplace and so that a positive message is sent to people that you do not need to be ashamed about your views, and that although people may disagree with those views, nobody is going to penalise you for holding them.

**Q420 Jim Shannon:** Thank you, gentlemen, for coming along. On Tuesday we had a presentation by Lord Pannick and Baroness Kennedy. They gave a very clear legal opinion, stating that they felt that the quadruple lock was sufficient to protect religious opinion. What you have indicated to the previous questioner is that you feel that that protection is, perhaps, not in place in the way that it should be for those with issues of personal conscience. I am keen to get your thoughts on whether legislation can be put in place that will give protection to those with issues of individual conscience.

You have also talked about the timetable for the Bill. Do you think that there is enough time for the Bill to be considered fully in the time scale that we are looking at?

**Mark Jones:** I do not feel able to give a personal opinion on that. One thing that needs clarification is that the quadruple lock is about the Church’s position, not the position of individual employees in the workplace.

**The Chair:** Mr O’Neill, do you have a comment on the quadruple lock?

**Brendan O’Neill:** I think it is a little bit of a red herring, if I may say so, because I think the authoritarianism that Mark is talking about reflects the authoritarianism that exists in the Bill itself. I think they are intertwined. The fact that it might be possible for people to be reprimanded for criticising gay marriage is, I think, a reflection of the fact that the gay marriage campaign has, in essence, been an authoritarian one. Right from the beginning, the ability of people to say, “I think same-sex marriage is ridiculous,” has been quite restricted. You are referred to as a bigot, hateful and homophobic simply for opposing a Government proposal to institute a new form of marriage. I think the potential authoritarian consequences that we are talking about reflect the fact that to overhaul marriage in this unilateral way is, in itself, an authoritarian step.

**Q421 Jim Shannon:** The issue of what happened to Lillian Ladele is one that many of us have some concern about. That lady had a contract with a council for something different from civil partnerships and suddenly found that her contract had been changed in the middle of that. A court case was taken that overruled her and disadvantaged her greatly. With that happening to someone who had employment before, with a different contract, can you understand the concerns that those with Christian beliefs and religious convictions have in relation to this

[Jim Shannon]

legislative change? How do you see that working for Christians? How can we assure Christians that the right legal protection is there for them?

**Brendan O'Neill:** I can see the concerns Christians have. I am not a Christian myself—I am an atheist—but I can see the concerns they have. What I am worried about is that in focusing on Christian concerns, we are overlooking the more subtle attack that is being launched, in my view, by this Bill, which is on the millions of people who are already married, who entered into marriage for very specific reasons and who one day in the near future will wake up in a different institution from the one they entered into. They will wake up in one that is about companionship, rather than about generational renewal and something more social. I am worried about the consequences of overhauling an institution for the people who are already members of it.

**Mark Jones:** As I was the lawyer for Ms Ladele, I might be able to add to that. It does greatly concern me. Obviously, I have to declare the interest that I am Ms Ladele's lawyer, so I cannot claim complete impartiality in that area, but I think her case is one that is extremely concerning. As you say, her job changed and there was no idea that it was going to change in that way. She made her employer aware, before they decided to designate her as a civil partnership registrar, of the effect it would have, and they decided to make her a civil partnership registrar without any consultation with her at all. It was accepted that there would be no impact on service delivery, so there was no reason beyond an ideological one, because of the "Dignity for All" policy, to make her a civil partnership registrar or require her to do the services. Despite being designated, so she could do it, she was still allowed, initially, a dispensation so she did not have to.

When Ms Ladele explained her religious beliefs in a letter, which was described by the Employment Appeal Tribunal as temperate and reasonable, that was described by her employer as gross misconduct, and this was not just an ordinary employee; it was the assistant director of law within the council.

It may be that some of the eminent QCs who have spoken here would say, "Well, this is nonsense. It is like somebody complaining about the snow being cleared from outside the front of their path," but as an individual employee without pro bono access to the leading QCs who can argue their corner and establish it, to be told by an assistant director of law that your expression of your temperate view is gross misconduct is terrifying. What are we telling an individual in the workplace to do in that situation? The majority of them simply resign quietly.

**Q422 Kwasi Kwarteng:** We have gone on at some length about matters of individual conscience. I am particularly interested in what you have to say, Mr O'Neill, with regard to where you think this campaign for gay marriage was coming from, because the notes that we have seen say that you think that the campaign was rootless and you think that it says more about the political class than about any need, from the ground up, for this sort of legislation. I just thought that, in the brief time that we have, you might want to talk more about that.

**Brendan O'Neill:** I think same-sex marriage is an entirely invented, purely symbolic issue. It does not have any roots in social activism—there have been no public protests for gay marriage—and it does not have its roots in old-style gay rights activism, either. If you go back to original gay rights activism, it was more concerned with criticising the institution of marriage than it was with joining it, so it is a very new campaign. It is very rootless, very unhistorical. I think it is driven more by the needs of the political class today for an issue around which they can define their morality and say, "We're good, we're liberal, we're the new Rosa Parks, the new Martin Luther Kings. Look what we're doing." I think that is why it animates only people within the political and media classes.

If you talk to ordinary people, they are so completely unmoved by this issue. I know there are lots of opinion polls that show a small majority think it is a good idea—55%, 50% and so on—but if you look at those opinion polls in detail, you will notice that larger majorities—78%—think it is not an important issue. Only 7% say that it is an issue that will determine how they vote in the next election. So yes, people are tolerant of homosexuals, which is a wonderful, great thing, but they are confused by the priority that is given to this issue.

I do not think that that is surprising, because this issue came out of thin air, and it is largely being pursued for the benefit of individual politicians and campaigners, rather than for the benefit of society. I think the political class has lost sight of the benefits of marriage for society in its rush to advertise that it is modern, new and liberal.

**Q423 Stephen Doughty:** By that logic, Mr O'Neill, Parliament would not spend half the time discussing half the issues that it does, because a lot of the public, 90% of the time, would not consider that a lot of the things that we discuss here are important. We still need to make laws on them and we still need to discuss them. It is a completely fallacious argument.

I really do have to take issue with the point that you make about the grass-roots nature of the campaign and where it came from. I have certainly had people—gay and lesbian people who want to get married—raise the issue with me on the doorstep. I had it during my by-election in November. They asked, "Why is this currently not allowed?" It might have been a different sort of campaign from traditional ones in the past, but surely when you have heard the evidence from some of the groups that have been here, who have indeed been campaigning around the issue, surely that contradicts what you are saying.

**Brendan O'Neill:** Those are not what I would describe as grass-roots campaigners. They are sharp-suited lobbyists, small groups of people who— [Laughter.] There is plenty of room for those people in the world, but they are not grass-roots campaigners by any stretch of the imagination. I am not just saying that gay rights campaigning has changed in the way it is carried out. I am saying that this represents a complete break with what gay rights activists called for in the past. If you look at the first gay pride parade in 1972, they described marriage as a prison for women, children and homosexuals, and they said that that prison needed to be abolished. So there has been a dramatic shift in what gay people are demanding.

The Stonewall rioters of 1969 said that all social institutions, including marriage, needed to be abolished. Now you have representatives of something called Stonewall coming in here and saying, “We really want to get married.” So we can at least talk about there being a severe break with the gay liberation politics of the past and what this campaign represents. I think that it is an elitist campaign that does not have any traction with the public.

**Q424 Mr Swayne:** An elderly couple in a same-sex relationship came to see me recently. They had been in a civil partnership since that institution became available, although their relationship was much older. They had kept their relationship secret throughout their professional lives, because it was unlawful. They were serving in the Royal Navy. They are very grateful for the changes that have been made, and for civil partnerships, but they wanted to get married. They complained that they could go to Spain and get married, so why could they not get married in the country that they had served throughout their professional lives? Do you not accept that it is a reasonable thing, however bourgeois it might be, for them to desire and a reasonable thing for me as a legislator to seek to accommodate? How will my accommodating them change in any way the marriage that I have?

**Brendan O'Neill:** If you read the Government's consultation paper on same-sex marriage, it does not mention family, children or community, except when it twice talks about the transgender community. It does not mention the fundamental things that marriage was originally bound up with, which was about managing and organising the renewal of generations and interaction between generations. So I think you are right to say that you are elevating a bourgeois view of marriage, which is marriage as companionship, and which is marriage, as Cameron's Government describes it, between two people.

For a great number of people out there, beyond your old couple, there are millions of people for whom marriage is about more than two people. It is about family, children and a community. It is about binding yourself together, not only to an individual, but to society itself. I think it is perfectly reasonable for you to pay attention to the old couple who came to see you. I think it is unreasonable for politicians to redefine marriage, as it is understood by millions of people, for the benefit of themselves and small groups of people out there.

**Mark Jones:** I suppose what I can pass on is what I was told this morning by a former registrar who decided to leave the service when she felt compromised. She was in touch with her former colleagues—there are a dozen or so within that particular service—and to all of them, including some who hold a religious belief and some who have no religious belief, she was explaining, “At the beginning of the service, we explain what marriage is. It is one man, one woman, voluntarily entered into for life, to the exclusion of all others, and there is a notice to that effect in every registry office in England and Wales.” The explanation that I was given is that there is extreme confusion—and actually, distress—for every single individual within that organisation about the definition. It is what they have based their understanding on. They have gone into the job, and that is the explanation they give at every marriage—presumably it is consistent with their belief, not a conflict of conscience—and now they will have to be saying something different.

It comes down to the starting point of, is it appropriate to redefine? What is the impact of that definition? I suppose the impact is on those who attach a value to the original definition. What value do we attach to the value that they attach to that?

**Q425 Mr Bradshaw:** Forgive me, Mr Jones, if I have misunderstood you, but you seem to be saying from your advocacy of a freedom of conscience clause, and the reference you made to the lady you had been representing, that you would advocate people being allowed to disobey the law, in effect, if it conflicted with their religious beliefs.

**Mark Jones:** Freedom of conscience would mean that it is consistent with the law. If there is not a provision, you would be requiring them to act in conflict with the law or with their conscience.

**Q426 Mr Bradshaw:** But you would like, in effect, for registrars not to have to perform same-sex marriages. Is that what you are saying?

**Mark Jones:** For example, you have the ability, for people who have a conscientious objection to abortion, that that can be accommodated.

**Mr Bradshaw:** Can you answer my specific question?

**Mark Jones:** For the registrars in that situation, would I like those registrars to have to choose between their job and their conscience? No. I would like their conscience to be accommodated in the workplace.

**Q427 Mr Bradshaw:** So you would like them to be able to disobey the law. What about the provision of goods and services? Would you like to extend it to the provision of goods and services law?

**Mark Jones:** Would you like to give me a scenario? A bed and breakfast situation—

**Mr Bradshaw:** Yes.

**Mark Jones:** That is not an employment context—I have to say that I have not been approached by anybody in that situation who has been conflicted.

**Q428 Mr Bradshaw:** Where would you draw the line in terms of allowing people to ignore the law because of their religious feelings or beliefs?

**Mark Jones:** If you make provision for conscientious objection, it is not ignoring the law. You are still within the law. If you do not make that provision, you are asking the person to either step outside of the law or take themselves out of the situation where they are in conflict with their conscience. In the bed and breakfast situation, I suppose you are saying, “If you cannot reconcile that with your conscience, stop running a bed and breakfast.” Should that person have the ability to turn somebody away because of their sexuality or any other reason? No. Personally, I have some discomfort about that, but I have not been presented with such a situation. No individual has approached me, who I can report to the Committee and say, “This is what I would need in order to accommodate that situation.”

**The Chair:** A number of colleagues are still indicating that they want to speak, but we only have 10 minutes left.

**Q429 Stephen Williams:** This is for Mr O'Neill. I always raise my eyebrows or smile inwardly when a journalist or columnist refers to "ordinary people" and implies that politicians are out of touch. We call ordinary people "constituents", and that is the advantage of being a constituency MP, particularly if you are like me, as I have lived in my seat all my adult life. I only open my front door and I am confronted with people's opinions every single day that I am at home, so we do have a reasonable political compass as to what people are thinking. I was wondering what your evidence was—not only your opinion—for saying that there is no demand from gay, lesbian or bisexual people for equal marriage.

**Brendan O'Neill:** If you look at the way that this is compared with the civil rights movement in America in the 1950s and 1960s, the differences are astounding. In America in the 1950s and 1960s, there were mass protests. There were year-long boycotts. There was fighting. There were water cannons. People were arrested and put in jail. It was violent and it lasted for years. *[Interruption.]* I am explaining to you why I think there has been no real demand for it.

Here, on this issue, there has been no campaigning like that whatsoever. You just had a few campaigners say, "We would like to get married," you had some national treasures, such as Elton John, agreeing with them, and all of a sudden it is the main political and moral issue of our time. The ease with which it became the key issue of our time is the most striking thing, which I think speaks to the way in which it plays a useful role for politicians more than it does any palpable thirst on the ground for marriage to be redefined in order to allow homosexuals to get married. There has been no visible obvious street fighting or protesting or marches or long fights for this right to get married. It came out of nowhere, which is why ordinary people or constituents or the public—whatever we want to call them—are quite perplexed by the issue and that is reflected in opinion polls that show that very small numbers of people think it is a political priority, which suggests to me that they are confused as to why it has been prioritised in the way that it has.

**The Chair:** I have three questions left and about seven minutes, so please make the questions and answers brief.

**Stephen Doughty:** To be honest, Chair, I am so bemused by the comments that you can carry on.

**Q430 Mr Burrowes:** You say that the Bill contains a redefinition of marriage and that it may well undermine marriage. Is that an undermining in law or in culture? How do you see that playing out?

**Brendan O'Neill:** There has been a collapse of what marriage represents in culture and in society. Fewer people are getting married than ever before. There are lots of divorces and so on. It is worth having a debate about that, but that needs to be kept separate from this campaign, which is redefining marriage. It redefines marriage away from its role as a communal thing through which people brought up the next generation and through which they tied themselves and their children into their community. It is redefining it away from that and towards

two people. If you look at the Government's consultation prior to the Bill's publication, it repeatedly mentions "two people". It alienates marriage and turns it into an individualised, bourgeois institution of companionship, rather than what it was and what it is for millions of people, which is a social tool for bringing up the next generation.

**Q431 Simon Kirby:** On that very point, if marriage is only about generational renewal, what do we say to couples who are too old to have children, who choose not to have children or who sadly are not able to have children? Indeed, what do we make of the special provision in the Marriage Act 1949 for deathbed marriages? Surely none of those are about generational renewal, but are marriages none the less.

**Brendan O'Neill:** I am not saying that it is only about generational renewal. I am saying that that is a key, important aspect of it for many people—*[Interruption.]* You can all roll your eyes and mock as much as you want.

**Mr Burrowes:** I am not doing that.

**Brendan O'Neill:** No, but some people over here are. I am saying that for great numbers of people out there marriage is not just about two people; it is about generational renewal. Even when people get married and they do not have children or when people get married later in life, it is measured against the ideal of marriage, which, even through all the trials and tribulations it has gone through over the past 50 or 100 years, is still as a social mechanism for coming together to raise children—to raise the next generation. I think that politicians are creating a real rod for their backs if they undermine that institution without thinking about it very carefully first.

**Mark Jones:** I will make just one point. I am married. My wife and I cannot have children. Does that devalue our marriage? No. I am looked at pityingly occasionally by some people who wish we could have children, and I am looked at enviously by some people who do have children, but when my wife and I—apologies to my wife if she watches this—come together and there is a union, we are doing the same thing that other people do whose bodies have the ability to pass on their genetic material and create new life. It is that union of a man and a woman. That is something special about marriage. It is the wording used within the civil marriage service. Of course, there are arguments for changing that; society changes and perhaps you ought to reflect it. If I am somebody saying, "You know what? I am coming at this as a homosexual person. I would like my views to be adopted. I would like that to be considered," that is perfectly fine, but I would be absolutely appalled if I felt that in order to accommodate me you were compelling somebody to act against their religious conscience. I would not want that done in my name.

**The Chair:** Thank you very much indeed. Colleagues, our time has gone. I thank our last two witnesses for their expert and helpful evidence. It is much appreciated.

*Ordered,* That further consideration be now adjourned.—*(Mr Swayne.)*

4.9 pm

*Adjourned till Tuesday 26 February at five minutes to Nine o'clock.*