




All-Party Parliamentary
Humanist Group

TIME FOR REFLECTION

**A REPORT OF THE ALL-PARTY PARLIAMENTARY HUMANIST
GROUP ON RELIGION OR BELIEF IN THE UK PARLIAMENT**



All-Party Parliamentary
Humanist Group



The All-Party Parliamentary Humanist Group acts to bring together non-religious MPs and peers to discuss matters of shared interests.

More details of the group can be found at
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FOREWORD



The UK is more diverse than ever before. In 1983 some 40 percent of British adults said they were Anglicans, 24 percent other Christians, 4 percent other religions, and 31 percent belonging to no religion. Nowadays 13 percent say they are Anglicans, 25 percent other Christians, 10 percent other religions, and 53 percent of no religion. These trends look set to continue – today just one percent of British adults aged 18–24 are Anglicans¹.

As the UK changes, it is essential that the UK Parliament changes too. However, unlike the devolved legislatures, Parliament remains a Christian institution. 26 bishops of the Church of England receive automatic places in the House of Lords. The speaker of the House of Commons has to appoint a Church of England chaplain. The Church of England opens proceedings each day by leading prayers. Parliament governs the Church – through its approval of Church measures, through the ecclesiastical committee, and through questions in the House of Commons.

These arrangements in themselves mean Parliament has not kept pace with the changing reality of the UK. But the problems don't stop there. The 26 bishops don't just speak and vote on legislation, sometimes changing the outcome of votes, but they also have privileged speaking rights over other peers – when a bishop wants to speak, others are expected to give way. And they are specially consulted on legislation by the Government prior to it being brought before Parliament, just like the various political parties, but unlike any other religious or belief group.

As for prayers, it's not only that they cater to the beliefs of a shrinking minority of MPs and peers, but those who attend prayers are also able to stay in their seats for any subsequent debate. By attending prayers, MPs are able to reserve a particular seat for themselves for the rest of the day. With around 400 seats in each chamber, compared with 650 MPs and 782 peers, this can have a significant impact when it comes to being

¹ 22 percent of 18–24 year-olds are other Christians, 15 percent other religions, and 63 percent no religion. 2018 British Social Attitudes Survey. British Social Attitudes Information System. <http://www.britsocat.com/>

able to speak in the most popular debates. It puts those who don't want to attend prayers at a disadvantage.

All of this makes Parliament unrepresentative of the people.

This report examines the place of religion or belief in Parliament, shines a light on obscure current practice, and suggests ways forward for reform to make our Parliament a more inclusive place and more reflective of the people it serves.

Now that the United Kingdom has left the European Union, Parliament and the Government should use the UK's new constitutional settlement as a time for reflection – an opportunity to review and strengthen our democracy. We urge the recommendations in this report are followed as part of that process.

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ALL-PARTY PARLIAMENTARY HUMANIST GROUP



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INTRODUCTION

This report documents in detail the place of religion or belief in Parliament. It considers:

- **The Chaplain to the Speaker of the House of Commons:** her role, proposals for reform, and the associated parliamentary chapel;
- **The Lords Spiritual:** their role, their privileges compared to other peers, the presence of other religious leaders in the Lords, how the bishops have influenced votes and their voting patterns more generally, arguments for and against their presence, wider proposals for Lords reform, and how much the bishops have cost;
- **Prayers in Parliament,** and what alternatives there might be;
- **Parliament's role in governing the Church of England,** including approving Church measures, the ecclesiastical committee, and oversight of the Church Commissioners.

The guiding principle in our report is that the UK should treat its citizens equally, regardless of their religion or belief and this is as true in Parliament as in any other place. If our national legislature is not treating its members equally, it is hard to see how they in turn can be expected to legislate in a way that treats the public equally. And because what Parliament does sets (or should set) an example, it is hypocritical to expect equality and non-discrimination from the public if it is not practiced by Parliament itself.

With the arguable exception of our consideration of Parliament's role in governing the Church of England, this report does not consider establishment. Although the establishment of the Church of England is often invoked to justify the place of the chaplain, bishops, and prayers in Parliament, they are not in fact linked.

There are many countries with established churches that do not have that church so intertwined in the workings of their legislature as the UK does. For example, the only two sovereign states that let religious leaders sit as of right in their legislatures are the UK and Iran, but many more than these two have religious establishments. And in law, the presence of the bishops in the Lords is completely separate from establishment.

RECOMMENDATIONS:

After the conclusion of work on the United Kingdom's exit from the European Union, regardless of the precise outcome, Parliament and the Government should use the UK's new constitutional settlement as a time for reflection – an opportunity to review and strengthen our democracy.

To that end, the report makes the following recommendations:

1. The Speaker to the House of Commons should review how the pastoral needs of members and staff to Parliament is met. He should look at the practice in the devolved legislatures and London Assembly with a view to making recommendations for change.
2. The Bishoprics Act 1878 and the Lords Spiritual (Women) Act 2015 be repealed, thereby removing the automatic right of the various bishops and Archbishops to sit in the House of Lords.
3. The House of Lords Appointments Commission should avoid any custom or practice of awarding peerages to individuals by virtue of being representatives of any religion or denomination, including awarding life peerages to former archbishops, and appoint religious leaders only on merit in the same way as for everyone else.
4. Each House of Parliament should at the next opportunity revise its standing orders to see the practice of saying prayers before the start of business replaced by an inclusive time for reflection. Prayers could instead be held elsewhere in Parliament (e.g. in the chapel or one of the larger committee rooms) for those MPs and peers who want them.
5. If the preceding recommendation is not implemented, then at the very least, each House of Parliament should at the next opportunity revise its standing orders to ensure that those who do attend prayers do not get privileged access to seats in the chamber during any subsequent debates.
6. The role of Parliament in the governance of the Church of England should cease and legislation providing for state oversight of the Church should be repealed;
7. Existing Church measures should cease to be recognised as part of UK law, instead becoming private rules of the Church of England which it may amend if it so wishes.
8. The Government and Crown should have no part in appointment of the Church Commission.
9. The management of Church assets should be a purely internal church matter with no special accountability to Parliament.

THE CHAPLAIN TO THE SPEAKER OF THE HOUSE OF COMMONS

The Chaplain to the Speaker of the House of Commons is a Church of England priest appointed by the Speaker of the Commons to:

- 'conduct daily prayers in the Chamber of the House
- 'conduct a weekly Eucharistic service in the chapel
- 'conduct weddings, marriage blessings and baptisms of members
- 'be responsible for the pastoral care of both members and staff of the Palace of Westminster.'¹

Regardless of their own personal beliefs (indeed we note the previous Speaker is not religious), the Speaker by custom appoints a Church of England chaplain, and since October 2019 this has been Rev Canon Patricia Hillas. For the five years prior to that, it was the now Bishop of Dover, the Rt Rev Rose Hudson-Wilkin, who left the role after being consecrated as Bishop. (The chaplain may be dedicated in principle to ministering to all MPs equally, but as Parliament's Humanist Group, we observe that in 2015, on a BBC One programme about whether humanists should be treated equally with religious people, the then chaplain said didn't know if she would attend a humanist wedding, if a friend invited her to one.)²



¹ 'Speaker's chaplain', Parliament UK, <https://www.parliament.uk/business/commons/the-speaker/supporting-the-speaker/speakers-chaplain/>

² 6:45 'Should humanists have equal rights to religions?', segment on *The Big Questions*, BBC One, 11 January 2015, <https://www.youtube.com/watch?v=cloj9Xd3ZfA>

In 2010 it was reported that the Speaker supported there instead being a multi-faith team of chaplains rather than just the present one,³ but for unknown reasons that has not happened.

In terms of how much exactly the speaker's chaplain costs the public, when the job was readvertised in 2019 it was as a part-time role paid £30,515 per annum. Further expenses aren't significant.⁴

There is a chapel in Parliament, the Church of England Chapel of St Mary Undercroft.⁵ This is just off Westminster Hall and is the only religious building in the parliamentary estate. The chapel is a royal peculiar, which means that it is directly overseen by the monarch, rather than a bishop.

Just outside Parliament sits Westminster Abbey, another royal peculiar, and sandwiched between Parliament and the Abbey is St Margaret's Church, which is under the authority of the Abbey. Neither has any official role in relation to Parliament, but the Church of England refers to St Margaret's as 'the parish church of the House of Commons'.⁶ Until 2010, the speaker's chaplain was also the rector of the church;⁷ the portcullis (the symbol of Parliament) is found throughout the church, and a pew is set aside for the speaker.⁸

The Scottish Parliament, National Assembly for Wales, Northern Ireland Assembly, and London Assembly don't have any state-recognised chaplains or any chapels.⁹ In the Scottish Parliament there is a 'contemplation/prayer room',¹⁰ and the same is true in the National Assembly for Wales.¹¹ The UK Parliament already has a 'Multi-Faith Prayer Room' in addition to the chapel.¹²

RECOMMENDATION:

1. The Speaker to the House of Commons should review how the pastoral needs of members and staff to Parliament is met. He should look at the practice in the devolved legislatures and London Assembly with a view to making recommendations for change.

³ Jonathan Wynne-Jones, 'Multi-faith chaplains to make House of Commons more inclusive' *The Daily Telegraph*, 26 December 2010, <https://www.telegraph.co.uk/news/religion/8224923/Multi-faith-chaplains-to-make-House-of-Commons-more-inclusive.html>

⁴ 'Speaker's Chaplain', House of Commons vacancy web pages: <https://housesofparliament.tal.net/vx/mobile-0/appcentre-HouseOfCommons/brand-2/candidate/so/pm/3/pl/14/opp/1066-Speaker-s-Chaplain/en-GB>

⁵ 'The Chapel of St Mary Undercroft', Parliament UK, <https://www.parliament.uk/about/living-heritage/building/palace/estatehistory/the-middle-ages/chapel-st-mary-undercroft-/>

⁶ 'St Margaret's Church', Westminster Abbey, <https://www.westminster-abbey.org/st-margarets-church>

⁷ 'Speaker's Chaplain', The Church of England in Parliament, <https://churchinparliament.org/speakers-chaplain/>

⁸ 'Associations with the House of Commons', Westminster Abbey via the Internet Archive, as at 5 March 2008, <https://web.archive.org/web/20080305183612/http://www.westminster-abbey.org/st-margarets/house-of-commons/>

⁹ In January the Welsh Assembly's 'Cross Party Group on Faith', a caucus of assembly members whose secretariat is provided by the Evangelical Alliance, announced the establishment of a 'Chaplaincy Service for Assembly Members', being delivered by a Chaplain affiliated to the Salvation Army. However, this has no official recognition by the Assembly or Welsh Government. 'New Chaplaincy Service for Assembly Members', Darren Millar AM, 18 January 2019, <https://www.darrenmillar.com/news/new-chaplaincy-service-assembly-members>

¹⁰ 'Business and Administration Apprenticeships', The Scottish Parliament, <https://www.parliament.scot/abouttheparliament/104706.aspx>

¹¹ *National Assembly for Wales Event Spaces*, National Assembly for Wales Front of House, 2016, <https://www.assembly.wales/NAfW%20Documents/Get%20Involved%20documents/Event%20spaces%20guide-English.pdf>

¹² 'Multi-Faith Prayer Room', Parliament UK, <https://www.parliament.uk/visiting/access/facilities/multi-faith-prayer-room/>

BISHOPS IN THE HOUSE OF LORDS

The UK is one of only two sovereign states in the world to give seats in its legislature to religious representatives as of right,¹ the other being Iran. This state of affairs has a negative impact on the UK's ability to advocate for freedom of religion or belief around the world – as one peer told us when we were researching this report, 'It is difficult to criticise theocratic Iran from a position where the UK has the only other Parliament with clerics embedded in its constitution.'

The Archbishops of Canterbury and York, the Bishops of London, Winchester, and Durham, and (subject to current temporary arrangements for accelerating the appointment of women bishops to the House²) the next 21 most senior (by length of appointment) diocesan bishops sit in the House of Lords ex-officio.³ This is a provision unconnected with the establishment of the Church of England.⁴

Bishops actively engage in the work of the House, speaking, voting, and serving on committees⁵ like other peers. A 'Duty Bishop' is always present,

ensuring that the interests of the Church of England are consistently represented. In other words, the Lords Spiritual (as they are known) do not fulfil a purely formal or ceremonial role, but play an active role in making and influencing our law. The Lords Spiritual are exempted from the portions of the Code of Conduct of the Lords that forbid paid advice/services/advocacy, to enable them to advocate on behalf of the Church of England.

CHURCH OF ENGLAND BISHOPS GET UNIQUE EASY ACCESS TO GOVERNMENT OFFICIALS

Not only that, but they have routine access to Government ministers and easy access to officials, granting them a degree of largely hidden influence of which they appear to take full advantage. This access occurs for two reasons. One is merely because they are parliamentarians and all parliamentarians get some degree of such access.

¹ Bishops and Archbishops sit in the House of Lords by virtue of the Bishops Act 1878.

² Under the Lords Spiritual (Women) Act 2015.

³ Tony Blair, *Modernising Parliament: Reforming the House of Lords*, The Stationery Office, (1999) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260760/4183.pdf p. 13.

⁴ 'In more modern times, the presence of the Bishops became increasingly associated with the establishment of the Church of England, although in law the two are quite separate. The establishment of the Church of England rests upon Parliament's powers over its [the Church of England's] legislation and the requirement for the Sovereign as its Supreme Governor to be in communion with it. The Bishops and Archbishops now sit by virtue of the Bishops Act of 1878, which provides for the two Archbishops, the Bishops of London, Winchester and Durham, and the next 21 most senior diocesan Bishops to have a seat in the House of Lords.' (*Modernising Parliament: Reforming the House of Lords*, The Stationery Office, 1999, p.15)

⁵ As of January 2020, two House of Lords select committees have a bishop as a member, namely the Communications and Digital Committee and the Gambling Industry Committee. Ex-bishop Lord Chartres is also a member of the Secondary Legislation Scrutiny Committee and the Lords Appointments Commission. In the 2017–19 Parliament a bishop was a member of the Regenerating Seaside Towns Committee, and at the end of the 2015–17 parliament, the Financial Exclusion Committee and the Long-Term Sustainability of the NHS Committee also had a bishop. This is to say nothing of the Ecclesiastical Committee, which we will consider later in this report. Membership to each of the committees can be accessed via their microsites, hosted by the Parliament web pages, which are available here: 'House of Lords Select Committees', Parliament UK, <http://www.parliament.uk/business/committees/committees-a-z/lords-select/>



CHURCH OF ENGLAND BISHOPS GET UNIQUE MEETINGS WITH OFFICIALS WRITING NEW LAWS

The second is because they are recognised by officials as a party grouping. It is Parliamentary practice to consult with peers on draft bills and meetings are held between 'bill-makers' and representative peers in accordance with their political affiliation, i.e. separate meetings are conducted between bill-makers and Conservative, Labour, Liberal Democrat, and crossbench peers. Because the bishops are considered their own party, they also get a separate meeting with the bill-makers. Through this mechanism, bishops enjoy yet more influence over the content of British laws.⁶

IF A BISHOP STANDS TO SPEAK, EVERYONE ELSE HAS TO STOP AND SIT DOWN

Lords Spiritual also enjoy privileges in debates over and above those afforded to other peers. Convention dictates that if a Lord Spiritual stands to speak during a debate and no other member is speaking, the bishop must be given precedence and allowed to speak. If another member is speaking, they must stop and allow the bishop to interrupt.⁷ Although this is not a statutory provision, parliamentary convention has significant force, especially in the House of Lords where, unlike the House of Commons, it is not the Speaker but the House itself that decides who should speak next, for example by calling out 'bishop' repeatedly until other members have given way. This guarantees not only that the bishops are heard but that they are able to intervene when they wish.

⁶ As communicated by members of the All-Party Parliamentary Humanist Group.

⁷ As communicated by members of the All-Party Parliamentary Humanist Group.

Whilst we were researching this report, one peer told us that this is 'irritating, especially towards the end of the (brief) period allocated for each oral question. I often think, I don't go to his Cathedral and tell him how to run his church, so why should they come here and tell us how to make the laws?' Another told us, 'The bishops are meant to exhibit grace and thoughtfulness, but it often feels like they are setting a bad example, interrupting the contributions of others, typically by remaining standing until all members sit down.'

Finally, that 26 bishops sit in the House of Lords as of right has significant financial implications. As we shall now turn to, the cost has come to £1.3 million over the last eight years.

COST OF THE LORDS SPIRITUAL

By virtue of their ex-officio right to sit in the House of Lords, the 26 Lords Spiritual are permitted to claim daily travel expenses in addition to a maximum stipend of £305 per day of attendance. They are required to submit receipts to claim travel expenses and postage, but do not have to submit evidence of spending to claim anything up to the £305 a day in daily allowances.⁸

The total expenses claims of the Lords spiritual in the period October 2010 to November 2018 came to £1.3 million, or £160,000 a year. The most expensive bishop during this period is the former Bishop of Chester (1996-2019), who alone claimed over £200,000, or £25,000 a year. He did attend more days than any other bishop, but he also had the highest average daily allowance claim of £292 – or £360 a day including other expenses. The highest average per day claimant, including expenses, was Justin Welby, during his period as Bishop of Durham (before he became Archbishop of Canterbury), who claimed over £20,000 for

52 days in attendance, or £390 per day. This has dropped to £253 a day since he has become Archbishop of Canterbury.⁹

RETIRED LORDS SPIRITUAL

In addition to the 26 bishops that are appointed ex-officio, retiring Archbishops of Canterbury and York are routinely awarded life peerages, enabling them to continue to sit in the House of Lords. All Archbishops of Canterbury and York of the 19th, 20th, and 21st centuries were awarded peerages upon retirement, with the exception of two who died in office and one who retired from ill health. Other former Lords Spiritual have also been awarded peerages. Details are given in Annex 1.

OTHER RELIGIOUS LEADERS IN THE LORDS

Eight other religious leaders have been appointed to the House of Lords in recent years, including three other former bishops. However none of them are straightforward examples of religious leaders being appointed peers purely on account of their religious position.

Where religious leaders are appointed to the House of Lords on the same basis as other life peers are, e.g. because of their own personal merits and the contribution they are expected to make to the House, then this is obviously legitimate. But any implication that religious leaders should be appointed purely as a result of holding a particular position in their religious hierarchy, as is the case with the Church of England bishops, should be opposed.

⁸ 'House of Lords Members' Financial Support Explanatory Notes 2018-2019', Parliament UK, <https://www.parliament.uk/mps-lords-and-offices/members-allowances/house-of-lords/holallowances/explanatory-notes/201819/>. In addition, until at least March 2016, 'Members are entitled to the loan of up to two PCs (one desktop and one laptop or two laptops) and a printer for use on Parliamentary business.' And 'Members are entitled to the loan of a personal digital assistant device (PDA) for use on Parliamentary business. The monthly tariff and up to £10 per month of additional costs, for example additional voice and data costs, are borne by the House.' But as these expenses aren't costed, they're not included in the estimates above. See e.g. 'House of Lords members' financial support explanatory notes 2015-16', Parliament UK, <https://www.parliament.uk/mps-lords-and-offices/members-allowances/house-of-lords/holallowances/explanatory-notes/201516/>

⁹ All figures available for download on this webpage, or from the sidebar on this webpage: 'Allowances and expenses claims 2018-19', Parliament UK, <http://www.parliament.uk/mps-lords-and-offices/members-allowances/house-of-lords/holallowances/hol-expenses04/>

INFLUENCE OF THE BISHOPS ON THE OUTCOME OF VOTES

BISHOPS' VOTES ON NEW LAWS HAVE BEEN DECISIVE IN INSTANCES THAT HAVE BENEFITTED THE CHURCH

Research carried out for this report demonstrates that the power the bishops have in determining and/or influencing the outcomes of votes in the House of Lords is one they do exercise. We believe that between 2002 and 2018, the votes of the Lords Spiritual directly changed the outcome of nine votes, a number which rises to twelve when ex-bishops are included. At Annex 2 is a full list of the votes we have identified where the Lords Spiritual determined the outcome.

The matters in question were rarely directly related to religion or to the Church of England itself. However there are two notable exceptions.

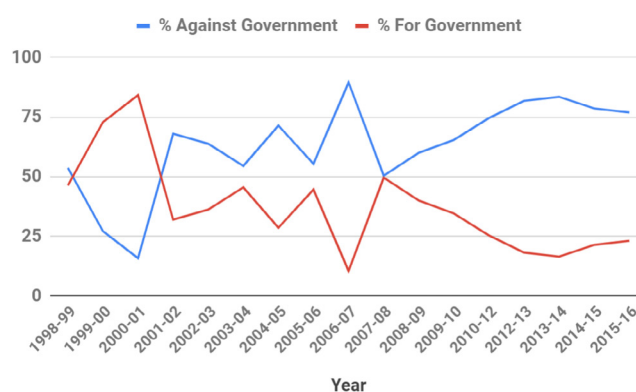
First, the votes of eight bishops ensured the removal of a clause from the Equality Act 2010 about employment equality, thereby establishing wider religious exemptions from its provisions and directly benefiting the Church of England.

Second, the votes of three bishops ensured the defeat of an amendment to the Education and Adoption Act 2016. The Act provides that if a maintained school is failing, then the Secretary of State must convert it to an Academy. The clause would have made that power discretionary. The Church of England has more control over its schools when they are academies than when they are maintained, so again has benefited significantly from the defeat of this amendment.

And these twelve votes of course do not include the number of times where the Lords Spiritual influenced the votes of other peers,

thus changing the outcome of the vote in that way, or the number of times that the bishops' presence in Parliament led to the Government taking a different course of action to start with. A recent example might be the attempt by Lord Faulkner and others to bring forth an amendment to repeal the statutory ban on the Church of England performing same-sex marriages, which if successful would have freed up the Church to decide, like all other religious organisations, whether it wants to perform them. However, the amendment was withdrawn following opposition from a bishop.¹⁰

The votes where the bishops directly changed the outcome are surely only a fraction of all the times the bishops shaped the passage of a particular bit of legislation.



In terms of general voting patterns, our analysis finds that from 1998 to 2016, the bishops generally voted against the Government of the day, with the only exceptions being the 1999--2001 parliamentary sessions. The bishops voted most frequently against the 2010-15 Coalition Government, followed closely by the 2015-16 Cameron Government, but also voted most of the time against the Blair and Brown Governments. When Labour was in power, the bishops voted against the Labour majority 56% of the time. When the Coalition was in power, they voted against the Coalition majority 77% of the time.

¹⁰ 'Civil Partnerships, Marriages and Deaths (Registration Etc.) Bill Committee: 1st sitting', *House of Lords Hansard*, 1 February 2019 [https://hansard.parliament.uk/Lords/2019-02-01/debates/286EF3D8-B1FF-46A4-A3E0-D806511DC96F/CivilPartnershipsMarriagesAndDeaths\(RegistrationEtc\)Bill#contribution-B15B476C-EF29-4A76-AE08-E15E8CDC3532](https://hansard.parliament.uk/Lords/2019-02-01/debates/286EF3D8-B1FF-46A4-A3E0-D806511DC96F/CivilPartnershipsMarriagesAndDeaths(RegistrationEtc)Bill#contribution-B15B476C-EF29-4A76-AE08-E15E8CDC3532). see also Adam Becket, 'Peer tries to remove C of E's same-sex marriage exemption', *The Church Times*, 8 February 2019, <https://www.churchtimes.co.uk/articles/2019/8-february/news/uk/peer-tries-to-remove-c-of-e-s-same-sex-marriage-exemption>

During subsequent Conservative governments, from 2015 through to January 2019, they voted against the Conservative majority 62% of the time.

So there is a clear pattern of voting against the governing party of the day, whoever that happens to be. While the House of Lords does of course have an important role to play in providing a check on the Commons, this does suggest that the bishops' votes are generally against the democratic bent.

ARGUMENTS MADE FOR RETAINING THE LORDS SPIRITUAL

Arguments made for retaining bishops in the House of Lords fall into two categories, citing either their purported moral expertise or tradition and cultural inheritance. Arguments from cultural inheritance cannot justify ongoing privilege for one denomination of one religion in the legislature, especially against the background of an increasingly diverse and non-religious population.¹¹

Arguments from moral expertise are also weak. The following arguments come from successive Governments:

- 'The Bishops often make a valuable contribution to the House of Lords because of their particular perspective and experience.'¹²
- '...religious representation helps in the recognition of the part that moral, philosophical, and theological considerations have to play in debating political and social issues.'¹³

- 'The way in which the Church of England's representation in the House of Lords has been manifested over at least the past 100 years has served to acknowledge the importance of philosophical, moral and spiritual considerations – not just religious ones – in the conduct of public affairs.'¹⁴
- '...it is important that the bishops are represented in your Lordships' House. They add a spiritual dimension to our discussions. They speak with a moral authority that escapes most of us...'¹⁵

The implication is that the bishops are uniquely qualified to provide a moral dimension in debates, which is plainly not true. It is out of step with the understanding of the British public today and frankly insulting to those of other religions or beliefs. Some individual bishops – and leading lights of other denominations and religions – may be worth appointing to the House on their personal merits, but this is no defence of the automatic appointment of 26 senior bishops of the Church of England. Nor is the argument that Anglican bishops can speak up for all religion: an impossible role and still an illegitimate privilege for religion over non-religious worldviews.

There remain no arguments to justify retention of bishops in the Lords. Abolishing the privilege would besides fatally undermine the rationale for the Prime Minister's role in the appointment of bishops as part of a duty of oversight of appointments to the Lords.

¹¹ The latest (2017) British Social Attitudes Survey records British adults as 52% belonging to no religion, 14% Anglican, 8% Catholic, 18% other Christian, and 8% other religion. The proportion of Anglicans drops to just 2% of those aged 18-24 (the youngest category). British Social Attitudes Information System, <http://www.britisocatt.com/>

¹² *Modernising Parliament: Reforming the House of Lords*, The Stationery Office (1999), p. 30

¹³ Tony Blair, *The House of Lords: Completing the Reform*, Government White Paper, (2001) <http://webarchive.nationalarchives.gov.uk/+/http://www.dca.gov.uk/constitution/holref/holreform.htm>

¹⁴ *A House for the Future: Royal Commission on the reform of the House of Lords*, Cabinet Office, (2000) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266078/chap15.pdf para 15.9

¹⁵ Government spokesperson Lord Young of Cookham during a debate in the House of Lords on disestablishment. 'Church of England: Disestablishment', *House of Lords Hansard*, 28 November 2018, <https://hansard.parliament.uk/Lords/2018-11-28/debates/A8ECC7C8-0EB0-4F75-A00C-56139ED453A8/ChurchOfEnglandDisestablishment#contribution-EB5F8C6D-C0AE-4348-9196-8E2129DF547E>

ARGUMENTS AGAINST RETAINING THE LORDS SPIRITUAL

In its 2011 paper *Religious Representatives in the House of Lords*, Humanists UK (then known as the British Humanist Association) presented the following arguments against retaining the Lords spiritual:

- 'The claim that Bishops are uniquely qualified to provide ethical and spiritual insights is factually incorrect and offensive. People from many walks of life and from many religions and none are at least equally qualified if not more so – for example, moral philosophers and experts in medical ethics.
- 'Bishops may not necessarily even represent the views of Anglicans. The views of the bishops may in fact be controversial and rejected by a clear majority of people in the UK with equally sincerely held convictions – even by a majority of those who define themselves as protestants. A pertinent example is the [then] recent vote on the Assisted Dying for the Terminally Ill Bill, where polls show that 81% of protestants 'think that a person who is suffering unbearably from a terminal illness should be allowed by law to receive medical help to die, if that is what they want' but the bishops opposed the Bill.
- 'The Anglican Church claims only 1,650,000 members in the UK and its Sunday services are attended by only about 1.9% of the adult population. Only 12% of the adult population are members of any church. Many polls have provided evidence of high levels of unbelief in the UK.
- 'The presence of Church representatives in the legislature has ceased to be an

accurate reflection of UK society and, indeed, increasing numbers of people are opposed to political privileges for religion.

- 'Bishops in any case represent only England, leaving Scotland, Wales and Northern Ireland unrepresented.'

The briefing paper also presents arguments in favour of public impartiality with respect to religion or belief, as a simple matter of fairness.¹⁶

HOUSE OF LORDS REFORM PROPOSALS

Most Lords reform proposals, if they have included a reference to bishops in the Lords at all, have recommended extending the privilege to other religions rather than eliminating it altogether. For example, in **2000** *A House for the Future* recommended that the number of seats reserved for bishops be reduced to 16, with 10 being reassigned to representatives of other Christian denominations, and an additional five going to representatives selected specifically to represent different faith communities.¹⁷

Expanding the list of denominations explicitly represented in the legislature would inevitably leave out not only religious minorities but also the growing humanist population as well as other non-religious people. It would remain incompatible with the proper disinterestedness of the state as between the disparate worldviews its citizens hold.¹⁸ Already appointments are made to the Lords of figures associated with other religions but generally they are not appointed by virtue of a right held by their religious institutions to be represented in Parliament but on their personal merits.

¹⁶ *Religious Representatives in the House of Lords: Briefing from the British Humanist Association*, Humanists UK, June 2011, <https://humanism.org.uk/wp-content/uploads/1bha-briefing-bishops-in-the-lords-2011-final.pdf>

¹⁷ *A House for the Future: Royal Commission on the reform of the House of Lords*, Cabinet Office, (2000), p. 155, recommendation 111

¹⁸ It would in fact be impossible to achieve anything approaching proportional representation of the main religions without adding approaching 100 other religious representatives to balance the bishops, as definitively demonstrated by Professor Iain McLean, professor of politics at Nuffield College, Oxford: see 'Memorandum by Professor Iain McLean, Professor of Politics, Oxford University: Cm 5291: The House of Lords – Completing the Reform' in *The Second Chamber: Continuing the Reform, Fifth Report of Session 2001-02, Minutes of Evidence*, House of Commons Public Administration Select Committee, <https://publications.parliament.uk/pa/cm200102/cmselect/cmpubadm/494/49402.htm>, pp. Ev168-174. HC 494-II.



In **2002**, the House of Commons Public Administration Select Committee recommended that 'Bishops of the Church of England should no longer sit ex officio from the time of the next general election but one.'¹⁹ They argued that 'The continuing process of reform... would rapidly make the tradition of ex officio religious membership an anachronism' and acknowledged that

It is of course the case that distinguished senior figures in the Church of England (and other religious bodies) will be considered for membership of the second chamber through the appointment process (and they should be free to stand for election).²⁰

but maintained that no religious representative should have a seat in the legislature as of right.

In **2011** the Government published a draft Bill that would have reduced the number of bishops to 12 but within a much smaller and otherwise elected House, leaving them with 4% of the votes against 3.3% at the time.²¹ However, these proposals fell by the wayside when the wider Lords reforms they were a part of were scrapped.

Most recently the Lord Speaker's Committee on the Size of the House of Lords,²² which in **2017** recommended a gradual reduction to 600 members, retained all 26 bishops, again giving them greater proportionate strength in the House (4.3% of the votes) than they currently enjoy. The Chair of the Committee, Lord Burns, subsequently made clear that the majority of its members supported reducing the number of bishops, but

they neglected to recommend this because they decided only to make recommendations that would not require a change in the law, in the hope of garnering Government support.²³ However, the Government has not supported even the modest proposals the Committee did make. In November 2018 the House of Commons Public Administration and Constitutional Affairs Committee called for a review into the place of the bishops, saying the Lord Speaker's Committee's plans with respect to the bishops would make the Lords 'representative of the diversity of the modern United Kingdom'²⁴

At the time of Lord Burns' comments, the Church of England was quoted as saying that 'there were a variety of views among bishops about numbers and proportions', and the Bishop of Birmingham, who convenes the bishops in the Lords, 'has said that bishops would not be averse to discussing the issue in principle... [but] ultimately it is for Parliament to decide what shape reform of the Lords should take, and what the role of the bishops is within that.'²⁵

In **2018**, the Government's then 'Faith Minister' Lord Bourne advocated instead adding other religious leaders to the House of Lords. But to make this work, proportionately, would mean adding at least 85 other religious leaders, never mind about who would represent humanists or other non-religious people, nor how representative religious leaders actually are of their denominations, nor the fact that there are already disproportionately many religious people in the Lords.²⁶

¹⁹ 'The Bishops', *Fifth Report of the House of Commons Public Administration Select Committee*, (2002) <https://www.publications.parliament.uk/pa/cm200102/cmselect/cmpubadm/494/49413.htm>, para 159

²⁰ *Ibid.* para 157

²¹ See Nick Clegg, *House of Lords Reform Draft Bill*, The Stationary Office, May 2011, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229020/8077.pdf

²² Lord Speaker, *Report of the Lord Speaker's committee on the size of the House*, 31 October 2017, <https://www.parliament.uk/documents/lords-committees/size-of-house/size-of-house-report.pdf>

²³ Edward Malnick, 'Bishops in House of Lords should be cut in line with ordinary peers, chairman of reform panel says', *The Daily Telegraph*, 4 November 2017, <https://www.telegraph.co.uk/news/2017/11/04/bishops-in-house-lords-should-cut-line-ordinary-peers-chairman/>

²⁴ *A smaller House of Lords: The report of the Lord Speaker's committee on the size of the House: Thirteenth Report of Session 2017-19*, House of Commons Public Administration and Constitutional Affairs Committee, 19 November 2018, <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubadm/662/662.pdf>

²⁵ *Ibid.*

²⁶ 'Government's faith minister calls for more religious leaders in the Lords', Humanists UK, 14 September 2018, <https://humanism.org.uk/2018/09/14/governments-faith-minister-calls-for-more-religious-leaders-in-the-lords/>

Meanwhile public opinion is firmly opposed to an automatic right to seats for any religious representatives. 62% take this view while only 8% support the present position and 12% want other religions represented.²⁷

RECOMMENDATIONS:

1. The Bishops Act 1878 and the Lords Spiritual (Women) Act 2015 be repealed, thereby removing the automatic right of the various bishops and Archbishops to sit in the House of Lords.
2. The House of Lords Appointments Commission should avoid any custom or practice of awarding peerages to individuals by virtue of being representatives of any religion or denomination, including awarding life peerages to former archbishops, and appoint religious leaders only on merit in the same way as for everyone else.

²⁷ Kaya Burgess, 'Public want religion kept out of politics', *The Times*, 25 December 2017, <https://www.thetimes.co.uk/edition/news/public-want-religion-kept-out-of-politics-t3rk055cx>

PRAYERS IN PARLIAMENT

13% OF BRITISH PEOPLE ARE ANGLICAN, BUT 100% OF PARLIAMENTARY PRAYERS AND RITUALS ARE ANGLICAN

Sittings of both Houses of Parliament always begin with Anglican prayers, and this has apparently been the case since Tudor times.¹ The latest British Attitudes Survey finds that only 13% of the adult population now regards itself as Anglican,² and most MPs are not Anglican either.³

This relic has practical impacts today. In the House of Commons there is seating for only 427 of 650 MPs. In the House of Lords there is a similar number of seats but some 777 members. As a result, on major parliamentary occasions such as the Budget or Prime Minister's Questions, there is competition for the best seats or even any seat whatsoever. Those who attend prayers are able to stay in their seats for any subsequent debate, while those who don't may miss out.

In fact, in the House of Commons, by attending prayers members can guarantee a seat for themselves for the rest of the day. The standing

orders of the House specify that 'Any Member having secured a seat at prayers shall be entitled to retain the same until the rising of the House', i.e. if, from 08:00 until prayers start, an MP places a 'prayer card' with their name in a placeholder on the back of the seat they wish to reserve, and then attends prayers, the seat is reserved for that member for the rest of the day. This is true regardless of whether they attend any subsequent debate. MPs can alternatively insert a pink card with 'committee' printed on it if they are attending a commons select committee during prayers.⁴

IF AN MP OR PEER DOESN'T ATTEND PRAYERS, THEY MIGHT NOT GET A SEAT FOR THE REST OF THE DAY

Those members who choose not to participate in prayers often struggle to get a seat and are therefore less likely to be called to speak in the debate. This practice fundamentally disadvantages conscientious members who do not wish to participate in prayers, and by extension their constituents, who have democratically elected them to represent them and have just as much right to have their MP speak in the most important debates as all other UK citizens.

¹ In the Commons the Speaker's Chaplain usually reads prayers, and in the Lords a Lord Spiritual usually reads the prayers. 'Prayers', Parliament UK <https://www.parliament.uk/about/how/business/prayers/>

² The 2018 British Social Attitudes Survey records British adults as 53% belonging to no religion, 13% Anglican, 7% Catholic, 18% other Christian, and 10% other religion. The proportion of Anglicans drops to just 1% of those aged 18-24 (the youngest category). British Social Attitudes Information System, <http://www.britisocatt.com/>

³ It is hard to estimate how many MPs are of each religion. Humanists UK research tells us that around 59% of MPs swore in to Parliament on the King James Bible (i.e. the Anglican fashion) at the start of the lifetime of the current (2019 onwards) Parliament, but given that swearing on the King James Bible is seen by many to be the default thing to do, a number of these will not be Anglicans. Indeed, Humanists UK has also attempted more generally to identify the beliefs of MPs and believes that at most 45% of MPs are Anglicans, with a large number about whom there is some uncertainty. Of the remaining 55%, 10% appear to be Catholics, 16% other Christians, 5% other religions, and 24% of no religion. Comparing this to the British Social Attitudes Survey suggests that Anglicans are significantly overrepresented in Parliament and the non-religious equivalently under-represented; but, nonetheless, a minority of MPs are Anglican. For what it's worth, the All-Party Parliamentary Humanist Group has over 100 members.

⁴ 'Prayer Cards', Democracy Live, BBC, (2008) http://news.bbc.co.uk/democracylive/hi/guides/newsid_82000/82567.stm And *Standing Orders: Public Business 2018*, House of Commons, 1 May 2018, https://publications.parliament.uk/pa/cm201719/cmstords/1020/so_1020_180501.pdf

Whilst researching this report, one peer told us that 'In their scramble for seats for oral questions immediately after prayers, an improbably large number of peers seem to have undergone religious conversions.' An MP told us, 'I often stand outside the door of the House of Commons chamber at the start of the session, peering through the window as colleagues take part in prayers. Whilst I appreciate it means a lot to those who take part, the rituals they go through make me feel excluded. I am unable to take part in the start of the parliamentary day unless I lie and profess to believe in something I do not.'

The Westminster Parliament is the only national legislature in the UK to have prayers of this sort. In Scotland, the Parliament has a weekly 'time for reflection', and who delivers it rotates between different religious groups and humanists. These have, in practice, been disproportionately Christian – 73 of the 101 times for reflection in the 2016–19 parliamentary sessions were Christian, while just 7 were humanist – so further work is needed to better reflect local demographics. But it is a lot more inclusive than simply having prayers of one denomination every day.⁵ The Northern Ireland Assembly starts each day with two minutes of silent reflection. This is known as 'prayers', but name aside is fully inclusive.⁶ The Welsh and London Assemblies have no equivalent procedures.

There is great worth in us having some time for reflection, as it can help provide a deeper look at the issues of the day, or wider moral questions, and provide food for thought for legislators before getting down to business. But it is only by making this time inclusive, as in Scotland, that it can best serve the interests of the diverse population and Parliament that the UK has today.

'I often stand outside the door of the House of Commons chamber at the start of the session, peering through the window as colleagues take part in prayers. Whilst I appreciate it means a lot to those who take part, the rituals they go through make me feel excluded. I am unable to take part in the start of the parliamentary day unless I lie and profess to believe in something I do not.'


RECOMMENDATIONS:

1. Each House of Parliament should at the next opportunity revise its standing orders to see the practice of saying prayers before the start of business in parliament replaced by an inclusive time for reflection. Prayers could instead be held elsewhere (e.g. in the chapel or one of the larger committee rooms) for those MPs and peers who want them.
2. If the preceding recommendation is not implemented, then at the very least, each House of Parliament should at the next opportunity revise its standing orders to ensure that those who do attend prayers do not get privileged access to seats in the chamber during any subsequent debates.

⁵ 'Contributors to Time for Reflection: Session 5', The Scottish Parliament, 4 April 2019, <https://www.parliament.scot/parliamentarybusiness/99861.aspx>

⁶ Standing Orders as amended 4 October 2016', Northern Ireland Assembly, 4 October 2016, <http://www.niassembly.gov.uk/assembly-business/standing-orders/standing-orders/>

PARLIAMENT'S ROLE IN GOVERNING THE CHURCH OF ENGLAND



Many of the internal rules of the Church of England relating to its administration and organisation are part of the law of the land. In many of these matters, the General Synod of the Church is not sovereign. Instead, key rules it adopts have to be passed, as measures, by both Houses of Parliament (where they are subject could be rejected)¹ and given royal assent. Measures can even amend or repeal Acts of Parliament, and are not considered legislation for the purposes of the Human Rights Act 1998.²

Church of England measures are laws agreed by the General Synod of the Church relating to the administration and organisation of the Church. A measure may amend or repeal Acts of Parliament insofar as they relate to the Church, except for matters pertaining to the powers, duties, or composition of the Ecclesiastical Committee.³ This may afford the Church of England legal privileges over other organisations. For example, the Church's general synod is currently

considering a measure that would make it unlawful for judges to order the sale of cathedrals in bankruptcy procedures against dioceses.⁴

The Ecclesiastical Committee is a joint committee of both Houses of Parliament created by the Church of England Assembly (Powers) Act 1919 and comprising 30 members. Its function is to examine draft Measures coming from the General Synod.⁵

The role of Parliament in approving a measure before it is made law is not a mere formality, as there have been some cases where Parliament has rejected a Measure, despite the Ecclesiastical Committee judging it expedient.⁶

This situation is troubling for two reasons. First, the fact that some religious rules enjoy legal effect affords an elevated legal position to one particular denomination. Conversely, the arrangements give the state the theoretical (albeit not generally used) power to interfere with the inner workings of a

¹ 'Parliamentary scrutiny of Church Measures', Parliament UK, <http://www.parliament.uk/business/bills-and-legislation/secondary-legislation/churchmeasures/>

² Human Rights Act 1998, section 10(6), legislation.gov.uk, <https://www.legislation.gov.uk/ukpga/1998/42/section/10>

³ Donald Shell, *The House of Lords* (3rd ed.), (Manchester: Manchester University Press, 2007)

⁴ 'Church of England proposes to pass law to override bankruptcy claims against its dioceses', Humanists UK, 6 July 2018, <https://humanism.org.uk/2018/07/06/church-of-england-proposes-to-pass-law-to-override-bankruptcy-claims-against-its-dioceses/>

⁵ The Committee examines draft measures presented to it by the Legislative Committee of the General Synod of the Church of England. Following receipt of the draft measure, the Ecclesiastical Committee prepares a report to Parliament setting out the nature and legal effect of the measure, as well as the Committee's views concerning practicality and convenience. Neither the Ecclesiastical Committee nor the Legislative Committee has the power to amend the text of the measure, however, the Legislative Committee may withdraw the measure entirely. Following the submission of the report from the Ecclesiastical Committee, both the House of Commons and the House of Lords must approve of the measure, as with any other bill, before it then receives Royal Assent. Cramner, Lucas, and Morris, (2006) pp. 18-19.

⁶ For example, in 1927 and 1828 Parliament rejected the Prayer Books Measures, and in 1984 the Commons voted against approving the Appointment of Bishops Measure. Cramner, Lucas, and Morris, (2006) p.19

religious institution, which in fairness it ought not to be permitted to do. Secondly, the associated cost to the taxpayer of, for example, facilitating the Ecclesiastical Committee, is a state subsidy, and parliamentary time, usually short, is diverted from public business to the business of a minority religious denomination.

RECOMMENDATIONS:

1. The role of Parliament in the governance of the Church of England should cease and legislation providing for state oversight of the Church should be repealed.
2. Existing Church measures should cease to be recognised as part of UK law, instead becoming private rules of the Church of England which it may amend if it so wishes.

PARLIAMENTARY OVERSIGHT OF THE CHURCH COMMISSIONERS

Since 1948 the Church Commissioners for England have been charged by statute with managing the assets of the Church of England. Three of them, known as the First, Second and Third Church Estates Commissioners, represent the Commission in the General Synod of the Church. The majority of the Commissioners are appointed *ex-officio* (e.g., the two archbishops) or nominated by them, or elected by other church groups, but four are nominated by the Queen on the recommendation of the Prime Minister (one of these is the First Church Estates Commissioner) and six are ministers or officers of Parliament: the Prime Minister, Lord President of the Council, Lord Chancellor, Secretary of State for Digital, Culture, Media, and Sport, Speaker of the House of Commons, and Lord Speaker. In addition the Second Church Estates

Commissioner is by a convention dating from 1866 a backbench MP appointed by the Queen on the advice of the Government and is subject about eight times a year to questions in the House of Commons. He or she is also appointed to the Ecclesiastical Committee.⁷

The rationale for this arrangement is that the Church Commissioners are responsible for funds whose origins lie partly in Parliamentary grants. It also reflects the fact that the Church of England is the established church, and the state maintains an interest in its functioning and continuation, for which financial health is essential.⁸

These arrangements involve Government and Parliamentary interference in Church of England finances, which ought to be a concern for the Church itself.

RECOMMENDATIONS:

1. The Government and Crown should have no part in appointment of the Church Commission.
2. The management of Church assets should be a purely internal church matter with no special accountability to Parliament.

⁷ By virtue of the Enabling Act 1919.

⁸ Cramner, Lucas, and Morris, (2006) pp. 19-20

ANNEX 1: FORMER LORDS SPIRITUAL IN THE HOUSE OF LORDS

All Archbishops of Canterbury since the turn of the 20th century have been awarded peerages upon retirement (though two died in office):

1. Rowan Williams
(2002–2012; 2013 life peerage);¹
2. George Carey
(1991–2002; 2002 life peerage);²
3. Robert Runcie
(1980–1991; 1991 life peerage);³
4. Donald Coggan
(1974–1980; 1980 life peerage);⁴
5. Michael Ramsey
(1961–1974; 1974 life peerage);⁵
6. Geoffrey Fisher
(1945–1961; 1961 life peerage);⁶
7. William Temple
(1942–1944; died while in office);⁷

8. Cosmo Gordon Lang
(1928–1942; 1942 hereditary peerage);⁸
9. Randall Davidson
(1903–1928; 1928 hereditary peerage);⁹
10. Frederick Temple
(1896–1902; died while in office)¹⁰.

¹ 'Rowan Williams: Baron Williams of Oystermouth', *Encyclopaedia Britannica*, (2016) <https://www.britannica.com/biography/Rowan-Williams>

² 'George Carey: Archbishop of Canterbury', *Encyclopaedia Britannica*, (2010) <https://www.britannica.com/biography/George-Carey>

³ 'Robert Runcie: Archbishop of Canterbury', *Encyclopaedia Britannica*, (2000) <https://www.britannica.com/biography/Robert-Runcie>

⁴ 'Donald, Baron Coggan: Archbishop of Canterbury', *Encyclopaedia Britannica*, (2001) <https://www.britannica.com/biography/Donald-Baron-Coggan>

⁵ 'Michael Ramsey, Baron Ramsey of Canterbury: Archbishop of Canterbury', *Encyclopaedia Britannica*, (2010) <https://www.britannica.com/biography/Michael-Ramsey-Baron-Ramsey-of-Canterbury>

⁶ 'Geoffrey Francis Fisher, Baron Fisher of Lambeth: Archbishop of Canterbury', *Encyclopaedia Britannica*, (2013) <https://www.britannica.com/biography/Geoffrey-Francis-Fisher-Baron-Fisher-of-Lambeth>

⁷ 'William Temple: Archbishop of Canterbury', *Encyclopaedia Britannica*, (1998) <https://www.britannica.com/biography/William-Temple>

⁸ 'Cosmo Gordon Lang, Baron Lang: Archbishop of Canterbury', *Encyclopaedia Britannica*, (2016) <https://www.britannica.com/biography/Cosmo-Gordon-Lang-Baron-Lang>

⁹ 'Randall Thomas Davidson, Baron Davidson: Archbishop of Canterbury', *Encyclopaedia Britannica*, (1998) <https://www.britannica.com/biography/Randall-Thomas-Davidson-Baron-Davidson>

¹⁰ 'Frederick Temple: Archbishop of Canterbury', *Encyclopaedia Britannica*, (2016) <https://www.britannica.com/biography/Frederick-Temple>

Similarly, all former Archbishops of York since the turn of the 20th century have been awarded peerages, save for one who died in office, one who reportedly died before his peerage could be legally created, and one who resigned owing to ill health and died shortly thereafter:

1. David Hope
(1995–2005; 2005 life peerage)¹¹
2. John Habgood
(1983–1995; 1995 life peerage)¹²
3. Stuart Blanch
(1975–1983; 1983 life peerage)¹³
4. Donald Coggan
(1961–1974, then translated to Canterbury, was awarded a life peerage in 1980 upon retirement)¹⁴
5. Michael Ramsey
(1956–1961, then translated to Canterbury, was awarded a life peerage in 1974 upon retirement)¹⁵
6. Cyril Garbett
(1942–1955; reportedly offered a hereditary peerage but died before this could be legally created)¹⁶
7. William Temple
(1929–1942; then translated to Canterbury, where he died in office)¹⁷
8. Cosmo Gordon Lang
(1909–1928; then translated to Canterbury, was awarded a hereditary peerage)¹⁸
9. William Maclagan
(1891–1908; died 1910)

Eight other religious leaders have been appointed to the House of Lords in recent years, including three other former bishops. However none of them are straightforward examples of religious leaders being appointed peers on account of their religion.

¹¹ 'Lord Hope of Thornes', Parliament UK, <https://www.parliament.uk/biographies/lords/lord-hope-of-thornes/3732>

¹² 'Lord Habgood', Parliament UK, <http://www.parliament.uk/biographies/lords/lord-habgood/3581>

¹³ David Say, 'Obituary: The Right Rev Lord Blanch', *The Independent*, 7 June 1994, <http://www.independent.co.uk/news/people/obituary-the-right-rev-lord-blanch-1420943.html>

¹⁴ 'Donald, Baron Coggan: Archbishop of Canterbury', *Encyclopaedia Britannica*, (2001) <https://www.britannica.com/biography/Donald-Baron-Coggan>

¹⁵ 'Michael Ramsey, Baron Ramsey of Canterbury: Archbishop of Canterbury', *Encyclopaedia Britannica*, (2010) <https://www.britannica.com/biography/Michael-Ramsey-Baron-Ramsey-of-Canterbury>

¹⁶ 'Cyril Foster Garbett: British Archbishop', *Encyclopaedia Britannica*, (1998) <https://www.britannica.com/biography/Cyril-Foster-Garbett>

¹⁷ 'William Temple: Archbishop of Canterbury', *Encyclopaedia Britannica*, (1998) <https://www.britannica.com/biography/William-Temple>

¹⁸ 'Cosmo Gordon Lang, Baron Lang: Archbishop of Canterbury', *Encyclopaedia Britannica*, (2016) <https://www.britannica.com/biography/Cosmo-Gordon-Lang-Baron-Lang>

ANNEX 2: THE INFLUENCE OF LORDS SPIRITUAL ON THE OUTCOME OF VOTES IN THE HOUSE OF LORDS

Between 2002 and 2018, the votes of the bishops in the House of Lords changed the outcome for nine votes. This number rises to twelve if ex-Lords Spiritual are taken into account.

VOTES DECIDED BY THE LORDS SPIRITUAL

The following voting outcomes were decided by the votes of (at least some of) the then sitting Lords Spiritual.

9 OCTOBER 2002: Nationality, Immigration and Asylum Bill

The Nationality, Immigration and Asylum Bill proposed a number of changes to the immigration and asylum systems, the support arrangements for asylum seekers and created provisions for detention and removal. It extended the power to detain asylum seekers, denied asylum seekers support unless they make their claim 'as soon as reasonably practicable' after arrival into the UK, and created accommodation centres to house destitute asylum seekers. It also introduced the Life in the United Kingdom test for everyone seeking naturalisation or permanent residence in the UK.

The vote in question was an amendment to the bill moved by the Bishop of Portsmouth that required that asylum seekers with children of school age should be placed in accommodation centres only if no places were available in local schools. Due to the votes of three Bishops, the amendment was passed 83-82. The amendment was later removed before the bill became law.

18 FEBRUARY 2003: Community Care (Delayed Discharges etc.) Bill

This bill was intended to give local authorities responsibility for reducing delayed discharges and thus free up NHS beds. It allowed the Government to fine councils for patient discharge delays from hospital, after which it is the social services responsibility for onward care.

Baroness Noakes moved an Amendment that added a clause requiring the Secretary of State to specify to the bodies charged with the inspection of health and social services¹ that they should 'monitor, at regular intervals, the impact of this Act on patients and their carers'. This vote would have been a tie (109-109), but for the vote of one Bishop, The Bishop of Chelmsford, who voted yes to the motion.

¹ Such as the Audit Commission, the Commission for Health Improvement and the Social Services Inspectorate.

The age of this Act makes its subsequent passage through both Houses unclear, however, the amendment does not feature in the final version of the Act, at least in the same language.

28 MARCH 2007: Gambling (Geographical Distribution of Casino Premises Licences) Order

This was a vote on a fatal motion against the draft Order tabled by the Liberal Democrats. The draft order detailed which licensing authorities would be permitted to issue the one regional license, eight large, and eight small casino licenses provided for under the Gambling Act 2005.

Those voting aye were voting for the fatal motion to defeat the draft Order. The fatal motion said that the Lords 'declines to approve the draft order; considers it desirable that Lords be appointed to join with a committee of the Commons as a Joint Committee to consider the process by which a decision was reached on which licensing authority should issue the regional casino premises licence and to report by 1 June 2007'. This would have been a tie (120 – 120) but for three Bishop votes for yes.

This vote was fairly significant, as it blocked Government plans to build a 'super casino' in Manchester, as well as the 16 smaller casinos. The Government abandoned plans for the Manchester super casino scheme permanently nearly a year later in February 2008, although plans for the smaller casinos were reintroduced.

25 JANUARY 2010: Equality Bill – Committee (4th Day)

The Equality Bill sought to bring many disparate pieces of human rights legislation into one Act. Among those merged were the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Employment Equality (Religion or Belief) Regulations 2003. It largely mirrors the four major EU Equal Treatment Directives.

This vote was to delete a clause from the bill related to genuine occupational requirements

(GORs) which read, 'Employment is for the purposes of an organised religion only if the employment wholly or mainly involves – (a) leading or assisting in the observance of liturgical or ritualistic practices of the religion, or (b) promoting or explaining the doctrine of the religion (whether to followers of the religion or to others).'

The motion would have been defeated by three votes, were it not for the eight bishops who voted in favour. This followed two other votes on the same clause in the bill.

First, Baroness O'Cathain, who credited the Bishop of Winchester and Baroness Butler-Sloss (a particularly stalwart defender of 'religious freedom' throughout the Lords debate) for their support, tabled an amendment changing the bill's existing language to maintain the status quo on religious exemptions from equality legislation. The bill's language originally specified that 'application of a requirement engages the compliance principle [i.e. an exemption] if the application is a proportionate means of complying with the doctrines of the religion'. This was changed to 'engages the compliance principle if the requirement is applied so as to comply with the doctrines of the religion.'

In the Lords debate, O'Cathain argued that the original qualifying word 'proportionate' had caused 'concern among religious groups.' Baroness Turner asked rhetorically, 'Do the movers of the Bill really see any virtue in being disproportionate?' This vote passed without the need for bishop support, but benefitted from the votes of eight bishops.

Secondly, Baroness Blaisdon had tried to insert the following (Government) amendment:

'Employment is for the purposes of an organised religion only if – (a) the employment is as a minister of religion, or (b) the employment is in another post that exists (or, where the post has not previously been filled, that would exist) to promote or represent the religion or to explain the doctrines of the religion (whether to followers of the religion or to others).'



During the debate, Baroness Turner explained that the Government's amendment was intended to clarify that employers could not seek equality exemptions for 'most jobs, only for those that relate directly to the purposes of organised religion.'

Once again, this was defeated without the need of the bishops' votes, but benefitted from those votes nonetheless.

The final Act reflects the voting outcomes of the motions considered by the House of Lords: Baroness O'Cathain's amendment remains, and the Lords (with the help of the bishops) were successful in preventing amendments that clarified what constitutes employment for the purposes of organised religion.

8 JUNE 2010:

Local Government Bill (HL) – Motion to refer to the Examiners

The Local Government Act gave effect to the Coalition Government's commitment to put a stop to existing proposals for restructuring of councils in Norfolk, Devon and Suffolk.

In this motion, the Lords agreed that the Local Government Bill ought be assessed by professional staff to determine if it ought be treated as a Government (public) bill or as a 'hybrid' bill as it progresses through Parliament. The reasoning for treating the bill as a 'hybrid' (meaning a public bill which affects a particular private interest differently to the private interests of other bodies of the same category) was that specific councils were named in the bill and treated differently to others.

The motion passed 154 – 150, with four Bishops voting in favour of the motion. Ultimately, the Examiners determined that the Bill was not a 'hybrid' one, and it later became the Local Government Act after passing through both houses.

7 FEBRUARY 2011:

Parliamentary Voting System and Constituencies Bill – Report (1st Day)

The bill provided for a referendum on the use of the Alternative Vote (AV) system in general elections, with its other main feature being to create new rules for the redistribution of seats which would have required 600 Parliamentary constituencies rather than the current 650.

The amendment in question concerned AV, and proposed a 40% turnout threshold in the AV referendum in order for it to be binding. A single Bishop's vote (the Bishop of Blackburn) broke a 218-218 tie, seeing the amendment inserted. The amendment was later overturned by the Commons, a change agreed to by the Lords upon its return. It therefore did not make it into the final Act.

23 APRIL 2012:

Legal Aid, Sentencing and Punishment of Offenders Bill – Commons Reasons and Amendments

The bill covered provisions on legal aid, litigation funding and costs, and the sentencing and punishing of offenders. It proved controversial due to its providing for a new offence, namely squatting in a residential building, as well as significant cuts to legal aid. As a result it suffered 14 defeats in the Lords before becoming law.

The Commons rejected most of the Lords' amendments, frequently arguing that it would alter the financial arrangements made by the Commons. This vote occurred after the Commons rejected several Lords amendments concerning domestic violence, and added some concessions. The following amendments were rejected.

Amendment 2: An amendment that mandated 'the Lord Chancellor must ensure that victims of domestic violence are able to access civil legal services in accordance with the financial eligibility criteria in section 20 (financial resources).' The Commons rejected the amendment, arguing it would alter its financial arrangements.

Amendment 194: An amendment that would place on the face of the Bill a list of the

forms of evidence that would be accepted as demonstrating domestic violence against an individual for the purpose of that individual's qualifying for legal aid. This was in proposed instead of leaving this matter to be covered in regulations. The Commons rejected the amendment on the basis that 'it is appropriate for provision about forms of evidence of domestic violence to be made by regulations.'

Amendment 196: An amendment that stipulated no time limit would apply to any form of evidence which may be prescribed in regulations for the purposes of an individual's qualifying for legal aid. The Commons, which had sought to impose a 12 month time limit within which anyone seeking legal aid in cases of domestic violence must claim, rejected this amendment on the basis that 'it is not appropriate to prevent a time limit being imposed in respect of evidence supporting an application for civil legal aid.'

The Commons conceded ground to the Lords in its own amendments which accepted a broader definition of domestic violence in full and clearly stated this in the bill. The amendments also widened the evidence permissible for claims of domestic violence and doubled the time limit within which people involved in domestic violence must claim legal aid to two years.

Baroness Scotland insisted that the permissible evidence should be identical to that of the UK Border Agency when assessing domestic violence immigration applications, and campaigned strongly against the time limit for claiming legal aid in domestic violence cases. While she accepted the conceding amendments from the Commons, the vote in question was on her motion which added amendments in lieu of those rejected by the Commons. The amendments both effectively rejected the time limit for evidence and maintained the previous, wider list of acceptable evidence. The motion passed 239 – 236 with the help of six bishop's votes.

However, the bill returned to the Lords days later with Baroness Scotland's amendments removed. Her efforts to once again amend the parts of the bill concerning domestic violence resulted in the narrowest of defeats, with a 238-238 tie meaning

the Government won out. Four Bishops backed Baroness Scotland in the final vote before the bill became law.

6 MARCH 2013: Enterprise and Regulatory Reform Bill – Report (3rd Day)

This Bill aimed to reform regulation for Small and Medium Enterprises (SMEs), as well as establish a Green Investment Bank. The amendment in question concerned changes to health and safety regulations.

This vote was on a motion moved by Lord Mackenzie, who characterised it as 'an attempt to defeat the fundamental purpose of Clause 62' of the bill. Clause 62 amended the Health and Safety at Work etc. Act 1974 and, Mackenzie and others argued, removed civil liability from breaches of duty imposed by health and safety regulations. The amendment sought to reinstate this liability.

The explanatory notes for the Commons notes that the Government opposed the amendment and says the

'main effect of the amendment would be to retain the current position in relation to the right to sue for breach of a statutory duty contained in regulations made under the 1974 Act, and prevents subsections 2A and 2B which, respectively 1) prevents a claim for breach of statutory duty in relation to certain health and safety legislation that existed before the 1974 Act and 2) Enables the Secretary of State to make regulations setting out the extent to which a breach of 'other health and safety legislation' is actionable.'

The vote would have been tied 223-223, but for two votes from the Bishops of Hereford and Norwich who voted in favour of the motion.

The Commons rejected the amendment and, upon the bill's return to the Lords, the house voted on a motion by Lord Hardie stating that Lords insisted on the amendment. The Bishop of Hereford once again voted in favour of the Lords' amendment, but Hardie's motion was



defeated 168 – 110, seeing the Commons' original wording restored to the bill before it became the Enterprise and Regulatory Reform Act.

16 DECEMBER 2015: Education and Adoption Bill – Report (2nd Day)

This Act made a number of changes related to the power of the Secretary of State for Education to intervene in 'schools causing concern', as well as some provisions to do with adoption.

In particular, the Act provides that for any maintained school requiring significant improvement or in special measures, the Secretary of State must make an Academy order (i.e. forcibly convert the school to an Academy).

This Amendment, introduced by Labour Party frontbencher Lord Watson and supported by Liberal Democrat frontbencher Lord Storey, sought to change that power into a permissive one, i.e. change the 'must' to 'may'. It was debated grouped with other amendments that would have also introduced a requirement to consult parents, and the hope of the proposers was that taken together, the Secretary of State may choose not to use their power to convert a school to an Academy, depending upon how that consultation went. The Conservatives opposed the amendment, saying that it was good that schools would have to convert to Academies, and it was a manifesto commitment that this change would be introduced.

The vote was tied 219 – 219, which meant that the amendment fell. But it would have passed were it not for three bishops voting against the amendment. The Church of England has more control over its schools when they are academies than when they are maintained, so has benefited from the defeat of this amendment.

VOTES DECIDED BY CURRENT AND FORMER BISHOPS

The outcome of the following votes was decided by the votes of former bishops who still sit in the Lords (or did at the time of the vote), as well as the Lords Spiritual themselves.

13 JANUARY 2003: Licensing Bill (HL)

The Licensing Act 2003 established a single integrated scheme for licensing premises which are used for the sale or supply of alcohol or provide regulated entertainment. It is arguably most known for potentially permitting flexible opening hours for licensed premises, with the potential for up to 24 hour opening.

The vote was on an amendment that inserted a clause on what constituted an 'interested party' in licensing decisions. It added that 'the Member of the European Parliament, the Member of Parliament and the local ward councillors for the constituency or ward in which the premises are situated' should be included as interested parties. 'Interested parties' play an important role in the appeals process.

The Amendment was narrowly passed by one vote (112-111) but did not make it into the final Act. Lord Eames, former Anglican Archbishop of Armagh, voted in favour of the measure.

17 DECEMBER 2013: Children and Families Bill – Report (2nd Day)

This was an amendment moved by Baroness Butler-Sloss that concerned the involvement of both parents in a child's life in the event of separation. It added to a prior clause that stated 'A court... is to presume, unless the contrary is shown, that involvement of that [either] parent in the life of the child concerned will further the child's welfare.' This amendment added, 'Involvement is any kind of direct or indirect involvement that promotes the welfare of the child; it shall not be taken to mean any particular division of a child's time.'

Campaign groups including the NSPCC had argued for the amendment on the basis that it should be explicitly clear that the clause was not about equal division of a child's time between separated parents, and the child's welfare remained paramount.

The amendment passed 225 – 221, with the help of the votes of three bishops and that of Lord Harries of Pentregarth, former Bishop of Oxford and Lord Spiritual.

The amendment made it into the final Act under slightly different language, stating: 'In subsection (2A) 'involvement' means involvement of some kind, either direct or indirect, but not any particular division of a child's time.'

22 OCTOBER 2014: Criminal Justice and Courts Bill – Report (2nd Day)

This Act made a number of changes to the criminal justice system, including on the spot fines, giving courts greater powers to strike out dishonest personal injury claims, increasing sentences for online harassment, and introducing an offence for 'revenge porn'.

This Amendment, introduced by Lord Beecham, concerned secure colleges, the planned new form of youth custody. It stipulated that 'No female, nor any male under the age of fifteen, may be placed in a secure college.' It was motivated by safeguarding concerns over the issue of girls and boys being housed together, which was strongly opposed by some domestic violence groups. The Government had tried to allay concerns by fencing off girls and vulnerable children. The amendment passed 186 – 185 with the help of Lord Eames, former Archbishop of Armagh.

The amendment did not make it into the final Act, as it was not accepted by the Commons.





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