Some scholars, faced with the apparent conflict between the Church of England’s teaching on marriage and the idea of equal marriage embraced by the Marriage (Same Sex Couples) Act 2013, have focused on the implications of that Act for the constitutional relationship between Church, State and nation. More frequently, noting the position of the Church of England under that Act, academics have critiqued the legislation as an exercise in balancing competing human rights. This article by contrast, leaving behind a tendency to treat religion as a monolithic ‘other’, and leaving behind the neat binaries of rights-based analyses, interrogates the internal agonies of the Church of England as it has striven to negotiate an institutional response to the secular legalisation of same-sex marriage. It explores the struggles of the Church to do so in a manner which holds in balance a wide array of doctrinal positions and the demands of mission, pastoral care and the continued apostolic identity of the Church of England.

Keywords: Marriage (Same Sex Couples) Act 2013, Church of England, same-sex marriage, Church and State

INTRODUCTION

Since the UK Parliament first legislated for legally recognised civil partnerships for same-sex partners, and especially since it legislated for same-sex marriage, the position of the Church of England on questions of human sexuality has been under the spotlight. This is perhaps inevitable. Its status as the established Church in England arguably makes it more visible in the national life than other religious bodies, and its governmental and legislative processes ensure that its internal agonies are aired in public. Moreover, despite reports of
waning church attendance and the idea that society is increasingly secular, there is a sense that:

a great many people . . . who are not themselves churchgoers, actually have a large stake in the Church of England and care about it. It matters. In a sense, it is their church – legally, they are entitled to be married, to be buried and to have their children baptised there – but it is also much more than that. In a visceral and emotional sense, it feels like their church.

This sense of having a continuing stake in the Church of England, and of ongoing familiarity with and attachment to it, is fostered not only by the role often played by its clergy in marking life events but also by the Church of England’s historical and ongoing role in education. Today about a million children in the UK attend Church of England schools and there are around 15 million people alive who attended a Church of England school at some point in their life. According to the Church’s own statistics, there are 4,644 Church of England schools in England. This represents a quarter of all primary schools in England and over 200 secondary schools. In all of these schools collective worship reflects the traditions of the Church of England, and across the education sector the Church of England makes a major contribution to the dissemination of a broad Christian ethos through policies surrounding the content and delivery of religious education and PSHE (personal, social, citizenship and health education).

Beyond a feeling of vicarious religious attachment to the Church of England there is also a very practical reason for taking an interest in its debates about same-sex marriage. The Church of England has more than 16,000 churches in which different-sex couples can marry, meaning that, while its churches are not available as venues for the blessing or solemnisation of same-sex...
marriage, same-sex couples are at a significant disadvantage with regards to their ability to access a religious ceremony in connection with their marriage.10

While England has embraced the notion of equal marriage, and while other churches within the worldwide Anglican Communion have done the same,11 the Church of England maintains its traditional doctrine on marriage. Its pastoral guidance holds firm to the belief, enshrined in Canon B 30, that marriage consists in a permanent and lifelong union between one man and one woman.12 In consequence, it prohibits its clergy from entering into a same-sex marriage themselves,13 and from solemnising or offering public services of prayer and dedication in respect of such marriages.14

The Marriage (Same Sex Couples) Act 2013 protects the right of the Church of England to maintain its doctrine of marriage without suffering legal penalties. Neither the Church of England nor its clergy can be compelled to perform or participate in the solemnisation of same-sex marriages.15 Further, though the canon law of the Church of England now conflicts with the statutory definition of marriage, the 2013 Act explicitly preserves its validity.16 The legislation precludes the Church of England from opting into the provision of services for same-sex marriage in the same way as other churches and religious bodies, though it remains possible for its General Synod to do so by measure.17

Contemplating this state of affairs, and the apparent balance struck between the policy and legal objectives of both promoting equal marriage and safeguarding the liberty of the Church of England to determine its own doctrine, scholars have sought to evaluate and critique the law. Some, noting the apparent disunity between the Church’s canons and the secular legislation, and taking a different

13 Ibid, paras 26 and 27 and also Pemberton v Inwood [2018] EWCA Civ 564.
14 ‘House of Bishops pastoral guidance’, paras 19–21. This echoes the approach in respect of registered civil partnerships. It does not preclude an act of private prayer with such couples, though there is an expectation that this should be accompanied by pastoral discussion of the church’s teaching and their reasons for departing from it.
15 Marriage (Same Sex Couples) Act 2013, s 1(4), regarding the clergy of the Church of England and the Church in Wales, and more generally s 2.
16 Ibid, ss 13(3) and 11(6).
17 Ibid, s 4(1); Marriage Act 1949, s 26A(5).
focus from that adopted here, have explored the possible consequences of the 2013 Act for the constitutional relationship between church, state and nation expressed in establishment.\(^\text{18}\) Others have assessed the legislation as an exercise in balancing what are increasingly seen to be competing human rights.\(^\text{19}\) Among these have been scholars who have sought explicitly to challenge the existing state of the law on the ground that, by its protection of religious liberty and the religious institution of marriage, the law entrenches inequality and ‘enables organized religions to powerfully express their hostility towards homosexuality’.\(^\text{20}\)

This piece builds on the endeavours of such scholars but takes a different tack. They have largely written external analyses of the Church’s position under, and response to, the law on same-sex marriage. They make assumptions about what stands behind that response, and often – within the framework of a rights-based analysis which sets up religious liberty and other rights in opposition – they treat religion as a monolithic ‘other’. In this article, by contrast, I draw lessons from the work of sociologists such as Clifford Geertz\(^\text{21}\) to provide what is in some senses a ‘thick description’ of the Church of England and same-sex marriage.\(^\text{22}\) What follows is avowedly an internal or insider-view analysis, rather than an external one. It is explicitly an attempt to explain the religious ‘other’. It facilitates a deeper and more nuanced understanding of the reactions of, and consequences for, the Church of England in the debate about same-sex marriage. It demonstrates that popular and repeated calls, from both within and outside the Church, for it to commend or authorise liturgies to be used following same-sex marriage take the debate far beyond questions of human sexuality and relationships,\(^\text{23}\) and in fact raise much wider and arguably


<ref>Though there is considerable theological debate (and divergence) even within the Church of England, and indeed within its traditional wings, on the substantive question of human sexuality.</ref>
more fundamental questions for the Church about its own nature and ideology or political theology.

It leaves behind, then, the assumption that the actions of those who oppose religious recognition of same-sex marriage are in all instances motivated, in the first instance, by ‘religious hostility to homosexuality’.24 Indeed it necessarily discards any neat binary between religious liberty and secular concerns for non-discrimination since, as we will see, the state’s decision to respect the Church of England’s right to determine its own doctrine and liturgy currently impairs the religious liberty of those of the Church’s adherents who conscientiously disagree with its existing doctrine.

BEYOND THE 2013 ACT: THE CURRENT POSITION OF THE CHURCH OF ENGLAND

There is no legal imperative for the Church of England to engage with the question of same-sex marriage. The current legislative regime insulates the Church from the legal implications of equal marriage, and the Government, drawing a distinction between civil and religious marriage, has consistently stated its commitment to safeguarding the liberty of religious bodies to determine and uphold their doctrine of marriage in accordance with their conscience.25

Yet despite this, and despite the continued affirmation of its traditional doctrine of marriage, the Church of England has persistently, and over a considerable period of time, grappled with the issue of human sexuality in general, and same-sex marriage in particular.26 In recent years, it has published the Pilling Report27 on human sexuality and, in consequence, has embarked on a lengthy process of ‘shared conversations’.28 These led to the House of Bishops’ 2017

See, for example, the appendices contributed to the Report of the House of Bishops Working Group on Human Sexuality (GS 1929, 2014) by Keith Sinclair, Bishop of Birkenhead, and David Runcorn. See also J John, ‘Permanent, Faithful, Stable’: Christian same sex partnerships (London, 2000); and S Allberry, Is God Anti-Gay? And other questions about homosexuality, the Bible and same-sex attraction (Epsom, 2013).

25 The Church of England, however, rejects the Government’s distinction between civil and religious marriage; see Archbishops’ Submission to the ‘Government Consultation on Same Sex Marriage’ (GS Misc 1027), <https://www.churchofengland.org/sites/default/files/2017-11/GS%20Misc%201027%20government%20consultation%20on%20same%20sex%20marriage.pdf>, accessed 2 November 2016. For the power of religious bodies to opt in to provision of same-sex marriage, see Marriage (Same Sex Couples) Act 2013, ss 4 and 5; and Marriage Act 1949, s 26A and B. For the Government position, see Government Equalities Office, ‘Equal Civil Marriage: A Consultation’ (2012), para 1(i)(ii).
26 For a useful summary see ‘Civil partnerships: a pastoral statement from the House of Bishops of the Church of England’ (2005), paras 6 and 7.
report on marriage and same-sex relationships, which, echoing the pastoral guidance of 2014, committed the Church of England to continuing to affirm unequivocally the doctrine of marriage set out in Canon B 30, and to be able to expound it with confidence as the Church’s teaching. Given the distinctive relationship between doctrine and public worship in the Church of England, that also requires that what happens in our services consistently reflects that teaching.29

It affirmed the doctrine of the Church of England as being the belief that marriage consists in a permanent and lifelong union between one man and one woman, and rejected the possibility of commending or authorising services of prayer and dedication (popularly, but erroneously, referred to as services of blessing) for use following a marriage between individuals of the same sex. Such services would, it was argued, be incompatible with such doctrine, and would therefore be ultra vires the powers granted to General Synod under sections 1 and 4 of the Church of England (Worship and Doctrine) Measure 1974.30

The report also recommended, however, that the existing law and guidance should be interpreted in such a way as ‘to permit maximum freedom within it, without changes to the law, or the doctrine of the Church’.31 This recommendation was made within the context of reiterated statements that clergy should deal ‘pastorally and sensitively’ with those approaching them for prayer and support or recognition in respect of same-sex relationships.32 The Church’s commitment to this itself reflects a ‘vocation to offer pastoral care and love to all who seek it’, and a firm belief that members of the Church who ‘experience themselves as having homosexual orientation . . . are loved by God’ and that ‘all baptised, believing and faithful persons, regardless of sexual orientation, are full members of the Body of Christ’.33

In living out this theology the Church has recognised the need to accept that people have multiple identities (including sexual ones) which cannot be ignored by the Church in its pastoral care for them.34 At the same time, however, it has repeatedly distanced itself from a popular trend which apparently places sexual identity at the forefront of those multiple identities. Instead it has emphasised

30 For legal advice to this effect, see ibid, annex 1.
31 Ibid, para 22. It also recommended that the Church should work towards the publication of a new teaching document, which would both reaffirm the Church’s traditional doctrine of marriage and affirm the place of lesbian and gay people within the life of the Church (para 34).
32 See eg ‘Civil partnerships: a pastoral statement’; ‘Marriage and same sex relationships after shared conversations’, para 38; Lambeth Conference 1998 Resolution 1(i0)(d).
33 ‘Marriage and same sex relationships after shared conversations’, para 5; Lambeth Conference 1998 Resolution 1(i0)(c).
that these identities are united by our common and essential identity as being made in God’s image. Further, Christians find their ‘most fundamental identity in Christ’.

Ultimately the 2017 House of Bishops’ report failed to win the support of General Synod. The archbishops therefore immediately committed to the creation of a pastoral oversight group ‘with the task of supporting and advising Dioceses on pastoral actions with regard to our current pastoral approach to human sexuality’, and to the preparation of proposals for ‘a large scale teaching document around the subject of human sexuality’ and a General Synod debate ‘in general terms’ on human sexuality and marriage. Once again, these commitments were made against the backdrop of an unequivocal statement that people ‘are made in the image of God. All of us, without exception, are loved and called in Christ. There are no “problems”, there are simply people called to redeemed humanity in Christ.’

Advocates for change are, however, frustrated with the slow pace of change within the Church of England and the refusal to countenance the commendation or authorisation of liturgies of prayer and dedication in connection with same-sex marriage. Leading clergy, including Alan Wilson (Bishop of Buckingham), together with prominent politicians, including John Bercow (Speaker of the House of Commons) and Justine Greening (then Secretary of State for Education), have publicly called on the Church of England to allow its clergy to bless same-sex unions. There is also increasing grassroots pressure from within certain sections of the Church for change. At the time of writing there have been at least two motions concerning the provision of liturgies of prayer and dedication in connection with same-sex marriage tabled for


38 Letter of the Archbishops to the members of General Synod (see n 36 above).

39 Ibid. It must be acknowledged that in seeking to live out or respond to these aspirations individuals will often fall lamentably short of the ideal.

40 An archdeacon in the Diocese of Guildford apparently once quipped that ‘When the Lord returns, the Church of England will set up a commission to decide (a) whether the trumpet sounded (b) what note it sounded, and to report in a year’s time as to whether it took place’. See B McHenry, ‘The future of synodical government’, (1993) 3 Ecc LJ 86–102, at 88–89.


debate in the General Synod. It is clear also that, whether deliberately or unwittingly, clergy seeking to respond ‘pastorally and sensitively’ to couples entering same-sex marriages and civil partnerships are conducting services which, whatever their intention, are perceived to be services of blessing of such unions.

In this context, and despite a lack of change, those seeking to maintain the status quo have increasingly taken fright, and the bishops’ careful strategy of seeking ‘a way forward together’ has been placed under considerable strain. Even setting aside increasing evidence of a breakdown of trust between the opposing factions, the atmosphere is not conducive to a constructive and unified settlement. As one commentator has noted:

> When decisions on the future course of the Communion are driven by intense crisis rhetoric and a focus on a single issue, then it is difficult to find room for reasoned theological reflection on the God whom Anglicans seek to follow, or to nurture space for an attentiveness to the Holy Spirit’s guidance which might shape a measured response to present disagreements.

The Church of England, then, is in a bind. It apparently feels an inescapable imperative to address itself to the question of its doctrine on human sexuality in general, and its doctrine and liturgy in respect of same-sex marriage in particular. Many who claim membership of it are determined that it should reform itself. Yet it has been compelled to acknowledge that the topic ‘has proved deeply resistant to any form of compromise’ and ‘threatens to be a continuing source of division’.


46 ‘Marriage and same sex relationships after shared conversations’, paras 10 and 59.


WHY IS THE QUESTION OF SAME-SEX MARRIAGE SO PROBLEMATIC WITHIN THE CHURCH OF ENGLAND?

Despite these perplexities it seems that many ‘normal’ Anglicans, like many ‘normal’ non-Anglicans, firmly believe in equal marriage. Why, then, has the Church as an institution not simply embraced equal marriage? To understand the answer to this question, or rather to the question of why same-sex marriage is so problematic for the Church of England, it is necessary to examine its internal dynamics, history and political theology.

The nature of the institution and its dynamics

The Church of England has been described as both ‘a notoriously enigmatic institution’ and a ‘strange sort of animal’. Yet an understanding of its history, and the role of that history in forming its identity, can take us a long way towards understanding its character. As one author recently put it, ‘The past is how the church is shaped – and understanding the past is inherently a part of present identity . . . Its rootedness in the past is part of its fabric and value.’

One of the dominant features of the Church’s history is its post-Reformation identity and mission as a national church. A number of consequences flow from this, one of which is an emphasis upon geography or territory rather than theology. Thus the churchmen and churchwomen of the Church of England have been described as ‘essentially territorial animals’ who ‘tend to construct their catholicity more through geography than ideology’. On one level, its primary identity is found in being the church which, through its system of parishes and associated churches, is the church in respect of which all people living in England, irrespective of faith or creed, have legal rights with regards to its rites and worship. Its identity as a national church, however, goes beyond its role as purveyor of occasional or more regular religious rites and ceremonies to the citizens of England. It carries with it a commitment to, and responsibility for, the spiritual welfare of those citizens – the idea that it should ‘undertake to...

53 For modern comment on the importance of the parochial system to the national mission of the Church, see eg Synodical Government in the Church of England: a review (London, 1997), para 3.2.
assist the spiritual progress of the nation and of the individuals of which it is composed, in their various states and stages’.\textsuperscript{55} Or, as one prominent contemporary commentator has expressed it:

The idea of a national Church is of a church that is concerned with a \textit{nationwide mission of the gospel and nationwide service to the community}. A national Church accepts that its mission is to the whole nation, to the whole population considered as a great community (or a community of communities). It is committed to providing its ministry of word, sacrament and pastoral care to every section of the population.\textsuperscript{56}

This ‘vocation to be the spiritual home for all the people of England’,\textsuperscript{57} and the concomitant focus on nationality or geography as defining the community of the Church, leads to an ideological, if not actual, breadth of membership not encountered in other churches. Indeed, as originally conceived and legally established the Church of England possessed no concept of membership. Before the constitutional reforms of the long nineteenth century, citizenship and Church membership were co-extensive and England was, in constitutional theory if not in practice, a confessional state.\textsuperscript{58} To be a citizen of England was to be a member of the Church of England, and to possess certain legal rights and obligations in respect of it.

While the constitutional reforms of the nineteenth century dismantled the last vestiges of the confessional state, the development of synodical government within the Church of England introduced into law, in some respects at least, the apparatus and ideas of a membership body. Yet, despite this, and despite recent initiatives as part of the ‘Fresh Expressions’ movement,\textsuperscript{59} the Church of England has escaped a wholesale transformation into a membership organisation, and so to talk of membership of the Church remains problematic.\textsuperscript{60} Rather, one might


\textsuperscript{57} ‘Marriage and same sex relationships after shared conversations’, para 8.

\textsuperscript{58} Religious Dissenters or Nonconformists, falling into the category of schismatics, were denounced and rendered \textit{ipso facto} excommunicate by Canons 9 and 12 of 1603. Excluded from the membership or community of the Church under canon law, Dissenters were, prior to the reforms of the nineteenth century, further excluded from the political life of the nation by the action of statutes such as the Test Acts of 1673 and 1678, and the Corporation Act of 1661, though successive Indemnity Acts passed after 1727 mitigated the effects of these statutes.


\textsuperscript{60} As late as 1953 Vaisey J held that ‘So far as concerns a “member of the Church of England,” I cannot think that those words by themselves are really capable of any definite, certain significance.’ See \textit{Re Allen (No 1)} [1953] Ch 116 at 119. Note also that the mandate of the Ecclesiastical Committee of Parliament is, under the Church of England (Assembly) Powers Act 1919, s 3(3), to state ‘the
more accurately describe the Church of England as attempting to mediate between the national/territorial and membership/denominational models of church by operating a sliding scale of affinity. This turns no layperson away from the pale of the Church, but it defines the extent of their rights in various situations according to their level of conformity to, or affinity with, it. So, anyone resident in a parish legally has the right to be baptised and married at the parish church and buried in its churchyard or burial ground (if one exists), but only those who are confirmed in the Church of England or a church in communion with it, or ready and desirous of being so confirmed, can by law take Holy Communion. Similarly, while all parish residents have legal rights in respect of the services of the parish church, only those residents or habitual worshippers who are baptised and declare themselves to be members of the Church of England or a church in communion with it can be entered on the church electoral roll and are thereby qualified to attend and vote at the annual parochial church meeting. Only those who are ‘actual communicants’ are eligible to be elected to the parochial church council or deanery synod.

This sense of a geographically defined church community which is further delineated by the operation of a sliding scale of affinity in respect of various functions and rights greatly complicates the task of those seeking to determine a path for the Church, whether on the question of same-sex marriage or on any other. As a consequence of this fluid notion of membership, it is necessarily difficult to determine the constituency or community for whom its leaders and institutions are speaking. Do they, for example, speak for and represent the non-church-goer who has a nebulous sense of the parish church being in some sense theirs, and who continues to expect the Church of England to uphold certain standards in the life of the nation; the archetypal ‘hatch, match and dispatch’ Anglican; the regular worshipper; or the highly invested and proactive layperson who serves in many ways, and whose efforts underpin the continued survival of an increasingly socially marginalised church?

nature and legal effect of the measure and its views as to the expediency thereof, especially with relation to the constitutional rights of all Her Majesty’s subjects’ (emphasis added).

61 Canon B 15A (subject to the application of the provisions of the Admission of Baptized Children to Holy Communion Regulations 2006). On the worship and liturgy of the Church of England see M Hill, Ecclesiastical Law, fourth edition (Oxford, 2018), ch 5.

62 Church Representation Rules, 1(2)a–c and 6(2). Note that this is a system of self-declaration and is not policed. On this point see Hill, Ecclesiastical Law, paras 3.03–3.05.

63 Church Representation Rules, 10(1)(b). Rule 54(i) defines an actual communicant as being a person who has received Holy Communion ‘according to the use’ of the Church of England or a church in communion with it at least three times in the twelve months preceding election.


65 As reflected in reports under the Renewal and Reform initiative, including ‘“Setting God’s people free”: a report from the Archbishops’ Council’ (GS 2056).
answer, in a national church, is that they must speak to—and for—all of these
groups. There is not, however, at any particular time, or in any given context, a
consensus on how the Church’s governance structures should balance or
mediate between competing voices and interests. Nor is there an easy correl-
ation between the degree of an individual’s or group’s conformity to the Church
and their attitude to what its position should be on any particular social or moral
question.

The Church of England’s problems are not, however, limited to the necessity
of holding in balance, and navigating, the not always compatible interests of an
amorphous membership. As a national church, the Church’s self-proclaimed, or
providentially ordained, national mission or cure of souls has had, and con-
tinues to have, profound implications for its theological character. The most
important of these is a self-conscious breadth in terms of both the traditions
and the doctrines which it encompasses. Reborn in its current incarnation out
of the white heat of the theological controversies of the Reformation, the
Church of England in its formularies quite deliberately seeks to hold together
a range of doctrinal approaches and shades of opinion in a via media between
the Protestant and Catholic traditions—and between different positions
which have evolved since. As a recent handbook explained:

As a church which, since the sixteenth century, has understood itself to be
both Catholic and Reformed, it has sought to be a church for all the people
of England, even across deep religious differences. Further distinctive
theological positions have emerged since the Enlightenment so that
Anglicanism now draws together a number of distinctive parties and prob-
ably many more points of difference.

66 Though a repeating motif in debates about synodical government and the continuing role of
Parliament in Church government has long been the idea that General Synod is not representative
of the Church as a whole, but rather of a particular active minority. See eg Trott, ‘Function of the
Ecclesiastical Committee of Parliament’, p 15; R Morris (ed), Church and State in 21st Century
Britain: The Future of Church Establishment (Basingstoke, 2009), p 180; Division debate on the
Worship and Doctrine Measure 1974: HC Deb 4 December 1974, vol 882, cols 1567–1698; Debate
1001–1080.

67 One response to this is that the Church should be led by the teaching of Scripture, but this rarely
leads to simple outcomes—particularly when, as shall be seen below, approaches to the reading
of such Scripture are diverse and often divergent. Further, imperatives of mission and comprehen-
sion may not always sit easily with the need to motivate and empower the active laity upon whose
energy and willingness to act the Church is increasingly reliant. On this point in a historical
context, see generally M Roberts, ‘The role of the laity in the Church of England c1850–1885’, unpub-

68 Anglican political theology ascribes it to God’s benevolent agency. For a good beginners’ guide, see A

To maintain such breadth, and to serve the nation as a whole, the Church of England’s deliberate decision and institutional instinct has long been ‘to tolerate within it as wide a divergence of opinion on points of doctrine, as is compatible with the maintenance of the fundamental truths of Christianity’. For, as one nineteenth-century parliamentarian explained, if

the object of the National Church be to promote the spiritual good of the largest possible number of the community, then it should be our study to remove, so far as a regard for divine truth will allow, whatever bars the admission of large numbers of people to her fold.

There has been, and continues to be, a persistent focus on the essentials of faith – ‘common faith in the gospel of Jesus Christ’ – and a concomitant commitment to the ideal of unity as the best means of serving God’s mission to and in the nation of England.

Some churchmen and churchwomen revel in the breadth and theological heterogeneity of the Church of England, which, as a result of its history and attitudes, has been accused of being ‘not one church but practically two or three churches’. They are instinctively and ideologically opposed to the hardening of doctrinal boundaries, and argue that the ‘genius of the Church of England has been to accept and accommodate all of us on our faith journey’. Others, however, are deeply troubled by, or indeed reject, the implication that the Church of England is ‘not a confessional Church on the pattern of the Reformed Churches on the Continent’. Instead, like Lord Halsbury before them, they feel the compelling force of the argument that ‘the identity of a religious community described as a Church must consist in the unity of its doctrines’.

One way out of current difficulties over same-sex marriage would be for the Church to fragment, but instead its leaders and institutions have sought to find a

70 Knatchbull Hugessen at HC Deb 15 July 1874, vol 221, col 66.
71 Rickards in Report of Church Congress (London, 1883), p 76.
72 ‘Marriage and same sex relationships after shared conversations’, para 61.
73 Saturday Review, 30 (1870), pp 392–393.
76 Lord Halsbury in General Assembly of the Free Church of Scotland v Overtoun [1904] AC 515 at 612.
way forward which both recognises and acknowledges profound disagreements and seeks to maintain unity in spite them. In the words of the 2017 House of Bishops’ report:

We want to continue to ‘walk together’, to use the phrase from the Primates’ Meeting a year ago, in a way that is based on a common commitment to biblical truths but recognises our continuing disagreement with one another. We want to maintain and indeed deepen the communion we currently have with one another across our serious disagreements on this issue …

A definitive resolution of the pressing questions about human sexuality would, in the current state of the Church, risk an institutional fragmentation which would be catastrophic to the unity and comprehensiveness which underpins and supports the Church of England’s identity and mission as a national church. Lambasted by some for displaying a lamentable lack of decisiveness, leading Anglicans have recognised that ‘no one can make the Church of England just what he would like to see it without bringing the existing fabric down about his ears’.

In 2017 the authors of the House of Bishops’ report reminded their readers:

We are called to live the gospel and share it with those whose lives we find attractive and those whom we find hard to love; with those who hear willingly and those who reject us – because God alone understands the impact the gospel will have.

They were writing about mission, but their words must surely ring in the ears of many within the Church of England, for those words speak to an uncomfortable, but inevitable, truth about the unity which underpins the Church of England’s existence as a broad and theologically diverse national church. That unity is, in its very essence, contested. Situated in a fallen world, and composed of contrasting theological and ecclesiological traditions and temperaments, the Church’s unity is neither comfortable nor cosy. Rather, it is often painful and has always to acknowledge discord.

77 ‘Marriage and same sex relationships after shared conversations’, para 59. This echoes the approach taken to those within the Church who continue, for a variety of theological reasons, to reject female headship.

78 [78] Ibid, para 10.

79 Saturday Review (n 74 above).

80 ‘Marriage and same sex relationships after shared conversations’, para 9.

81 For a thoughtful consideration of the outworking of this in synodical government, see M Chapman, ‘Does the Church of England have a theology of General Synod?’, (2013) 11:1 Journal of Anglican Studies 15–31.
In history, and indeed today, the motivation for maintaining unity has been the identity and mission of the Church of England as a national church – a church which aspires to be the ‘spiritual home for all the people of England’, whatever the stage of their faith journey and whatever their church tradition.\footnote{\textquoteleft Marriage and same sex relationships after shared conversations	extquoteright, para 8.}

There must, though, now be some cause for anxiety about the security to be found in that ideology as a basis for continuing within the Church of England. While the ideology of a national church serving the nation as a whole remains a visible force in the Church, the ‘strapline’ for which is ‘A Christian presence in every community’,\footnote{\url{https://www.churchofengland.org/}, accessed 2 November 2018. See also eg Synodical Government in the Church of England, para 3.2.} it is unclear that there is a continuing, necessary and meaningful engagement with the constitutional and political theological phenomenon of establishment which underpins it. Instead what is often most apparent is a mere commitment to physical presence and visibility. Establishment, as describing the relationship between Church and State in England, consists of three elements: the state of the law, the theory used to justify the law and the web of sentiments and interests surrounding the law.\footnote{For a full discussion of this, see P Bell, \textit{Disestablishment in Ireland and Wales} (London, 1969), ch 1.}

Today it seems that, despite the Church’s desire to be ‘a Christian presence in every community’, there is arguably neither widespread appreciation of the theory underpinning the Church’s constitutional position nor a meaningful attention to the web of sentiments and interests which have historically supported it.\footnote{Though Paul Avis has notably done much to try to change this. See eg P Avis, \textit{The Vocation of Anglicanism} (London, 2016); P Avis, \textit{The Anglican Understanding of the Church: An Introduction}, second edition (London, 2013). Note that, as Davie and others have pointed out, ‘vicarious religion’ offers little long-term security for the status quo.}

The truth of this is most visible in the language used in recent reports and commentaries regarding the relationship between the Church of England and the people of England – language which has demonstrated a shift in emphasis or focus from comprehension to mission. Thus, the top-selling publication of the Church of England is \textit{Mission-Shaped Church} and as long ago as 1997 a review of synodical government spoke of a ‘growing awareness of the primacy of mission in the life of the contemporary Church’.\footnote{\textit{Synodical Government in the Church of England}, para 1.7.} More recently, the handbook for ‘Shared Conversations’ articulated the assumption that it was ‘right’ that these should be conducted within the context of the Church’s ‘mission’ – seeking to understand how the Church of England can ‘most effectively be a missionary church in a changing culture around sexuality’.\footnote{\textit{Archbishops’ Council, ‘Grace and disagreement’}, p 34.} In recent years

\begin{itemize}
\item \textit{Mission-shaped Church: church planting and fresh expressions of church in a changing context} (London, 2004).
\item \textit{Synodical Government in the Church of England}, para 1.7.
\item Archbishops’ Council, ‘Grace and disagreement’, p 34.
\item ‘Shared conversations on sexuality, Scripture and mission’ (GS Misc 1083), para 3.
\end{itemize}
there has, in fact, been an overwhelming emphasis upon mission\textsuperscript{90} – something which is by its very nature done by the Church to those whom it considers to be outside its pale – and far less overt attention has been given to pastoral care – which is the language most often used by the Church to describe the care which it offers to those within its community.\textsuperscript{91}

On many levels this is plainly appropriate for the Church in its contemporary context, since the vast majority of citizens of England would not identify as members of the Church of England and the most fundamental duty and imperative of any church is to bring the gospel to non-believers.\textsuperscript{92} Nor, indeed, does it change the identity of the Church, which has historically drawn a distinction between its temporal identity as a national church (comprehending all who do not take steps to set themselves outside of its community) and its spiritual identity as a part of the Universal Church of Christ (a body of believers).\textsuperscript{93} Yet the dominance of the language of mission, together with the often intrinsically individualistic initiatives which follow, is arguably indicative of a disconnect, at the highest levels of Church government, from old ideas of church. It signals a loss of faith in the national ideal, and in the idea of a Church of England whose territorial/parochial ‘approach to ministry . . . casts its mission in the mould of pastoral care, is not troubled by fuzzy edges, and seeks the integration of the committed Christian community with the wider local community through service’.\textsuperscript{94}

This not only tends to exacerbate the sense of otherness or alienation between the Church and the nation it serves, but also undermines the rationale which has historically underpinned a commitment to uncomfortable compromise and unity. Further, for many of those who are most challenged by the question of same-sex marriage, the reason to remain together in an often painful union is increasingly unclear. In an ever more atomised Church of England there is, without a working understanding and meaningful commitment to the ideology and political theology of a national church, only a weakened sense of common

\textsuperscript{90} The 1988 Lambeth Conference declared that the 1990s should be a decade of evangelism and this emphasis on mission has persisted into the new millennium. See eg the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, s 35, which (reproducing the duty originally found in Care of Churches and Ecclesiastical Jurisdiction Measure 1991, s 1) creates a statutory duty to have regard to the parish church as a local centre for worship and mission.

\textsuperscript{91} This distinction is not absolute – nor should the point be overstated. ‘Marriage and same sex relationships after shared conversations’, paras 58 and 62, explicitly adverts to the need to have reference to pastoral theology (among other things) alongside missiology. Yet, particularly in the context of human sexuality, the language used is overwhelmingly that of mission. See especially GS 2029.

\textsuperscript{92} See Mark 16:15; Matthew 28:19–20; Acts 1:7–8.

\textsuperscript{93} On this see most famously R Hooker, Of Laws of Ecclesiastical Polity (first published 1594), and S T Coleridge, On the Constitution of Church and State According to the Idea of Each (first published 1830). Note, however, that the distinction is not universally made – see most famously W Warburton, The Alliance between Church and State (first published 1736) and T Arnold, Principles of Church Reform (first published 1833).

\textsuperscript{94} Avis, Anglican Understanding of the Church, 44.
enterprise or ‘partnership in the gospel’, and only a diluted sense of the true ideological extent of the community and mission of the Church of England.

This strikes at the heart of the continuing commitment to unity right at the grassroots of the Church. So, for example, at a meeting of representatives of evangelical churches held at St Ebbes in Oxford in January 2018, a layman from a thriving evangelical congregation opposed to liturgical provision in connection with same-sex marriage asked the Bishop of Maidstone why his congregation should stay within a Church of England that he understood to be contemplating a departure from biblical truth. There was in the question, though not in the bishop’s response – which emphasised each congregation’s responsibility to others within the wider Church – little sense of allegiance to, or understanding of, the wider Church of England, the Anglican tradition and the distinctive form of its mission. The layman’s question highlighted, too, not only the significance of the issues at stake but also the growing acceptance – at least within certain sections of the Church – that there exist viable (and perhaps preferable) alternatives to remaining within the Church of England.

To take the first of these points, the question of liturgical provision in connection with same-sex marriage, as distinct from that of female ordination and headship, raises (in the eyes of those who oppose it) a fundamental question of doctrine. While the question of the ordination and consecration of women was widely treated as a question of church ordering or ecclesiology, about which Christians could legitimately agree to disagree, the Church’s response to same-sex marriage concerns the Church’s fidelity to the gospel and its claims to be an apostolic church. This is not something about which conscientious churchmen and churchwomen can agree to disagree. For those opposed to religious provision in respect of same-sex marriage, it challenges the continuing reality of a shared ‘common faith in the gospel of Jesus Christ’.

Turning to the second point, this debate about what is perceived as being a fundamental question of doctrine is taking place at a time when those who most keenly perceive the threat of doctrinal heterodoxy have available to them

95 Philippians 1:4–5.
96 This is a criticism long levelled at evangelicals within the Church of England, and more recently articulated in relation to some of the ‘fresh expressions of church’ which have flowed from Mission-shaped Church. See generally A Davison and A Milbank, For the Parish: a critique of fresh expressions (London, 2010).
97 See eg the treatment of the question by the Ecclesiastical Committee of Parliament: Ecclesiastical Committee 192nd report: Report by the Ecclesiastical Committee upon the Deacons (Ordination of Women) Measure (HC 446, 1985); Ecclesiastical Committee 203rd Report: Report by the Ecclesiastical Committee upon the Priests (Ordination of Women) Measure 1992 (HC 894, 1992); Ecclesiastical Committee 233rd Report: Report by the Ecclesiastical Committee on the Bishops and Priests (Consecration and Ordination of Women) Measure (HC 622, 2014).
98 The technical term for this is adiaphora.
100 ‘Marriage and same sex relationships after shared conversations’, para 61.
viable structures for oversight and mission. On the evangelical side there are increasing possibilities for alternative oversight, albeit outside the Church of England, as a result of the activities of the Anglican Mission in England\textsuperscript{101} and the consecration of bishops providing alternative episcopal oversight under the aegis of GAFCON.\textsuperscript{102} For Anglo-Catholics, since January 2011 there has been the option to join the Personal Ordinariate established by the Pope.\textsuperscript{103} Without a significant and continuing commitment to the ideology of a national church and mission, and where the matter is perceived to be one of fidelity to the gospel, the threat (and indeed the attraction) of schism is real.

**Authority in doctrine and liturgy: legal and theological frameworks**

What we see above is an institution which is impelled by the imperatives of pastoral need, mission and the force of its history, both to ‘find a way forward together’ and to find a right and faithful response to the desire of some who enter into same-sex marriages to mark that occasion with some form of religious ceremony. It is an institution which, though on one level characterised by a profound and all-encompassing commitment to unity, to comprehension and to its historical continuity, is in reality typified by profound ambiguity, uncertainty and discord concerning its identity, its purpose, its relationship to the society within which it is situated, and the balance to be struck between its history and its modern existence. The current controversy over same-sex marriage merely serves to highlight this.

If the pre-eminent concern of the last section was to illustrate why the Church of England finds it so difficult to address the question of same-sex marriage, then this section is concerned with analysing the legal, constitutional and theological frameworks through which any response must necessarily be made. It moves us from a consideration of why the Church finds it so painful to determine a course of action, to a consideration of the complexities and pitfalls of carrying any course of action to fruition.

The 2017 House of Bishops’ report rejected calls, repeated since in a number of synod motions, for the provision of an authorised or a commended liturgy of prayer and dedication of same-sex marriage.\textsuperscript{104} Such calls reflect the fact that the clergy of the Church of England are constrained legally in their performance of


\textsuperscript{102} Andy Lines was consecrated by a bishop of the Anglican Church in North America, a church outside the Anglican Communion, as GAFCON’s Missionary Bishop to Europe on 30 June 2017. On this and subsequent ordinations, see D Pocklington, ‘AMiE ordinations’, Law & Religion UK, 7 December 2017, <https://www.lawandreligionuk.com/2017/12/07/amie-ordinations/>., accessed 23 January 2019.

\textsuperscript{103} The equivalent of a diocese to accommodate former Anglicans wishing to come into full communion with the Church of Rome. See C Hill, ‘What is the Personal Ordinariate? Canonical and liturgical observations’, (2010) 12 Ecc LJ 202–208.

\textsuperscript{104} ‘Marriage and same sex relationships after shared conversations’, para 43.
divine worship, even after the Church of England (Worship and Doctrine) Measure 1974 granted to the Church substantial autonomy in matters of liturgy and doctrine. Under Canon B 12 the clergy undertake not to use forms of service other than those contained in the Book of Common Prayer, or those which have been authorised by General Synod under section 1 of the 1974 Measure. They have a limited discretion, under Canon B 5, to use alternative forms of service where no authorised service is available, but such services must not depart, ‘in any essential matter’, from the doctrine of the Church of England.105

While the discretion under Canon B 5 to use alternative forms of service might prima facie be invoked, since there is no authorised liturgy in connection with same-sex marriage, the almost inescapable likelihood of conflict between the content of such a liturgy and the doctrine of the Church encapsulated in Canon B 30 renders its use legally impermissible.106 Further, under section 4 of the 1974 Measure, the General Synod is only empowered to authorise forms of service which are consistent with the doctrine of the Church of England, meaning that, if it did determine to provide for an authorised liturgy, then it must first amend Canon B 30. If, instead, it adopted the option of commending a form of service then this would leave clergy open to prosecution for use of a liturgy contrary to the doctrines of the Church of England, since the fact that a liturgy has been commended is not conclusive proof that a cleric has complied with their duty, under Canon B 5, to use only services which are consistent with the doctrine of the Church of England.107

The legal safeguards against unfettered liturgical innovation reflect an intimate connection between doctrine, liturgy and ceremony. It is arguably impossible to provide for a liturgy of prayer and dedication in respect of same-sex marriage without that being seen as reflecting, or normalising, a change to the Church’s doctrine of marriage.108 In the words of the 2017 House of Bishops’ report, ‘the distinctive relationship between doctrine and public worship in the Church of England . . . requires that what happens in our services consistently reflects . . .

105 Clergy must affirm their commitment to this at ordination/consecration and again when they are licensed in any particular post. See Canon C 15.
106 For a summary of the law, see ‘Marriage and same sex relationships after shared conversations’, annex 1.
107 See Hill, Ecclesiastical Law, paras 5.01–5.08; also ‘Marriage and same sex relationships after shared conversations’, paras 40–42.
108 It is sometimes argued that the bishops could, without being seen to confound existing doctrine, commend a service of prayer and dedication as they did in respect of civil marriage after divorce. However, in the course of that service the couple are required to reaffirm their commitment to the Church’s teaching on marriage. It is difficult to see how any service in connection with same-sex marriage could at present do the same. See A Goddard, ‘Liturgies for same-sex couples? Thoughts on a new Private Member’s Motion for General Synod’, 21 March 2018, <https://www.fulcrum-anglican.org.uk/articles/liturgies-for-same-sex-couples-thoughts-on-a-new-private-members-motion-for-general-synod/>., accessed 2 November 2018.
[our] teaching’. 109 In a broad church, which historically at least has identified itself as a national church, and which has as a result sought to avoid the hardening of its doctrinal boundaries, this link between doctrine and liturgy can no longer justify absolute uniformity of liturgy or the complete removal of discretion. Instead the House of Bishops has sought to ‘maintain an unambiguous position on doctrine . . . while enabling a generous freedom for pastoral practice that does not directly and publicly undermine it’. 110

At the same time, however, in such a church there is also a special sensitivity attaching to its liturgies, as providing a physical location for the expression of unity and fellowship in the gospel within an often divided institution. In the words of one celebrated Victorian churchman there is a sense that the ‘strength of the Church depends not only upon her members sharing the same faith, but on their being able heartily to unite in the celebration of Divine Worship in any of her consecrated buildings’. 111 This carries with it the assumption that such services should be doctrinally acceptable to churchmen and churchwomen of all shades. Unsurprisingly, then, the path to doctrinal and liturgical change (even if it is accepted to be desirable) is neither a constitutionally nor a politically easy one. 112 As one commentator has remarked, the

 task of revising the forms of public worship is slow and difficult because, in some measure at least, it is the task of resolving theological differences within the Church and of determining the limits of toleration for such different views as a single Church can permit without losing all force and direction. 113

The Anglican model of authority in doctrine might in fact have been designed with the express aim of rendering decisive doctrinal and liturgical change arduous in the extreme. Indeed it is often difficult, though not impossible, to determine precisely what the doctrine of the Church of England is on any particular issue since, as seen above, there is a long tradition of both a focus on essentials and respect for a spectrum of opinion. 114 This position is underpinned by a deliberately diffuse concept of authority, which founds the doctrine of the

109 ‘Marriage and same sex relationships after shared conversations’, para 65.
110 Ibid.
111 J Hubbard’s letter to the editor, Buckingham Express, 16 August 1871. It is this concept which underpins the Church of England’s long legal commitment to uniformity of worship, which was only finally decisively abandoned after the passage into law of the Church of England (Worship and Doctrine) Measure 1974.
112 On this point see eg Sagovsky, ‘Hooker, Warburton, Coleridge and the “quadruple lock”’.
114 For recent articulations of this, see eg ‘Marriage and same sex relationships after shared conversations’, para 65; Avis, Anglican Understanding of the Church, p 95.
Church upon Scripture, tradition and reason. This is articulated in Canon A 5, which states:

The doctrine of the Church of England is grounded in the Holy Scriptures, and in such teachings of the ancient Fathers and Councils of the Church as are agreeable to the said Scriptures.

In particular such doctrine is to be found in the Thirty-nine Articles of Religion, *The Book of Common Prayer*, and the Ordinal.

It is further elucidated in the preface to the declaration of assent made by clergy at ordination, consecration, licensing and enthronement. This states:

The Church of England ... professes the faith uniquely revealed in the Holy Scriptures and set forth in the catholic creeds, which faith the Church is called upon to proclaim afresh in each generation. Led by the Holy Spirit, it has borne witness to Christian truth in its historic formularies, the Thirty-nine Articles of Religion, *The Book of Common Prayer* and the Ordering of Bishops, Priests and Deacons. In the declaration you are about to make will you affirm your loyalty to this inheritance of faith as your inspiration and guidance under God in bringing the grace and truth of Christ to this generation and making him known to those in your care?\(^\text{115}\)

In a self-consciously broad and comprehensive Church of England, negotiating the interaction between these three sources of authority is necessarily a complex and contested task. In simple terms, there is no consensus within the Church regarding how the Bible should, or should not, be read. Nor is there agreement upon the precise weight to be accorded to tradition and reason. There is a broad recognition that the Church’s understanding of right doctrine is not fixed, and that the duty to ‘proclaim [the gospel] afresh in each generation’ carries with it the idea that changing social and cultural contexts necessitate changes in the language or expression of doctrine which is itself immutable.\(^\text{116}\) Yet even this poses a conundrum as the Church seeks, in a changing world, to balance fidelity to the gospel at the heart of its inherited faith and calling with its ‘pastoral and a missional duty to articulate its doctrine ... in the light of changing circumstances and in the light of fresh insights about truth, goodness and justice’.\(^\text{117}\)


\(^{117}\) ‘Marriage and same sex relationships after shared conversations’, para 62.
Precisely what this means is inescapably contested. Moreover, as it seeks to negotiate the relationship between Scripture, tradition and reason, and as it strikes a balance between stasis and change, the Church lacks a ‘strong central magisterium’ which could make definitive determinations. Instead, its constitution provides for government through a complex amalgam of episcopal oversight, synodical government and the lingering role of Parliament. To this might be added the complexity and diversity engendered by a system of church government which, despite recent centralising initiatives, maintains a strong tradition of autonomy and subsidiarity at the diocesan and parochial levels.

The legal mechanics of this constitutional arrangement, though they give the leading role in matters of doctrine and liturgy to the House of Bishops, deliberately reflect the principle that ‘all Christians [the laity as well as the clergy] are equally members of the body of Christ, and entitled to be represented in its government’. So, though provisions concerning the doctrine and liturgy of the Church must be referred to the House of Bishops and can only be presented to General Synod in the form approved by that house, both the House of Laity of General Synod and the Convocations of York and Canterbury (together or separately) may request that such provision is referred to each convocation sitting separately. Each house of each convocation and the House of Laity must then approve the provision before it can be presented to General Synod. Once they are so presented, then canons and measures which change the doctrine and liturgy of the Church of England can only be carried upon a division of the houses of General Synod – clergy, laity and bishops – and only then if a motion for final approval is carried by a majority of two-thirds of those present and voting in each house.

Not only, then, are the sources of doctrinal authority diffuse and their precise interaction open to debate, but the mechanisms for re-articulating doctrine and

118 Avis, Anglican Understanding of the Church, p 43.
120 See eg Synodical Government in the Church of England, ch 1.
121 Ibid, para 1.3.
123 Church of England (Worship and Doctrine) Measure 1974, s 3.
reforming liturgy are self-evidently arduous, and in a divided Church almost impossible to negotiate. Further, despite their constitutional pre-eminence in questions of doctrine, the bishops are not able to dictate how and when those mechanisms are navigated, nor the pace and direction of change. The unpredictable intervention of diocesan synod and private members’ motions ensures this.\textsuperscript{124} While it is legally and constitutionally true that the House of Bishops has primacy in matters of doctrine and liturgy, such motions create movement and an impetus for reform in ways which may cut across or contradict the preferred strategy of the House of Bishops.

The wider context: the worldwide Anglican Communion

So far, so complicated, and yet what has been explored above is, in fact, at best half of the answer to the question of why the Church of England finds responding to the questions posed by same-sex marriage so challenging. The other half of the answer to that question is found in the place of the Church of England within the worldwide Anglican Communion. That Communion reflects the full scope of Great Britain’s past imperial endeavours, and the intensely messy, heterogeneous and piecemeal nature of British empire-building.\textsuperscript{125} It reflects too, in all the variety of ways in which the Churches articulate and define their relationship to the Church of England, the fragmentation of that empire and the renegotiation and reformulation of old relationships over the course of the twentieth and twenty-first centuries. The internal dynamics and politics of what has always, in consequence, represented ‘a constellation of diverse theological and ecclesial positions, held together by complex interweaving bonds of language, empire, culture, history, and other shared allegiances’ are complicated not only by theological and ecclesiological diversity but also by economic and social heterogeneity, and by differences in the pace and direction of social and political change across the Communion.\textsuperscript{126}

Just as in the Church of England, the great diversity of the worldwide Anglican Communion has historically been combined with an enduring and pervasive commitment to unity – expressed most famously, in the aftermath of the First World War, as ‘fellowship’.\textsuperscript{127} and again in 2004 as ‘mutual relationships … expressed by community, equality, common life, sharing,


interdependence, and mutual affection and respect’. Like the Church of England, the Communion lacks a strong centralised magisterium. Rather, while explicitly recognising the autonomy of its individual Churches, it insists on ‘loyalty to the fellowship’, and the ‘restraints of truth and love’ which this imposes. As the authors of the Windsor Report explained it: ‘The key idea is autonomy-in-communion, that is, freedom held within interdependence. The autonomy of each Anglican province therefore implies that the church lives in relation to, and exercises its autonomy most fully in the context of, the global Communion.’ So each Church within the Communion is obliged to promote the common good of the Communion, and to maintain relationships and thereby avoid endangering the Communion. Each Church is able to follow its conscience and depart from the standards of the community, but only where such a ‘departure is neither critical to the maintenance of communion nor likely to harm the common good of the Anglican Communion and of the Church universal’.

Plainly the ‘Instruments of Unity’ of the worldwide Anglican Communion are, at the very least, under considerable strain. A number of Churches within the Communion have sanctioned the use of public liturgy in respect of same-sex marriage, despite the warning that, in a Communion in which a majority of Churches follow the traditional doctrine of marriage, and in which there is no resolution to the difficult questions surrounding human sexuality, this would endanger the Communion and breach the principle of interdependence. It is clear, however, that the Church of England’s House of Bishops has, thus far at least, set its face against any unilateral move in respect of same-sex marriage. It has instead reiterated a firm commitment to the self-denying principles which underpin the Communion, and it has explicitly recognised the unique position of the Church of England within that Communion. The Church of England, as the mother church, is even less free than other Churches to kick over the traces, since membership of the worldwide Anglican Communion is defined by being in communion with the See of Canterbury. Seemingly, then, ‘finding a way forward together’ means finding a way forward together which holds together (and indeed restores) the worldwide Anglican Communion.

130 Windsor Report, para 76.
131 Ibid, para 82.
132 These instruments are the means by which the Communion fosters bonds and communication between its Churches: the Archbishop of Canterbury, the Lambeth Conference, the Anglican Consultative Council and the Primates’ Meeting.
133 Windsor Report, para 143.
135 Hill, Ecclesiastical Law, paras 2.01–2.02.
CONCLUSION

This article makes a distinctive contribution to the socio-legal analysis of responses to same-sex marriage by advancing the debate beyond a human rights perspective, which often treats religion as a monolithic and troubling ‘other’ and makes assumptions about why religious institutions react the way they do. Instead it has interrogated the internal agonies of one church, the Church of England, as it has striven to negotiate an institutional response to the secular legalisation of same-sex marriage in a manner which holds in balance a wide array of doctrinal positions and the demands of mission, pastoral care and the continued apostolic identity of the Church.

The Church of England was chosen for a number of reasons, not the least of which were its familiarity to the author, the public visibility of its internal struggles and the sheer extent of its physical plant in the form of its numerous churches and cathedrals. The resulting analysis has revealed a church which, while it is compelled to witness and mission to the nation in which it is situated, is caught between stasis and change, and between tradition and innovation, in the ways in which it sees itself and its task. Intentionally broad in theology and tradition, socially and geographically diverse, and governed by a heterogeneous combination of the episcopal and the synodical, the local and the central, it is ill-suited and temperamentally disinclined to make an absolutist determination of what the Church’s response should be. And yet this sits uncomfortably in a society, and indeed in a church, in which significant sections of the community crave the absolute.

Ultimately, what is at stake for the Church of England far transcends the question of a right response to calls for a liturgy in connection with same-sex marriage. It concerns the future shape and identity of the Church of England and the worldwide Anglican Communion. It concerns the balance struck between increasingly vociferous demands for doctrinal clarity, on the one hand, and the comprehension, breadth, forbearance and restraint which have historically characterised Anglican doctrine and identity, on the other. Above all, the issue of same-sex marriage calls into question the fundamental nature of the mission of the Church of England as part of God’s Church, and what fidelity to the gospel, a right relationship to church tradition and a right relationship to contemporary culture (and to ‘changing approaches to human knowledge and reason’) look like in that context.

For those within the Church of England who most passionately advocate the provision of public liturgy in connection with same-sex marriage, it raises the real and pressing question of whether the Church, as it stands, authentically

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136 Brittain, ‘Confession obsession?’, p 788.
137 ‘Marriage and same sex relationships after shared conversations’, paras 1 and 57.
reflects and meets the demands of contextually appropriate mission. For those individual churchmen and churchwomen most opposed to religious recognition of same-sex marriage on doctrinal grounds, the painful and essential question is when or for how long, like Paul remonstrating with Peter (in Galatians 2:11–21), they stay within the communion of the Church of England and contend for its traditional doctrine, and when they are justified in committing the sin of schism which, as Canon A 8 warns, has in the past ‘grievously hindered’ the witness of the Church. On all sides, then, the stakes are high, not least because the assumption of Anglicanism has enduringly been that the

real challenge of the gospel is whether we live deeply enough in the love of Christ, and care sufficiently for our joint work to bring that love to the world, that we will ‘make every effort to maintain the unity of the Spirit in the bond of peace’.

138 Windsor Report, para 157, quoting Ephesians 4:3.