

DECEMBER 2015 STATES MEETING

Billet d'Etat XXIII – SAME-SEX MARRIAGE

Sir,

I was born in 1967. 1967 was, of course, the year that homosexual acts in private between consenting men over the age of 21 were decriminalised, which followed in Guernsey in 1978. At school, in the 1970's, the lexicon had not yet found 'gay.' The language was still of 'queers' 'poofs' and 'fags.' At university in the 1980's, I learnt in my family law lectures that marriage was between one man and one woman. We learnt about the need to consummate marriage, failing which the marriage was voidable. And I shall return to that later. We pruriently examined cases involving what were then commonly called 'sex changes' – the term 'transgender' was not in common use outside legal textbooks. We learnt that those marriages were void. In the background, AIDS, the gay plague, had arrived, which, we were told by the government was the tip of an epidemic iceberg. They distributed leaflets to every household in the land to tell us so. Some people told

us that gays should be banned from public swimming pools. The 1980's was the decade in the UK of the infamous clause 28 of a local authority Bill, which became an act of Parliament, banning local authorities from funding any promotion of homosexuality and, in doing so, prohibiting teachers from explaining what it was to their pupils. Ironically, as a *cause celebre* for equality, it probably did more for gay rights than anything else that decade. In 1985, I joined the Royal Air Force Volunteer Reserve. This involved a security clearance from the Ministry of Defence. We were told that homosexuals were a threat to national security. We were told that homosexuals were particularly susceptible to blackmail and honey traps set by Soviet agents. It must have been true, because they showed us VHS videos telling us it was so.

Then I would like to wind the clock forward to 2015. Up until a few days ago, I had not intended to speak today. I felt sure that the proposals would have the backing of a substantial majority of this Assembly; I felt that others could speak more eloquently than I on this important social issue. But having

received more correspondence on this issue than any other, I feel compelled to speak. I feel compelled to speak out on behalf of the minority. Not the minority in our community who are gay, but the minority in our community who oppose these proposals. Their views deserve to be aired and talked about. Because what has struck me from the correspondence we have all received, is this: for the majority (not all, I must add) of the minority against the proposals before us, the argument is built around what feels like an obsessive abhorrence of intra-male sexual acts and, in particular, we are told by them in no uncertain words, forgive me sir, but I quote, sodomy and buggery. There is, apparently, no recognition that for some, this may be a chosen heterosexual practice. Interestingly, and in a peculiarly misogynistic way, intra-female sexual relations are not referred to at all – perhaps harking back to the myth that Queen Victoria refused to accept that any such acts could take place. We also, in 2015, on more than one occasion have had ‘gay’ placed in the same sentence as ‘paedophile,’ with an implicit association between the two – and I am sure I am not the only member here to find that abhorrent and offensive. This

perspective is driven it seems to me, from a narrow view that sex is and can only be about procreation.

But what has struck me too, is that in contrast, those in favour – of whom the vast majority of those corresponding with us have been – are focussed not on sex but on relationships; and the simple desire to give the same rights to same sex couples to express and contract their love, as heterosexual couples have. **It really is as simple as that.**

There is no interest in the sexual conduct of anyone concerned; which is, in my view, entirely as it should be.

There is an implicit recognition that sex in private, is a healthy and normal part of a loving relationship between any two, unrelated, consenting individuals over the age of 16.

Teaching our children that sex on these terms, rather than sex merely being a physical or biological act for the procreation of children, is what will enable them to recognise and avoid abnormal and unhealthy relationships, including those involving sexual violence; it is what will help them recognise and avoid sexting or internet-based abuse; it is what will enable them to speak up and expose - and it is what

will enable us to hear and deal with - the abnormal interest in them, shown by some members of our community and which some of our correspondents obviously experienced when they were growing up.

Like the Chief Minister – and no doubt many others – I have been on a journey on this issue. I am ashamed for and embarrassed by the memory of my own past prejudices - and the only defence I can plead is that of being a child of the 1970's, of being a child of my time. We are, of course, all children of our time. So I appreciate that this issue will be more challenging for some who are older than me and that is I suspect – and with respect – the reason we have two amendments before us today. We all struggle with some change at some point. So I understand how difficult an issue this will be for some in this Assembly and in our community; and I understand therefore why the amendments have been brought. But that should not prevent our views moving with the age through which we live. It is my children who have informed *my* thinking and taught *me* greater inclusivity. My eldest, who is 17 now, has been asking me pretty well every

month after each States' meeting since 2012, in a semi-jocular way: 'have you passed same sex marriage yet?' To her and her younger siblings and their peers, it really is just not an issue - and there is genuine bemusement as to why it should be, or why it should have taken so long to get before the Assembly, for us to correct, in their view, such an obvious wrong.

The two amendments are unacceptable because I simply believe that minorities should have equal rights. We would not say you cannot get married because you are black; we would not say, you cannot get married because you are Jewish; we would not say that you cannot get married because you are Latvian; and we *should* not say you cannot get married because you are gay. The Adam/Paint amendment misunderstands that *Union Civile* was intended for all couples and would be the *only* form of legal recognition. It is tough growing up. Now more than ever? Who knows? But we all know, that however much you want to be different when you are growing up, it is tougher growing up if you stand out, if you are not part of the norm, if

you are part of a minority; now imagine how tough it must be if you are gay, or if you don't feel comfortable with the gender you were born. Oli works with young members of the LGBT community and he contacted us with the following quote from members of his group, which he asked one of us to read, which I am pleased to do:

"As it stands the LGBT+ youth on Guernsey are looking at a future of moving off the island to be able to have a decent future.

"If this law is passed and same sex marriage becomes a reality then we will grow up on an island where we are more accepted, then we will be able to grow up happier and with less risk to our mental health, so saving the States more money in the long run. This will become a safer Island to grow up LGBT+ and it will be a statement that discrimination is bad.

"It is right that the States vote in favour of marriage equality and after 10 years it is time to bring this law in.

"Thank you for your time and careful judgement in this matter."

I have nothing to add.

I want to digress for a moment. Just over a year ago, at a function on a Friday evening, I met Oli for the first time. Oli

told me about his civil partner and how they hoped one day to be able to adopt, in order to give a child or children in need, a home and a family. But, he said, in Guernsey, only his partner could legally adopt. Oli wasn't outraged. I was - on his behalf. Oli was just weary – no doubt after years of prejudice growing up as a gay man. The next day, having reviewed the Adoption Law 1960, I contacted Deputy Green and asked him why we couldn't just change this 55 year old piece of legislation. He agreed - and so began the process that led to the Policy Council's policy letter earlier this year to make this change, which I am pleased this Assembly overwhelmingly supported. I am proud to have played a part in delivering that reform.

Towards the end of 2012, remembering my family law lectures from the 1980's, Deputy Green may also remember that I contacted him for his views on why we couldn't just change the definition of marriage from one man and one woman, to provide for it to be between any two un-related adults, so skipping over the need to develop a separate body of law to recognise civil partnerships, as the UK and number

of other jurisdictions had done. If we had known it at the time, that idea was ahead of its time. We were advised that it wasn't that simple. But of course, we have been overtaken by events in other jurisdictions - and actually it **is** that simple and that is, in effect, precisely what we are now seeking to do. So, we should be under no illusions: we **ARE** redefining marriage. Many have told us we cannot do this because marriage has been defined by God – or at least the deity of one particular Abrahamic religion – as the source of moral law. I will leave it to the theologians and the historians among us to argue whether or not this God is indeed the font of marriage. For those who do believe that to be the case, these proposals change nothing for them. If their particular religion prevents them recognising any particular ceremony as a marriage within their creed or faith, so be it – and the Chief Minister has spoken about that in relation to his own church. That should not prevent the rest of us doing so. Their faith or denomination will not be compelled to conduct any marriages against their creed. Neither does the existence of same sex marriage change or diminish the nature of their own marriages. I am married to my wife today; I will be no

less married to her after these proposals become law just because a neighbour is married to his husband; the relationship with my wife will not have changed one iota; it does not threaten or diminish that bond which we have contracted.

However, before I conclude, we should be aware that there will not be complete equality. I referred earlier to the legal requirement for a marriage to be consummated. It will be not be possible for a same-sex marriage to be consummated – which I am sure will be a great relief to some of those who have corresponded with us with their concerns about particular sexual acts; neither will it be possible for a same-sex married spouse to commit adultery except – absurdly – with someone of the opposite sex. What this tells me, is it that these concepts should be reformed out of our marriage and divorce laws. The government and the courts really should have no place in prying into the bedrooms and poring over the sexual conduct of consenting citizens, over the age of 16, in a non-public place. We should move quickly to a ‘no fault’ system of divorce where the only issue at stake is

whether or not the marriage has irretrievably broken down and this should be the sole ground for divorce. It really doesn't or shouldn't matter to the government or the courts why, provided it can be established that there has been an irretrievable breakdown in the marriage. No doubt, married couples will need or want to continue to cite their spouses' marital infidelity or adultery or other unreasonable behaviour as evidence that the marriage has irretrievably broken down. A spouse's infidelity will be just as painful for those involved, whether or not adultery exists as a separate ground for divorce. I am in no doubt that this will give further offence to some of faith. In adopting this position, I am not remotely condoning or advocating infidelity or adultery. I am merely saying that it is not a matter which should concern government. The moral judgement on - and the forgiveness and redemption of - those who commit adultery should be left to the individuals' concerned, their spouses, their families, their faith and their faith leaders - not the courts.

So, Sir, I personally am pleased that during my lifetime we have become a more tolerant and inclusive community than

we were when I was born in 1967. I will be unequivocally supporting these proposals. They cannot come quickly enough to treat fairly, to give equality, to give dignity, to give respect and to give recognition to loving relationships between all members our community, irrespective of sexuality. Thank you.

Deputy Gavin St. Pier

10th December 2015