



QUEEN ANNE'S GATE LONDON SW1H 9AT

13 March 1986

Prime Minister

CDP 13/3

Dear Quentin,

FAMILY LAW BILL AND SECOND WIVES

File with CDP

Thank you very much for your extremely prompt reply of the same date to my letter of 6 March about polygamous wives and the Family Law Bill.

I quite agree that we do not want to lose Part II of the Family Law Bill. I welcome the changes designed to limit the recognition of informal foreign divorces which you set out in the letter you sent me and the Lord Advocate on 24 February. In particular your proposal that such divorces should not be recognised if one of the parties has been habitually resident in this country for a year is helpful from an immigration point of view.

But the position we have got into with polygamous marriages is politically indefensible and, as the Prime Minister has agreed, calls for an early change in the law. Whereas the problem of child brides, to which the Prime Minister has also referred, can be dealt with adequately by an early change in the Immigration Rules (about which I shall write to colleagues very shortly) this is not so, as I have made clear in my earlier letters, in the case of the admission of polygamous wives. I am convinced that legislation to restrict the recognition of polygamous marriages is necessary - this Session if at all possible.

It seems to me that the Family Law Bill offers that possibility. I recognise the difficulties; but the problem is urgent; and although the Bill does not at present deal with polygamous marriages it does cover a range of family law matters. In your letter of 6 March you objected that the issue would be highly controversial. But it seems to me that legislation to limit the recognition here of polygamous marriages will not necessarily be more controversial than legislation to limit the recognition of informal divorce. How controversial the legislation will be in reality is difficult to assess but it must be doubtful how far the Opposition will wish to put themselves forward as the champions of polygamy and talaq divorce.

The approach I would propose involves an amendment to Section 11 of the Matrimonial Causes Act 1973 such that polygamous marriages are void where either spouse had, at the time of the marriage, been habitually resident in this country for a year. Although you say that there is no settled policy on the matter, what I am

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The Rt Hon Lord Hailsham of St Marylebone, CH, FRS, DL



suggesting reflects the approach you have now adopted in your amended proposals in respect of informal divorces. A similar approach would be necessary in respect of the recognition of polygamous marriages in Scotland and Northern Ireland.

I would hope that you and colleagues would agree that this is the right way to deal urgently with an unacceptable situation and that officials should work up the necessary provision for inclusion in the Family Law Bill on introduction, or if necessary during its passage. There are two other possibilities both of which seem to me to be more unattractive. The first would be for you to proceed with the Bill along the lines that you prefer but announce at Second Reading that the necessary provisions on polygamy would be enacted next Session in the further Family Law Reform Bill which is planned for then. The other would be to proceed by way of a freestanding Bill either this Session or next. Waiting till next Session would be very much a second best, politically, not least because the longer we delay in grasping the nettle the more cases we shall be pressed to concede under the present unsatisfactory law. Subject to the views of the business managers I also see advantage in getting the matter out of the way now rather than having to make room in next session's programme. Whether in Parliamentary terms it would be more straightforward to have a separate Bill on polygamy rather than slotting the provision into a Family Law Bill is again a matter on which the business managers will have views but my own inclination is to think that the higher profile of a separate Bill will not be particularly helpful.

Accordingly I hope that you and colleagues will agree that our officials should as a matter of urgency prepare detailed proposals for early legislation in the present Family Law Bill on the lines I have proposed to limit the recognition of polygamous marriages.

I have just seen Michael Havers' letter of 10 March. I think there may be a misunderstanding here. I am not suggesting that we should refuse admission to any second wife whom we are advised is eligible for admission under the present law. I quite see that this would be wrong. What is not politically acceptable is for us to facilitate the arrival of polygamous wives without being able to say unequivocally that we are about to change the law which now apparently compels us to admit them.

I am sending copies of this letter to the Prime Minister, Members of H Committee and L Committee, the Foreign Secretary and to Sir Robert Armstrong.

Yours,  
Douglas.



IMMIGRATION: Rules: PEQ.

