



Corporate Services Scrutiny Panel

Draft Marriage and Civil Status (Jersey) Law Review

Witness: Roman Catholic Dean

MONDAY, 18th DECEMBER 2017

Panel:

Deputy J.A.N. Le Fondré of St. Lawrence (Chairman)

Deputy S.M. Brée of St. Clement (Vice-Chairman)

Senator S.C. Ferguson

Witness:

Monsignor N. France, Catholic Dean of Jersey

[9:02]

Deputy J.A.N. Le Fondré of St. Lawrence (Chairman):

I cannot remember if you were in the public gallery last time in one of the other hearings. We will run through some stuff. My apologies for the state of my voice this morning. I think possibly sitting too near the Dean in the Assembly must be having an effect. Welcome to the Corporate Services Scrutiny Panel hearing on the Draft Marriage Law. Before we start, can I draw your attention to the notice that is just in front of you which sets out about parliamentary privilege? I will read that out. I am assuming it is probably the first time you have been in front of a Scrutiny Panel?

Catholic Dean of Jersey:

Probably, yes.

Deputy J.A.N. Le Fondré:

If all else for the benefit of people in the public seating. “The proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005, and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. and P.P.C.) (Jersey) Regulations 2006. Witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something they know to be untrue. This protection is given to witnesses to ensure they can speak freely and openly to the panel when giving evidence without fear of legal action, although the immunity shall obviously not be abused by making unsubstantiated statements about third parties who have no right of reply.” The panel would always like you to bear this in mind when answering questions. Also we do expect members of the public and media, if they are there, in the public seating to remain quiet at all times while the hearing carries on. As we proceed through the questions we may stop you if we feel you have answered the question sufficiently because we try to be reasonably concise but we do have a little bit of extra time because obviously we have to note the apologies of the Dean of Jersey, who is meant to be in attendance this morning as well. But if we do feel we have got to that point I will do that by raising my hand and then hopefully we can move on. Now I want to make it very clear from the start of the hearing that by undertaking this review we are fulfilling a well-established and important parliamentary process of legislative scrutiny. Our review is focused on the detailed Articles of the Draft Marriage Law and our questions will hopefully reflect this. This review is not about the policy decision to implement same sex marriage. The States has already agreed to introduce same sex marriage and our review does not seek to reopen that debate. The legislative scrutiny we are carrying out is to ensure the law is fit for purpose and it effectively implements the decisions made by the Assembly. That extends beyond the proposals for same sex marriage, to cover open air marriage, obtaining a licence to marry, the role of the Parish Registrar, protection against sham and forced marriages, and the ability of the States to increase the age of marriage by regulations. Any comments that may be made maybe because we are exploring an argument that has been put to us rather than expressing any view, which should not be interpreted as expressing either a personal view or a view of the panel. Right, that is the end of a very long spiel anyway. But for the benefit of the tape, I will start going round. Deputy John Le Fondré, chairman of the panel.

Deputy S.M. Brée of St. Clement (Vice-Chairman):

Deputy Simon Brée, vice-chairman of the panel.

Senator S.C. Ferguson:

Senator Sarah Ferguson, panel member.

Catholic Dean of Jersey:

Monsignor Nicholas France. I am the Catholic Dean of Jersey.

Deputy J.A.N. Le Fondré:

Once again, thank you very much for coming today. If we can just start off. So could you give a brief outline, 5 minutes or so, covering your written submission and any of the key points you might wish to make, particularly in respect of the law.

Catholic Dean of Jersey:

Just as you have given a bit of a preamble, I would like to give a preamble to say that new questions deserve careful new answers. When I came here a century ago in 1999 to Jersey these sorts of questions never arose. So we have had to work towards giving answers. Along the way, of course, the big question was: what is marriage? Now that has been resolved; I accept that, as you have just said. But it was a big issue about: can you change what every culture, civilisation, religion has always upheld, which is that marriage is between a man and a woman. Well we lost that one. It was one of the cultural wars that were going on internationally, in a way. What it meant for us was that we had to distinguish then between civil marriage and what we would call the sacrament of holy matrimony, which is quite easy in a way in clarifying to people, even with couples, what this is all about from our perspective. So all that has been a process of trying to understand but also of listening and learning. So recently I had a gay couple come to see me they are in in a civil partnership. The 2 men wanted me to baptise their child, which I was very happy to do, so Isabella was bouncing up and down on their knees. But it gave me an opportunity to listen and to learn, to ask questions about how they saw the future, how they saw their relationship. They were both legally parents, one of them stayed at home all the time, they could afford to live on one salary. It was the Catholic Portuguese man who stayed at home and looked after their child. I was very happy to do this baptism. So I was learning. Because it has been a learning curve for me through all this. That will not surprise you; well I hope it will not. A lot of the questions, which perhaps people in the L.G.B.T. community have been asking for years, perhaps we were not very prepared with our answers, so we have been feeling our way towards those, trying to find an answer. Some of that really not fully adequately, came up in my own submission, which I have to confess - it is my job to confess – at times I was work pressure. I had to get something in so I therefore took a point of view of supporting the particular concerns that Martin Shea had put forward, on the grounds that although this had not been raised with me, for no Catholics have come to me about this, in a way it was not such a big issue because I think people can always get out of something if they wanted to, in conscience. Anyway, I felt I should support them, almost for ecumenical reasons, if they would like my support. So therefore I did say that I felt this, as I saw it, was a 2-way issue, where you have to recognise. That both sides might feel prejudiced against and therefore I was supporting the possibility of another option clause for those who particularly felt in conscience that they didn't want to do something that they were not in favour of. I am not giving a hugely clear answer because I do

not think it is that clear an issue, personally. But as I say, I felt my way through the issues, which I am still doing, to be honest.

Deputy J.A.N. Le Fondré:

I think we are all finding our way through the issues. In terms of the overall law, I think we are finding a whole range of issues.

Catholic Dean of Jersey:

There are so many things, yes. We have discussed: do we want weddings on the beach? Well it all depends on the tide! So all those are sorts of issues that you are going to tackle.

Deputy J.A.N. Le Fondré:

Thank you very much for that.

Deputy S.M. Brée:

I would like to ask a couple of questions about protections within the draft law for religious officials and organisations. The main form of that is known as the quadruple lock. So are you satisfied that the draft law contains adequate protection for religious officials and organisations?

Catholic Dean of Jersey:

I suppose the answer is I hope so

Deputy S.M. Brée:

Do you feel that there could be any additional protections given under the draft law?

Catholic Dean of Jersey:

My problem is though I always see both sides of an argument, or I should do. So I am therefore very anxious not to see things in black and white. I think this is an issue where dangerously you can do that. My way is to feel your way through, be respecting both sides of the argument, both people with completely divergent views on an issue, which for some is morality, some is human rights.

Deputy S.M. Brée:

In your submission you stated that, and I am going to quote here: "If ever there was any pressure or expectation on us, through our not being willing to officiate at a same sex marriage in a Catholic Church, we would be happy to give up our current privilege of being authorised clergy with registered buildings for weddings." Could you elaborate on that a bit; the meaning behind that answer?

Catholic Dean of Jersey:

I am glad you raised that because that is an issue we have been... Catholic priests and deacons in the Island have been addressing lately, because it could be said that we have got a privilege, which the Anglicans have automatically got, but we have been given, a privilege ever since about 2002 of the Marriage Act. In those days it changed from us having to have a registrar sitting and watching me do the wedding. She filled in all the forms. To us being called - certainly called in England - "authorised persons" to carry out a wedding. Which meant - and I have to explain this out to couples - we cover both the civil and the religious sides of a wedding as recognised by the States of Jersey and by the Catholic Church as a valid marriage. But we are getting to the stage where it could be said - and this is what I am saying, the thinking all the time - that if we do not accept the new concept of marriage, that we do not accept its extension to same-sex couples. Maybe we should not be therefore claiming the right to do the civil part of the marriage.

Deputy S.M. Brée:

I understand what you are saying.

Catholic Dean of Jersey:

What we are saying is maybe that I am looking at it from the other point of perspective. It is unjust of us really to be claiming the right to do that if we do not claim to accept the new understanding of marriage. It could have applied to the past because if we would refuse, say, to marry 2 Catholics who were divorced we would have to say we would look at that and usually we can't. So there are certain people we can't do that civil side to either at the moment. So maybe it could apply also in this situation. Therefore, we have been talking about the fact that we are putting forward in a proposal to our Bishop that he allow us to withdraw and to separate the 2 forms of marriage, as in France. So we would have a civil marriage and a church marriage. We still do that occasionally, for all sorts of reasons, they want to do all the technical stuff before going to get married in a church in Poland.

Deputy S.M. Brée:

So that is something that you are actively looking at doing at the moment, is to withdraw from the authorised persons, if you want to call it that, for the civil part of the marriage. So in future should anybody wish to get married in a Roman Catholic Church there would have to be a civil registrar there present, as it was before?

Catholic Dean of Jersey:

No, they have to go to the Registrar Office to be civilly married on one day and a few days later or weeks later, come to me to do the church wedding. Which we would say is not a blessing. It is a church wedding, they have to make the vows. As in France, this happens already. You go to the mairie one day and you go to the priest another day.

[9:15]

That has to be clarified for people to understand that. Sometimes, my Portuguese people don't always understand that. They say: "Well, we are married. We were in the civil." I said: "Yes, but you have not got married in church yet." "We cannot afford it."

Deputy S.M. Brée:

When would you be looking to change the current situation to that kind of situation?

Catholic Dean of Jersey:

We are putting forward a proposal to put to our Bishop and his consultants in February or March, I think it is. So we just felt in general this would be the honest and open thing we should be doing.

Deputy S.M. Brée:

It is just to understand sort of a timeline that you had in mind.

Catholic Dean of Jersey:

I hope the Bishop would say yes. In fact, I know he is personally keen, but he might be frightened that the Bishops in England would try to work...altogether.

Deputy S.M. Brée:

So if he did agree, say, yes, what sort of timeline would you be looking at in Jersey for that situation to be implemented?

Catholic Dean of Jersey:

It could almost from our perspective...

Deputy S.M. Brée:

Immediate?

Catholic Dean of Jersey:

Once we change our laws to say "No, sorry, we are not going to marry unless you are already married." Until you are married...

Deputy S.M. Brée:

You have to undergo the civil.

Catholic Dean of Jersey:

It's got to spell out the distinction between marriage in its modern concept of marriage and sacrament of holy matrimony, which is our traditional concept of marriage, which is blessed by the church as between a man and a woman.

Deputy S.M. Brée:

Do you not think that will cause any additional issues or problems for the local Roman Catholic congregation, who wish to get married? Or does it work very well, say, in France; everybody accepts how it works?

Catholic Dean of Jersey:

I recommend it sometimes. People, say, going to Poland. They cannot face all the rigmarole of the legal side. I say: "Go and get married down the road and go and get married in Poland when you get back." So, I am doing it already. No, I think the expenses of going backwards and forwards, is another issue for you, the Scrutiny panel. But the business of having the 12 registrars and the Superintendent Registrar, if they go to one they get charged quite a lot of money each time. So that will still continue. That happens already because they have got to produce that licence or whatever it is, a certificate, by which we marry them.

Deputy S.M. Brée:

Also in your submission you highlighted the impact of the introduction of this particular law in other jurisdictions on people with religious belief. Could you sort of elaborate on that and give us examples of what you were referring to?

Catholic Dean of Jersey:

I cannot remember what I was referring to, to be honest. I might have even lifted it straight from Martin, I cannot remember now. I do not know quite what that means.

Deputy S.M. Brée:

It was just that you highlighted the impact of the introduction of the law looking at other jurisdictions on people with religious belief. Were you referring there to what has become known as the "conscience clause", more than anything? Which we will discuss later on...

Deputy J.A.N. Le Fondré:

Which I will come to.

Deputy S.M. Brée:

Yes. If you cannot remember, do not worry.

Catholic Dean of Jersey:

A lot has happened since then.

Deputy S.M. Brée:

There has been quite a bit of coverage in the media. Nationally here I am talking rather than locally, and it has been submitted to us that the law could have an impact on the Catholic adoption agencies in the U.K. Do you have any thoughts on how it might impact on that, or whether it will?

Catholic Dean of Jersey:

It has.

Deputy S.M. Brée:

It has now, has it?

Catholic Dean of Jersey:

Most of our Catholic adoption agencies have almost closed.

Deputy S.M. Brée:

It is purely because of the same sex marriage law, is it?

Catholic Dean of Jersey:

Yes, what we would still be strongly in favour of obviously is the tradition of man and a woman, a child having a father and a mother, clearly, and it has not always happened. So we had to stick to that and the Bishops therefore said in most places they have had to close down their adoption agencies.

Deputy S.M. Brée:

That is terribly sad though, is it not, because of all the good work they have done placing children?

Catholic Dean of Jersey:

Obviously they have always been very good at taking children from very difficult situations, which is very sad.

Deputy S.M. Brée:

Is there a solution to this, in your mind?

Catholic Dean of Jersey:

It is a bit like meeting this couple the other day. I remember saying to a friend of mine last year: "It is a bit odd having 2 men bringing up a child." She said: "It is not different from me, I am a single parent, I am a woman bringing up my son." "Ah" I said: "Thank you." Another insight.

Deputy S.M. Brée:

So you are quite happy to baptise a child who is a child of a same sex couple but you support the closing of the Catholic Adoption Agency?

Catholic Dean of Jersey:

Not really. I don't know. This was a few years ago, to be honest. As I said, we have been learning a lot since then. It was the principle about parenthood, I think. They have thought about this in France, parent A, parent B, whatever it is. They want it to be between mothers and fathers. We are struggling with these new issues. I am not sure we are always getting it right. Certainly I know that couple. I put to them – it was an old-fashioned question - "Will it be difficult when Isabella goes to school having 2 fathers?" To which the response was: "No, schools nowadays they teach this, some men marry women and some men marry men, so there are no issues." Once again I was having to race to catch up in my thinking. I said: "Oh, yes, of course."

Deputy S.M. Brée:

So the decision to - just so I understand it - close the Catholic adoption agencies was taken by what body?

Catholic Dean of Jersey:

I think the Catholic Bishops of England and Wales decided in the end. They tried desperately but as they had already scored something against the Government at the time, the Government were not giving way the second time. This was on this issue. They were very sad about it but they felt that in the end they were being forced to do so because they had changed the whole constitution, the whole nature of what they had understood by adoption, which was the very great care taken to find the right mother and father or at least the one parent who could do this. So they felt they were made to do something which was against their conscience.

Deputy S.M. Brée:

Thank you.

Deputy J.A.N. Le Fondré:

Just to be clear on one question. You effectively made reference to *union civile*, is that thought process mainly as a potential result or an outcome of the proposed legislation that we are looking at today, or is it a combination of things? Is that one of the impacts?

Catholic Dean of Jersey:

I am trying to remember because I had this discussion with Bob Key, a couple of years ago, I think it was. It might have been...yes, I think it was the time the first time the States... I remember going to a meeting with the Chief Minister and it was said: "We have no option, we are going to have to introduce this." Some of us are comfortable in it from our Christian point of view or whatever, we have to go ahead. So I accepted that. But I talked to Bob a bit about this. He was very anxious - I should not be speaking for his successor - because the Anglicans have that privilege of officiating at any marriage in their churches, of anybody at any time they can do it, whereas we have only got it by extraordinary privilege in a way. So I talked about then, *union civile* would not worry me. He said: "Please do not mention it because we do not want to go down that route." I understood and respected ... I respected Bob and I respected the very different concern because the whole nature of their role in the local community and the Parish as everything else would alter, perhaps. Which I still think might be challenged, their position, because that has been their principle always. Even a Roman Catholic, can turn up to a rectory and say: "I want to get married" and they have to say: "Yes, I will do it." They can do anybody. So it's going to be difficult for them not to do everybody.

Deputy J.A.N. Le Fondré:

We will move on, I am just probing, exploring a little bit at the moment. But on to the area of what is often termed "conscience clause" but ... we are working off your submission but bear in mind your comments you make, and we will see where we go. On your written submission you have signalled your support for extending the conscience clause beyond religious officials and organisations to people who object same sex marriage on the basis of their religious belief. In the assumption that this is capable of being drafted, which is a question anyway, in that event, in other words it was possible, do you think that such a clause should be effectively relatively narrow and just to enable people to withhold goods and services, say, for the purposes of same sex marriage or a wedding reception? Or do you think it should be broader and able to, if people do not agree with supplying goods or services to same sex people, couples in general?

Catholic Dean of Jersey:

What is the difference between those 2?

Deputy J.A.N. Le Fondré:

One is a narrow thing which is purely dealing with the actual wedding, the marriage, and/or the reception, and another one might be a wider ...

Catholic Dean of Jersey:

Just to people in general, couples in general, say?

Deputy J.A.N. Le Fondré:

Potentially, yes.

Catholic Dean of Jersey:

Well, I think if I am going to put everything on the table I would probably go for the first one. As I say, I do not see it arising a great deal but anyway, if that is what some people feel is necessary then I would, in that sense, support them.

Deputy J.A.N. Le Fondré:

Do you think, and this is based on certain submissions we have had so obviously I think the wider context relates to things such as the Ashers Bakery scenario, which is this wedding cake issue, do you think perhaps that the conscience clause should extend more broadly perhaps to cover things like employment, education and freedom of speech? I do not know if you need some examples there or not.

Catholic Dean of Jersey:

Freedom of speech is very tricky, isn't it? Nowadays we are all, most of us, very careful with what we say about all sorts of issues. Once upon a time it was safeguarding we have so many different issues we have to be very watchful of what we say. In that way it is good because it means that we are taking greater responsibility, unlike a lot of careless talk and prejudicial words in the past, which was inappropriate. So freedom of speech could be, certainly, that if, say, in your church or your church community, you spoke of how you believed in the sanctity of marriage in its traditional form. That is not very different, I do not think, in a Catholic school such as Beaulieu, if they said that. I do not think that would be wrong. Does that need to be protected? That sort of freedom to teach and to teach the traditional form or to speak about it?

Deputy J.A.N. Le Fondré:

I think the question is: do you think that sort of freedom of speech is ... that ability to express those views, is important?

Catholic Dean of Jersey:

I think it probably is, because many of our young people will naturally go along with what is the modern multicultural experiences and views. So sometimes we would hope to say that as a Christian you would point out different views. I mean many young people probably say that euthanasia, might

be fair enough if people are old and tired and want to go, but lots of issues which we would say: "Hey, think a bit more deeply." We would say: think a bit more deeply on this particular matter too. That I do not think is necessary but over positively. It would be terribly sad if we cannot speak at all. That really is tying us from proclaiming what we believe. The other issues on that you mentioned, apart from freedom of speech?

Deputy J.A.N. Le Fondré:

The current list on this particular aspect was employment, education, freedom of speech. I think the freedom of speech probably encapsulates it all.

Catholic Dean of Jersey:

In education that would apply because we would say that we are ... Catholic schools say in England or here, would not be bound by having to uphold teaching that "Some men marry women and some men marry men". I think it would need a little bit of an interpretation.

Deputy S.M. Brée:

Can I just explore that concept with you, just a little bit further to understand? Obviously we will take a local Catholic school, Beaulieu for example, you mentioned.

[9:30]

When we talk about teaching, teaching can take 2 forms. It can take the form of teaching a particular view but it can also take the form of teaching against a particular view. Which would you advocate or are you saying that it is the right of the schools to teach the traditional form of marriage, i.e. between a man and a woman, is the right one, and that anything else is wrong?

Catholic Dean of Jersey:

I think what would be important is for anybody teaching this to explain their argument. You need to explain why you might put forward an idea, and can still do that without being prejudicial in your language to people of an alternative point of view. I do not think that is too difficult?

Deputy S.M. Brée:

You do not believe that it is any schools ... any school has a duty of care to its pupils. One of those duties of care extend to, for example, teaching the various different viewpoints there are in the world. So when you go out and into the big wide world you understand that people may have different views.

Catholic Dean of Jersey:

Just as they teach about different religions at the same time.

Deputy S.M. Brée:

Exactly.

Catholic Dean of Jersey:

I think that is responsible to do that.

Deputy S.M. Brée:

So should a Catholic school not teach or explain at least to pupils both sides of the argument?

Catholic Dean of Jersey:

Absolutely, they should.

Deputy S.M. Brée:

So you would agree with that rather than just teaching...

Catholic Dean of Jersey:

I think they should, just as we have a huge variety of religions there and what you should know about Islam and various other religions without also saying that: "Sorry, but we find the fullness of truth and faith in Christianity." There is nothing wrong with that. I always say that Muslims are people of prayer, people of pilgrimage, people of fasting; they put us to shame with their Ramadan compared with our giving up chocolate for lent. Also, I think I am trying to put the positive about that that, well yes I do not accept the grounds that everybody ... there are ways of doing it and I think we have to be very careful in and there has to be some scrutiny in the school to ensure that that is happening.

Deputy S.M. Brée:

Okay.

Catholic Dean of Jersey:

As I say, it is new, this is new territory for many teachers and others who have not perhaps got a balanced point of view yet and the children are very confused, especially now when you have got the whole issue, which has hit us, is touching every school, the gender issue, about what gender people want to be and how they are going to have to change and how the school is going to respond - and what then other schools would do.

Deputy S.M. Brée:

Okay, thank you.

Deputy J.A.N. Le Fondré:

There are a couple of other questions I want to ask but one particular one that has sprung to mind, I do not know if you are aware of it, there is an article written by Peter Tatchell in *The Guardian*, I think in 2014, I am not sure of the exact date. But, anyway, in that article, which was following the ruling against Ashers Bakery in Belfast, Peter Tatchell stated: "In my view, it is an infringement of freedom to require businesses to aid the promotion of ideas to which they conscientiously object. Discrimination against people should be unlawful but not against ideas." Do you kind of see where he is coming from? I think we are expanding a little bit on the freedom of speech here; do you have any comments on that view?

Catholic Dean of Jersey:

I think I would need time to consider that, it is slightly complicated. You are saying that the policy of, say, the bakery or something is one thing but the way it is going to put over is another ...

Deputy J.A.N. Le Fondré:

I have not got a copy of the article in front of me, however, we did make sure that was a reasonable quote. I think it did carry on to say that the outcome of the Ashers Bakery, his view, meant that ... I think the 2 examples were that Muslim printers were potentially allowed to reprint an image of Mohammed if they were required to and, if not, a Jewish printer might have to print publications denying the Holocaust, as a result of the Ashers Bakery thing. I think the interpretation of that article is that he did not agree with that, in other words ...

Catholic Dean of Jersey:

But I could not agree with that, I think that is...

Deputy J.A.N. Le Fondré:

In other words, I suppose if that then came down to this thing, about you should not discriminate against people but the idea is you should have the ability to reject political statements or an ideal and have the right to say you disagreed, as the right to say no. Maybe you should come back to us on that one but would you tend to subscribe this ... I suppose it is drawing within the speeches here a bit further.

Catholic Dean of Jersey:

Very tricky, very difficult to ... because there is a lot of ... particularly of the religious printers, the Muslims and others, yes, I have got quite a concern about that. I would pass on that one, it needs greater time to discern it.

Senator S.C. Ferguson:

You can always come back to us on this.

Catholic Dean of Jersey:

Next week, yes.

Deputy J.A.N. Le Fondré:

Yes, you can always have a think about this.

Senator S.C. Ferguson:

I thought by Friday.

Deputy J.A.N. Le Fondré:

Right, I have got one more question to ask and I think we will skip these because ...

Deputy S.M. Brée:

Yes.

Deputy J.A.N. Le Fondré:

Okay. The question I did want to ask, I suppose, is that ... and it is probing again and you may not have thought this through, I do not know, basically the law that is proposed at the moment is around what is called the quadruple lock. In other words, all religious organisations will not be compelled to officiate, shall I say, at same sex weddings if they do not choose to? That is caveated, obviously the Anglican Church is out for the moment and I think for people to opt in there has to be various levels of agreement. I think the question, again, following on from the submissions we have had, is, why should, I will say, churches, religious organisations have the ability to opt out, if you like, when, potentially, the followers of the relevant church potentially do not in their daily lives?

Catholic Dean of Jersey:

Could you say that again, please?

Deputy J.A.N. Le Fondré:

The question we are asking is this ties into sort of wrapping up on the issues around the conscience clause, if religious organisations have the ability to say no and obviously they have the ability to say yes ...

Catholic Dean of Jersey:

Are you talking about organisations or are you talking about the actual clergy?

Deputy J.A.N. Le Fondré:

Both. I suppose we are talking about ...

Senator S.C. Ferguson:

Clergy.

Deputy J.A.N. Le Fondré:

Yes, I suppose it is the clergy.

Catholic Dean of Jersey:

Because the organisation then does include all these other people.

Deputy J.A.N. Le Fondré:

Yes, sorry. No, okay, I suppose we are talking about the clergy. They have the ability to say no, they will not conduct same sex marriages.

Catholic Dean of Jersey:

Yes.

Deputy J.A.N. Le Fondré:

Obviously, unless there are various stages as well, I think it is they agree and whether their organisation agrees then there are about 3 levels and the query, I suppose, is, given that, loosely, churches or the clergy have the opt out, what is your view as to whether or why should, for want of a better expression, the congregations or members of the congregations or the followers of those churches not be given the ability to express their views or to not participate in matters concerning same-sex weddings? In other words, put it another way if you like, allowing one category to opt out but we are not allowing a different category to opt out.

Catholic Dean of Jersey:

The other category does not officiate at weddings, does it?

Deputy J.A.N. Le Fondré:

But that is the query, is they do not officiate but they may be asked to participate in some shape or form.

Senator S.C. Ferguson:

Take photographs or bake a cake or ...

Deputy J.A.N. Le Fondré:

Yes, or bake a cake or other matters. Not an easy question.

Catholic Dean of Jersey:

That is okay, I think a lot of this is common sense, to be honest. If you do not want to do so, you do not want to do so and you say: "I am sorry, I am busy." It is going to be very difficult because if you start making a big statement, a public statement that could be seen as prejudicial, is seen as prejudice, in terms of prejudice.

Deputy J.A.N. Le Fondré:

It is important to make sure that one does not have the prejudicial element in it, yes.

Catholic Dean of Jersey:

Indeed, which could come because if somebody made a scene. There are these other test cases, people can go and create test cases, say, against the couple or anybody else. I cannot see it happening but for us we would say, yes, leave it to the clergy to sort this one out and normally I mean we have all sorts of situations sometimes when a father or a mother refuse to come to a wedding or whatever, there is always these situations when you are trying to smooth things over and that is our job.

Senator S.C. Ferguson:

There are also Articles about protections for religious buildings and the designation of locations, and as part of the quadruple lock, the draft law makes provision to protect religious buildings and places that are routinely used for religious worship. Are you satisfied that the law provides adequate protection for these buildings?

Catholic Dean of Jersey:

I presume... I think so because outside the buildings in terms of saying getting married on the beach, which is part of the proposal, I doubt if we will adopt that as something we would stick to. I am sure in some countries they do this but we would stick, I think, to being married in a sacred space that is consecrated for that purpose. We would stick to the building. Yes, I think we have got protection on that. Our buildings are registered for weddings.

Senator S.C. Ferguson:

Yes, so you would not be looking at places of worship that are not used routinely. I gather there is one manor house chapel in the Island, which is a Catholic one.

Catholic Dean of Jersey:

I do not think it is, personally. I do not know, I am not sure. Malet de Carteret, he claimed it was sort of an ecumenical chapel and had been but I declined to use it, so I think it needs to be much clearer who does it belong to, but not the lord of the manor, so I did not agree with him on that one. He is dead now, so I am not sure what the situation is. We do not use anything except... Beaulieu has actually a chapel but have never used it. We have just our own churches and that is it. There is a certain amount of restriction and I think there should be.

Deputy J.A.N. Le Fondré:

Sorry, can you just ...

Catholic Dean of Jersey:

We have to restrict the places where people can get married. I did once get myself into trouble because Iain McFirbish had said to me: "One of the chapels at Hougue Bie is Catholic, the other is Anglican. I have done a wedding up there or done something up there" Then a girl came and said she would love to be married there, but suppose if it rains I said, no, it would be perfect. It rained non-stop, with mud all the way down. But the point was, of course, that a few days before the wedding I was informed that it was not a Catholic chapel, so Bob Key had to come up and do the wedding with me. I learnt my lesson, stick to what is ours and what is registered as a Roman Catholic chapel or church.

Senator S.C. Ferguson:

Yes, all the comments about using the beach.

Catholic Dean of Jersey:

No, I do not think... we are not going to do that.

Senator S.C. Ferguson:

....and sort of somebody's garden.

Catholic Dean of Jersey:

No.

Senator S.C. Ferguson:

Right.

Catholic Dean of Jersey:

Whatever they do in America, we are not going to do here.

Senator S.C. Ferguson:

You are not going to dress up as Elvis.

Catholic Dean of Jersey:

No, I do not think so.

Senator S.C. Ferguson:

All right, thank you.

Deputy J.A.N. Le Fondré:

Perhaps I could probe slightly on the Hougue Bie example, because it is one of the areas we are just seeking to understand at this stage, but there is a question as whether Hougue Bie, as a chapel, would be protected by the legislation. In other words, that if a same sex couple wanted to get married there but permission was not sought on the basis as an Anglican site, they might still be able to get married there.

Catholic Dean of Jersey:

Interesting to see whether they could get the same registration that you can get for a hotel or anywhere else nowadays, whether that could be applied to part of that building or outside the building, that would depend on the Anglican Church's ruling on that, if they claim that both chapels at the Hougue Bie, even though they are pre-Reformation, they claim that both the chapels are Anglican.

Deputy J.A.N. Le Fondré:

Using that as an example, in other words, we can take out the Anglican bit and say if it was Catholic, for the sake of argument, do you think they should be ensured there should be a protection if needed?

[9:45]

In other words, where the organisation has the ability to say yes or no to whether a same sex wedding can take place there.

Catholic Dean of Jersey:

I think so, on the principle that all our churches could be there for the same case, if that was designated as official Roman Catholic Church, yes, and it was already licensed for Catholic weddings, we would say, yes, that it had to be protected.

Deputy S.M. Brée:

Just moving on slightly, the draft law makes reference to the use of spiritual and religious content in civil ceremonies. Do you think the law is clear enough about who decides what content is appropriate and how should they arrive at that kind of decision?

Catholic Dean of Jersey:

I am not sure what the law is proposing. All I know is that in England it was - it might be changing - very clear that a civil wedding had no religious content and I felt that was correct. I remember looking at a programme on the television, a documentary about a couple getting married and the bloke comes in one day and said: "Bad news." "What is that?" they said. "We cannot have Ave Maria, it has got a religious connotation", so he was not allowed that. I think that, personally, the two should be separate but nowadays everything gets mixed together, so I think that apparently it has got to be allowed.

Deputy S.M. Brée:

In Jersey, who do you think should determine whether something is of religious nature or not or contains religious content, if you like?

Catholic Dean of Jersey:

When is a pop song a pop song and not a religious song? Very difficult. I have disputes already with some of the brides, with me saying: "Is that really appropriate?" "Yes, but you should look at the words" and they play it to me but I think it is very difficult... I am not saying those things are easy but I do not know whether the law can lay that down. Sorry, what is it? The proposal is that there can be some religious content.

Deputy S.M. Brée:

During the actual civil ceremony itself that the ...

Catholic Dean of Jersey:

That it can't be, yes.

Deputy S.M. Brée:

Yes, it cannot be but the law is possibly not completely clear on the fact that there can be certain use of readings or hymns outside of the ... if you like, the service, contained within it is the civil ceremony but outside of it can be used various ... yes, whether it be hymns or whatever they want.

Catholic Dean of Jersey:

The thing is whatever they want to sing like a hymn, yes, I suppose that will happen.

Deputy S.M. Brée:

Yes, go on, please.

Deputy J.A.N. Le Fondré:

It is possibly a slightly difficult question, have you read the law?

Catholic Dean of Jersey:

No.

Deputy J.A.N. Le Fondré:

Okay. Can I just read to you bits out of it, just to explain where we are going with this? There is one paragraph in an Article says that this is for civil marriages: "A civil marriage celebrant must not permit any marriage solemnised by him or her to include any religious ritual or symbol or permit prayers or any religious worship or service to be conducted during the marriage ceremony." We are just checking, as I say, but it has certainly been put to us that on a marriage ceremony, that is the whole service, it is not just for vows, it is the full thing. But then there is a second paragraph immediately after that where it says: "A civil marriage celebrant is satisfied the content of the marriage ceremony" basically does not contradict the previous paragraph: "Must permit any marriage solemnised by him or her to contain any of the following." The first line is: "Hymn, songs or chants, whether or not they contain any references of a religious nature." Part 2 is: "Readings from the Bible or other holy books or any other reading that contained any reference of a religious nature." Then it goes on about vows or statements. What we are just exploring, it has been suggested to us that there is a contradiction between those 2 statements and it is slightly different to the U.K. position; it is a lot more open, so we are just exploring that ...

Catholic Dean of Jersey:

I am going to prefer the first statement, be much clearer.

Deputy J.A.N. Le Fondré:

Right, these are both from the law.

Catholic Dean of Jersey:

Yes, so they are having their cake and eating it a bit, aren't they? I mean you have got the hotel wedding and all the religious bits thrown in; I mean it will look nice but it is not quite a religious ceremony, as such. Well it's a bit of both but I am not quite sure, I guess I am not clear.

Deputy J.A.N. Le Fondré:

So the question, I think, we are trying to ... is, who should determine what is religious content for the purpose of ...

Catholic Dean of Jersey:

Whoever is conducting the ceremony, I suppose. What is the situation, sorry, in the new law about who the celebrant can be? Is it still one of our registrars or is it somebody else?

Deputy S.M. Brée:

It is opened much wider than that, that somebody has to register to be a civil celebrant, that application will go in front of the Superintendent Registrar, who obviously will provide a certain amount of training and direction and that civil celebrant will then be given, effectively, a licence to provide services to couples, as a civil celebrant but it is not ...

Catholic Dean of Jersey:

Not just for the one occasion, do you mean?

Deputy S.M. Brée:

No, it is a ...

Catholic Dean of Jersey:

They could go and tout themselves around as marriage celebrants, okay, yes. It is like in America where you see these films....

Deputy S.M. Brée:

That is the aim but we were just trying to understand your views on how you felt it would work under the current law with regards to a challenge being made. If a civil celebrant says: "No, I believe that to be a religious hymn" and somebody challenged that and we have used the example of the English hymn, Jerusalem, which, to some, is a religious hymn, to others is the unofficial National Anthem of England.

Catholic Dean of Jersey:

Yes, yes.

Deputy S.M. Brée:

Certainly, you hear it a lot at rugby matches and so on. What is it, is it a song or is it a hymn? We were just trying to explore if one person said it was a hymn, another person said: "No, it is a song", who would determine ...

Catholic Dean of Jersey:

What happens now with weddings in hotels; who determines the music?

Deputy S.M. Brée:

I personally do not know the answer to that.

Deputy J.A.N. Le Fondré:

No, I can only relate to the comments that have been made to us in that somebody who attended a U.K. civil wedding, and I think it was a member of the local clergy and may want to do some more blessing, but they were told they could not do that until the civil celebrant had left the building, essentially. So, in the U.K. I think it is very clear and they are quite tight on what is religious content, this opens it up but I think we are just curious on getting your views as to who should determine or mediate even on what is religious content.

Catholic Dean of Jersey:

Once you open something up it is open, I mean people do what they like really. You either don't and you say, no, nothing... I do not know who decides that but certainly once you open it up it is very difficult to close the door in terms of anything that people want.

Deputy J.A.N. Le Fondré:

Do you have a view?

Catholic Dean of Jersey:

I would prefer that... I just probably do not want somebody to steal our job! I think but I prefer, for clarity, that it is not a sort of synchronistic mix of everything, which is what people often like these days; a bit of this, bit of that, bit of Hinduism, bit of everything.

Deputy J.A.N. Le Fondré:

Right, I think given the time, I think we will just do a basic wrap up, essentially. Have you got anything?

Deputy S.M. Brée:

No.

Senator S.C. Ferguson:

No.

Deputy J.A.N. Le Fondré:

Okay. My real last question is, over the last 2-ish years that we have had as the law has developed of old, what consultation have you participated in? How many times have you been spoken to about what is going into the law, how it is developed, any input you may have had?

Catholic Dean of Jersey:

None at all.

Senator S.C. Ferguson:

Nobody has spoken to you about it.

Catholic Dean of Jersey:

No. Bob and I have talked about it, we have discussed it with Graeme Halls and others, and we do not always agree with each other on this; although Bob and I used to agree. Yes, and among our own clergy and people we have discussed it at times. No, otherwise nothing official.

Deputy S.M. Brée:

You have had...

Catholic Dean of Jersey:

Yes, we had that meeting with Ian Gorst, I remember up in his office, it must be 2 years ago and he said: "It is going to take a long time to implement this, this has a lot of complications. You cannot just change it because there is all sorts of other issues connected with the law." We said: "Okay" and we knew that process was going to be taking place. But until the other day and until your invitation, no.

Deputy S.M. Brée:

Just to confirm ...

Catholic Dean of Jersey:

I am still feeling my way, to be honest, on this. I think that is the honest way I should be behaving am not trying to ... like with you, I wanted to be honest with you this morning and sort of say that I am still listening and learning along the way. It is important for my own ... for the avoidance of any prejudice.

Deputy S.M. Brée:

Sorry, just to confirm this, other than that initial meeting you had, possibly you were saying 2 years ago, if not longer, with the Chief Minister, you have not been approached for your views or input into the consultation process ...

Catholic Dean of Jersey:

No.

Deputy S.M. Brée:

... as to what it should look like either by the Chief Minister or any official from his department.

Catholic Dean of Jersey:

No, that is true.

Deputy S.M. Brée:

Can I just ask, what is the current number, if you are aware, or the population of Roman Catholics in the Island at the moment, do you know?

Catholic Dean of Jersey:

24 per cent to Anglicans... 25 per cent, out of a population of people who claim to be Christians and there are a few and it's more now, than non-conformist churches with the celebrants...

Deputy S.M. Brée:

Okay, yes, so it is 24 per cent are Roman Catholic.

Catholic Dean of Jersey:

Predominantly but it was in the last census they had put themselves down for.

Deputy S.M. Brée:

Okay, and you are saying 25 per cent is ...

Catholic Dean of Jersey:

With Anglican ...

Deputy S.M. Brée:

Looking at the census figures.

Catholic Dean of Jersey:

Yes.

Deputy S.M. Brée:

Okay.

Catholic Dean of Jersey:

It's interesting. This is completely different from in England; a much higher percentage here.

Deputy S.M. Brée:

Yes, I understand, yes.

Deputy J.A.N. Le Fondré:

Is that a total of the population?

Catholic Dean of Jersey:

Yes.

Deputy J.A.N. Le Fondré:

That is 25 per cent of 100,000 ...

Catholic Dean of Jersey:

Yes, that is right.

Deputy S.M. Brée:

Yes.

Deputy J.A.N. Le Fondré:

Broadly speaking, 50 per cent of the population are either Anglican or Catholic.

Deputy S.M. Brée:

It is fairly evenly split between the two.

Catholic Dean of Jersey:

Yes.

Deputy S.M. Brée:

Which obviously reflects the mix of population we do have in the Island.

Catholic Dean of Jersey:

It is probably ...

Deputy S.M. Brée:

Yes, okay, thank you.

Deputy J.A.N. Le Fondré:

Okay, thank you.

Catholic Dean of Jersey:

Not at all, I am delighted to be here.

Deputy J.A.N. Le Fondré:

This formally closes the hearing, so thank you very much for your time and if you have got any further thoughts you want to expand, please send us something in writing but very much appreciate it.

Catholic Dean of Jersey:

I do appreciate the time you have given me .

Deputy J.A.N. Le Fondré:

All right, thank you very much.

Deputy S.M. Brée:

Thank you very much, Monsignor.

Catholic Dean of Jersey:

Thank you very much.

[9:57]