



The Leader of the House of Lords

Lord Smith of Finsbury
House of Lords
London
SW1A 0PW

16th March 2010

Dear Chris

I am writing to clarify the point I made at Report stage of the Equality Bill that allowing civil partnership registrations to take place in religious premises could leave heterosexual couples feeling at a disadvantage. You commented that you were “puzzled by the Leader of the House’s argument that this somehow puts civil marriage at a disadvantage, because surely a heterosexual couple who wish to get married have the free choice of being able to marry in religious premises with a religious ceremony”. I promised to write to clarify this position.

As you know, Lord Alli’s amendment to the Equality Bill would amend the Civil Partnership Act 2004 by removing the express prohibition on civil partnership registrations taking place in religious premises in England and Wales. The intention of this amendment is to enable same sex couples to register their civil partnership in religious premises such as a church, if that particular church chose to permit this.

You were of course correct when you said during the debate in the House that an opposite sex couple has the option to have a religious marriage conducted in religious premises. However, couples who wish to have a civil marriage, which is the legal equivalent of a civil partnership for opposite sex couples, must still hold their civil marriage in a secular venue and their ceremony must not include any religious service. Lord Alli’s amendment to the Equality Bill does not change the position for civil marriages. Therefore, as I stated during the debate, opposite sex couples who want a civil marriage held on religious premises might – rightly or wrongly – feel themselves to be at a disadvantage.

During the debate I made the point that there are some people who may not be permitted by some churches to marry there because they have previously been divorced, but who may wish to have a civil marriage held in a religious premises. Viscount Astor advised the House that the Church of England, the Roman Catholic Church and the Church of Scotland now permit the religious marriage of divorcees. I promised to clarify the position on this point.

Statutory restrictions are in place which determine where a couple can have a religious marriage. For example, to marry in the Church of England, either one or both of the couple need to satisfy certain requirements about their connection to the relevant parish. The Marriage (Wales) Bill, currently proceeding through Parliament, is looking to introduce equivalent qualifying requirements.

Clergy or ministers of all denominations who are able to solemnise legally recognised religious marriages have some element of discretion to choose whether to marry someone based on the tenets of their faith. Thus, while Viscount Astor was correct that legally all faiths can marry divorcees, particular denominations may either restrict this – or allow their clergy the choice as to whether to allow it. For example, a Catholic will normally have to obtain a marriage annulment rather than a divorce before being permitted to marry again in Church. The exception is when their first marriage was not solemnised in accordance with the rights of the Catholic Church, in which case the Catholic Church does not recognise the first marriage as valid.

In the Church of England, clergy have, since 2002, been allowed to choose whether or not to solemnise the marriages of people who are divorced. So in some parishes, it may not be possible for a divorced couple to re-marry in their local Church. Other denominations will have different rules that will apply.

I hope this response clarifies the position with respect to civil marriage and marriage for divorcees.

I copy this letter to everyone that spoke during Report and Committee stages of the Equality Bill in the House of Lords, and will place a copy of this letter in the Library of the House.

A handwritten signature in black ink, appearing to read 'Jan Royall', with a large, stylized flourish at the end.

JAN ROYALL