

## Submission to the Joint Committee on the Draft House of Lords Reform Bill's Call for Evidence from the British Humanist Association.

1. The British Humanist Association (BHA) welcomes the opportunity to give evidence to the Joint Committee scrutinising the White Paper and Draft House of Lords Reform Bill. Our remarks in this submission are limited to the issue of the place of Bishops in the House of Lords and we make particular comment on the specific proposals set out in the White Paper and Draft Bill. We have attached as an appendix to this submission a comprehensive briefing *Religious Representatives in the House of Lords*, which we commend to the Joint Committee and request that it is accepted as supporting evidence to this submission.
2. The BHA believes that the best constitutional system is one that is secular, that is one where state institutions and religious institutions are separate and the state is neutral on matters of religion or belief. We believe that such a state is the best way to guarantee individual human rights, to ensure everyone is equal before the law, and to protect against privilege or discrimination on grounds of religion or belief. The BHA does not take a position on what a reformed House of Lords should look like, whether it should be elected or partially elected. However, it is our position that there should be no reserved places for Bishops of the Church of England, or for any other religious representatives, in Parliament.
3. We have long argued for the removal of the right of Bishops to sit in the House of Lords, especially since the prospects for reform became (slightly) greater in 2002, and the public are strongly on our side in wanting to remove this religious privilege. Last year the BHA worked with Power 2010 on an initiative which saw thousands of people write directly to the Bishops in the House of Lords, calling on them to engage positively with democratic renewal.
4. An ICM survey conducted on behalf of the Joseph Rowntree Reform Trust in March 2010 found that 74% of the British public – including 70% of Christians – believe it is wrong that Bishops have an automatic right to a seat in the House of Lords<sup>1</sup>. Many parliamentarians from across Parties and Peers in the crossbenches would share that view, and both the Labour Party and the Liberal Democrats have policy positions on Lords Reform which would mean an end to reserved seats for the Bishops<sup>2</sup>.
5. We are extremely disappointed that the White Paper and Draft Bill ignores the strength of feeling amongst people and organisations, both religious and non-religious alike, who want to see an end to the privileged place for the Church of England in Parliament through having reserved places for its Bishops in the House of Lords. However, we welcome the statement in the White Paper that the Joint Committee will 'consider options including a wholly elected House' (p12). We could not urge the Joint Committee more strongly to look again at the issue of the Lords Spiritual and to recommend that there are no automatic, reserved places in any reformed chamber.

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<sup>1</sup> ICM Research, Lords Survey, March 10-11 2010

[http://www.ekklesia.co.uk/content/survey\\_on\\_bishops\\_icm.pdf](http://www.ekklesia.co.uk/content/survey_on_bishops_icm.pdf)

<sup>2</sup> The Labour Party's policy is for a wholly elected House of Lords, as set out in its 2010 election manifesto <http://www.labour.org.uk/uploads/TheLabourPartyManifesto-2010.pdf>, and the Liberal Democrat's longstanding policy is also for a wholly elected House of Lords and they reaffirmed at their 2011 annual conference that even in a partially appointed chamber, there should be no reserved seats for Bishops.

## The proposals

6. The White Paper and Draft Bill propose to retain reserved places in Parliament for the established Church<sup>3</sup>. The UK is the only democratic state to do this, and this is in spite of the fact that the Church of England commands little public support, with only 23% of the population professing to be affiliated to the Church of England, according to the 2010 British Social Attitudes survey (and of this number, half never attend church).
7. The presence of the Church of England in the House of Lords entrenches a privileged position for one particular branch of one particular religion that cannot be justified in today's society, which is not only multi-faith but increasingly non-religious. It is at odds with the aspiration of a more legitimate and representative second chamber and with recognition of a plural society. Moreover, by virtue of their position as Bishops of the Church of England, the proposals effectively reserve seats in the House of Lords for heterosexual men, or celibate gay men, of the same denomination. This unabashed discrimination has no place in a modern Parliament.
8. The proposals do not simply maintain the status quo but create a new, independent and largely unaccountable bloc for the Church of England in Parliament.
9. The House of Lords Reform Draft Bill and White Paper propose to retain the right of Bishops to sit in Parliament but with a reduced number of 12 Bishops (from 26) sitting as ex-officio members 'in line with proposals for a reduction in the size of the second chamber' (p8). However, in a smaller chamber of 300 Peers, that would represent a proportional increase from 3% to 4%. We cannot see any good reason to maintain the reserved seats for Bishops and certainly can see no legitimate justification for increasing their proportional place in the chamber. We recommend that the Joint Committee rejects this proposal.
10. The White Paper and Draft Bill also propose that the Archbishops of Canterbury and York and the Bishops of London, Durham and Winchester will continue to be members of the House of Lords, and to give the Church of England new powers to decide which of the remaining 7 of the 12 Bishops will sit in the chamber. If there are to be reserved seats for Bishops of any number, we cannot see any reason why the Church should be permitted more say than at present over who takes those places in the House of Lords.
11. Although they would have the same speaking and voting rights as other members of the reformed House of Lords, the Bishops would continue to sit in Parliament on a different basis from other members. Following transition periods, in a fully reformed chamber, the Government proposes that (p23):
  - Bishops would not be entitled to a salary or pension in the reformed House of Lords;
  - Bishops would be exempt from the tax deeming provision;
  - Bishops would be entitled to claim allowances under the scheme administered by the IPSA for members of the reformed House of Lords;
  - They would be subject to the disqualification provision;
  - They would not be subject to the serious offence provision and those on expulsion and suspension as it is anticipated that such members would be subject to the disciplinary procedures established by the Church of England.

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<sup>3</sup> Although it is important to note that there is no constitutional link between establishment and having reserved places for Bishops in Parliament. See Appendix, 5) *Wouldn't removal of the Bishops mean disestablishment of the Church of England?* for details.

12. Through maintaining a special status for Bishops in a reformed chamber where they will not receive a wage (although they would be entitled to other benefits), they will not be accountable to Parliament in the same way as other members. More important, arguably, is their exemption from the serious offence provision and those on expulsion and suspension. These provisions ensure that on the most serious matters, Bishops in the House of Lords will be accountable to the Church of England and not to Parliament.
13. We believe that these proposals are counter to the aims of creating a more democratic and accountable chamber, and as such cannot be justified. Indeed, no justification is provided in the White Paper for creating an essentially new position for Bishops in a reformed chamber, over which the Church of England has far more control and say than at present.
14. If there are to be reserved seats for Church of England Bishops in the House of Lords (which we strongly oppose) there are a number of ways that the Draft Bill could be amended so as to ensure that Parliament, and not a religious institution, has authority over those who sit in Parliament and we urge the Joint Committee to examine the proposals with a view to amending them in line with the cross-Party commitment to creating a more democratic chamber.

#### **About the BHA**

15. The BHA is the national charity working on behalf of non-religious people who seek to live ethical and fulfilling lives on the basis of reason and humanity. Founded in 1896, we have over 28,000 members and supporters and over 90 local and special interest affiliates.

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**October 2011**

## APPENDIX

# Religious Representatives in the House of Lords

*Briefing from the British Humanist Association*

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# **Religious Representatives in the House of Lords**

*Briefing from the British Humanist Association*

Preface by Andrew Copson, Chief Executive of the British Humanist Association

1. Background
2. What are the arguments made for retaining Bishops?
3. What are the arguments made for increasing and diversifying religious representation?
4. What are the arguments against Bishops and against increased and more diverse religious representation as of right?
5. Wouldn't removal of the Bishops mean disestablishment of the Church of England?
6. Is it just humanists and other non-religious people who are opposed to the current situation?
7. What can be done?

Annex A – Some proposals for reform of Bishops pre-1997

Annex B – The situation after 1997

Annex C – Religion in the UK today

Annex D – Extracts from paper by Prof. MacLean, University of Oxford

## Preface

The UK is the only democratic country to give seats in its legislature to religious representatives as of right. This is not just a harmless legacy of a medieval constitution but a present example of discrimination, religious privilege and un-democratic politics.

The presence of Church of England in the House of Lords entrenches a privileged position for one particular branch of one particular religion that cannot be justified in today's society, which is not only multi-faith but increasingly non-religious. It is at odds with the aspiration of a more legitimate and representative second chamber and with recognition of a plural society.

The BHA has long argued for the removal of the right of Bishops to sit in the House of Lords, especially since the prospects for reform became (slightly) greater in 2002, and the public are strongly on our side in wanting to remove this religious privilege. Most recently the government has proposed to retain a number of seats for Church of England Bishops in a partially appointed chamber. It also proposed to give the Church of England new powers to choose which bishops represent the Church, and to exempt those Bishops from provisions which would apply to other members, including those on expulsion and suspension, creating a new, independent and largely unaccountable bloc for the Church of England in our Parliament. New public agitation for reform together with the most serious prospect of reform for many years have motivated us to publish a comprehensive account of our reasoning now as a contribution to this essential debate.



Andrew Copson  
Chief Executive  
British Humanist Association

# 1. Background

The UK is the only democratic country to give seats in its legislature to religious representatives as of right.

Some proposals for House of Lords reform over the last fifty years have centred on total abolition or on a totally elected House. Obviously, in both these cases, the position on Bishops is one of complete removal. In a number of other proposals over the years, however, Bishops would have retained their right to sit in the House but be reduced in number. A few proposals would have reduced Bishops in number but also added further religious representatives as of right. A selection of past proposals for reform of the Bishops is in Annex A. More details on proposals since 1997 are in Annex B.

The Government's most recent proposal<sup>4</sup> in its Draft Bill is to retain the right of Bishops to sit in a partially appointed chamber at a reduced number of 12 (from 26), which would represent a proportional increase from 3% to 4% in a smaller chamber. The Government also proposes that, unlike other Peers in a reformed chamber, the Bishops would not be entitled to a salary or pension, nor would they be subject to the serious offence provision, nor those on expulsion and suspension. However, the Government's White Paper suggests that the proposals are subject to change and that 'a wholly elected House of Lords has not been ruled out'.

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<sup>4</sup> *House of Lords Reform Draft Bill and White Paper* (Cabinet Office May 2011).

## 2. What are the arguments made for retaining Bishops?

The case for the Church of England continuing to have reserved seats in the legislature is based partly on history and tradition and partly on the historically recent notion that they bring a unique ethical and spiritual insight to the affairs of the House. These two arguments are seldom elucidated clearly and rest quite often on weak general statements:

*'The Bishops often make a valuable contribution in the House because of their particular perspective and experience.'*<sup>5</sup>

*'religious representation helps in the recognition of the part that moral, philosophical, and theological considerations have to play in debating political and social issues'*<sup>6</sup>

*'The Church of England Bishops' position as Lords of Parliament reflects the British history and culture of seeking to heal religious conflict and promoting ever greater religious tolerance and inclusiveness. 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. And that representation has been acknowledged by leaders of other Christian denominations and faith communities as providing a voice in Parliament for religion in general, not simply for the Church of England.'*<sup>7</sup>

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<sup>5</sup> *Modernising Parliament: Reforming the House of Lords* (Cabinet Office Jan 1999), p. 39

<sup>6</sup> *The House of Lords: Completing the Reform* (Nov 2001)

<sup>7</sup> Report of the Wakeham Commission: *A House for the Future* (Jan 2002), p.152

### 3. What are the arguments made for increasing and diversifying religious representation?

The arguments made for increasing and diversifying religious representation are largely made on the assumption that places will continue to be reserved for Bishops and that, therefore, principles of equality and non-discrimination dictate that other religions must receive the same privileges. It is also argued that representatives of religions can make a contribution analogous to that which it is claimed the Bishops provide. In addition, the Wakeham Commission argued that religion is an important part of the identity of many UK citizens, and that this fact should be reflected in the composition of a reformed second chamber:

*'the importance of the House of Lords reflecting more accurately the multicultural nature of modern British society in which there are citizens of many faiths, and of none'<sup>8</sup>*

*'the leaders of other denominations and faiths have a significant contribution to make to the second chamber'<sup>9</sup>*

*'Religious belief, however, is an important part of many people's lives and it is desirable that there should be a voice, or voices, in the second chamber to reflect that aspect of people's personalities and with which they can identify.'<sup>10</sup>*

Nonetheless there seems little doubt that, if Bishops were not already in the House of Lords, proposals for the representation of other religions would not be nearly so popular.

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<sup>8</sup> *Modernising Parliament: Reforming the House of Lords* (Cabinet Office Jan 1999), p.39

<sup>9</sup> *The House of Lords: Completing the Reform* (Nov 2001)

<sup>10</sup> Report of the Wakeham Commission: *A House for the Future* (Jan 2002), p.151

## 4. What are the arguments against Bishops and against increased and more diverse religious representation as of right?

### *a. Bishops of the Church of England*

The presence of Church of England bishops in the House of Lords as of right entrenches a privileged position for one particular branch of one particular religion that cannot be justified in today's society, which is not only multi-faith but increasingly non-religious. It is at odds with the aspiration of a more legitimate and representative second chamber.

- 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 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’<sup>11</sup> 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 (see Annex C).
- 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 (‘Religious groups and leaders’ are the domestic group that people are most likely to believe has too much influence on government (MORI, 2006))
- Bishops in any case represent only England, leaving Scotland, Wales and Northern Ireland unrepresented.
- Even the Wakeham Commission stated that, ‘Some of us would be opposed to going beyond the recommendation set out above [recommendation 107 – see Annex B], arguing that to do so would be inconsistent with the principle of neutrality between those who adhere to

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<sup>11</sup> NOP poll, 9 September 2004

a faith and those who do not.<sup>12</sup>

- The House of Commons Public Administration Committee unanimously rejected seats as of right for bishops and so did the great majority (71%) of respondents to the Lord Chancellor's 2002 consultation document (56% – no bishops; 15% – only as individual appointments through the standard procedure).

*b. Other denominations and religions*

- Religious 'leaders' cannot speak for the whole population – their views are often controversial and rejected by people with equally deeply held religious or ethical convictions. The Wakeham Commission itself conceded that, 'In considering whether the faith communities should have specific, explicit representation, we do not in any way imply that they are the sole source of philosophical, moral or spiritual insight or that their insights are necessarily more valuable than those contributed by people without a religious faith. In the reformed second chamber, as in the present House of Lords, individual members will bring their own deepest convictions to bear, whether their basis is religious or secular.'<sup>13</sup>
- 'Leaders' of religious groups, however they are selected, are often unrepresentative of their followers, being the most conservative elements, and their privileged access to such a position of power would reinforce their reactionary influence. For example, many Islamic religious leaders, some of whom may have only recently come to the UK, are out of tune with their congregations, and particularly women, while the Roman Catholic Church is patently unrepresentative of its members' views on gender issues, contraception, abortion, and the use of condoms to prevent HIV infection.
- Religion is in decline as an influence and increasing its presence in a reformed chamber would give it artificial support, and a completely unacceptable amount of influence.
- Asked in a 2006 Ipsos MORI poll to select whom they thought Government paid too much attention to, more people chose 'religious groups and leaders' than chose any other domestic group.
- The only equitable framework in which we may conduct our community life to ensure that diversity does not lead to conflict is a secular one, where the state is neutral in matters of religion and belief. It is not acceptable to move from the establishment of one denomination to an effective co-establishment of all religions, for many pragmatic – reasons but also on principle because it excludes the large and growing non-religious population.

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<sup>12</sup> Report of the Wakeham Commission: *A House for the Future* (Jan 2002), p.152

<sup>13</sup> Report of the Wakeham Commission: *A House for the Future* (Jan 2002), p.151

The Wakeham Commission itself raised many objections to the representation of other religious 'leaders' as of right:

- Not all denominations and faiths have a hierarchical structure, like that of the Church of England, which would lend itself to the identification of particular post holders who could be invited to serve in the second chamber on an *ex officio* basis.
- Many of the other Christian denominations and faiths active in the United Kingdom have relatively loose structures with individual congregations or gatherings having a significant degree of independence. In the United Kingdom there is a multiplicity of faiths, denominations and sects, making it difficult to identify those which could be considered truly 'representative'.
- There is a risk that, in seeking to give adequate representation to each broad shade of religious opinion, the number of people who were members of the second chamber by virtue of their membership of a religious body would become disproportionate.<sup>14</sup>
- Members of some religious bodies would have practical and theological concerns about any suggestion that they should be 'represented' in the second chamber. The evidence we received from the Church of Scotland, for example, referred to the 'tension' which arises from the fact that "while the Church of Scotland is a National Church, whose life is, and has been for centuries, bound up with the life of the nation, it is also a Church which asserts its spiritual independence of the State, an independence which, moreover, the State recognises and guarantees by statute."
- On a related issue, it is clear that several religious bodies would find it difficult to agree to an arrangement in which the process of nominating someone to 'represent' them lay outside the control of their own authorities.
- A specific concern raised by the evidence from the Roman Catholic Bishops' Conferences in England and Wales and in Scotland was the implications of the Canon Law of the Catholic Church which forbids clerics from assuming "public office whenever it means sharing in the exercise of civil power."<sup>15</sup>

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<sup>14</sup> See Annex D for an illustration of this.

<sup>15</sup> Report of the Wakeham Commission: *A House for the Future* (Jan 2002), p. 153ff.

## 5. Wouldn't removal of the Bishops mean disestablishment of the Church of England?

No. In *Modernising Parliament: Reforming the House of Lords*, produced by the Cabinet Office in January 1999, it was said:

*'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 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 Bishoprics 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.'* (p.15)

It would be disingenuous for the Government now to claim that this is incorrect and that the removal of seats for Bishops in the Lords as of right would somehow constitute a disestablishment of the Church of England.

Even if we were to accept that that the presence of Bishops as of right were a manifestation of modern establishment (which it isn't), it still would be only one of the manifestations of establishment. Even if Bishops' automatic right to a place in the Lords was removed, all other features of establishment would remain in place – the role of the state in ecclesiastical appointments, the relationship between the church and the head of state, the power of the ecclesiastical courts, the existence of an ecclesiastical committee in Parliament, the jurisdiction of the Judicial Committee of the Privy Council over ecclesiastical appeals; all these and the many other features of establishment would go untouched.

To claim that the removal of Bishops would equate to disestablishment of the Church of England is misleading.

## **6. Is it only humanists and other non-religious people who are opposed to the current situation?**

No. There are religious people, including Anglicans, who support the removal of the Anglican Bishops from the Lords and who do not believe that they should be supplemented by other religious representatives. The Christian think-tank Ekklesia, for example, is a strong advocate of a secular legislature.

Chris Bryant, in 'Being the Church' in *Established certainties? Reflections on Church, State, and the formation of Englishness* (CSM 1998) noted that it would be difficult to include representatives of other denominations or faiths since the canon law of the Roman Catholic bans its clergy from sitting in a legislature, and non-conformist churches appointed leaders for often brief periods of office. He might have also added that many non-conformists are also opposed to religious representation in the legislature, and would probably not accept seats in any case. He also noted that a Bishops' Bench in a totally elected chamber would be a striking anomaly.

## 7. What can be done?

In the event that reform results in a wholly elected second chamber, the problem of Bishops would clearly be solved. In the event of reforms that result in a mixed composition, with a proportion of appointed members, the problem of religious representatives remains.

It would be impossible to attain genuine religious representativeness through giving places to religious leaders *ex officio* in a reformed House, it is unlikely that such a proposal would be made, and so the need to argue against such a proposal is minimal. The most likely outcome seems to be that any future appointment mechanisms would have regard to the need to have a religiously diverse House (for example along the lines of the Wakeham Commission's 107<sup>th</sup> recommendation that there 'should continue to include people capable of articulating a range of philosophical, moral and spiritual viewpoints, both religious and secular'). This would seem to eliminate the danger of a future chamber containing religious representatives who hold their places *as of right*.

In the case of Bishops, the Government favours a retention of Bishops, though reduced in number. For the reasons laid out above, this is an undesirable outcome.

**It is to be hoped that Government will endorse and Parliament will vote for the removal of the right of Bishops to sit in the Lords and favour an approach whereby any appointed members are appointed on merit and there is no religious discrimination whatsoever.**

## **Annex A – some proposals for reform of Bishops pre-1997**

In a number of proposals, Bishops have retained their right to sit in the House but **reduced in number**. These included:

- 1968 White Paper on House of Lords reform proposed the reduction of the number of Bishops with seats as of right from 26 to 16 (the proposed reforms were never laid before Parliament).
- 1978 The report of the Conservative Review Committee on the House of Lords (appointed in 1977 by Mrs Thatcher) proposed the retention of only 16 Bishops.
- 1978/9 House of Lords (Reform Bill) introduced by Kenneth Lomas MP proposed reducing the number of Bishops to 10.

In a very few cases, proposals for reform have **reduced Anglican Bishops in number but added further religious representatives as of right**. These have included:

- 1970 Archbishops' Commission on Church and State (appointed in 1965 by the Church Assembly) accepted the reduction of the number of Bishops to 16 and proposed that the additional places be taken by other religious 'leaders'.
- 1985/6 Amendment of the Constitution of the House of Lords (Bishops) Bill introduced by Richard Holt MP proposed reducing the number of Anglican Bishops to 14 and giving the right to sit in the Lords to church representatives of Scotland, Wales, Ireland and to the Chief Rabbi.
- 1998 Nicholas Kent, in 'Enhancing our democracy: reforming the House of Lords' (Tory Reform Group) proposed reducing Anglican Bishops to 20 and adding 12 other religious 'leaders'.

## **Annex B – the situation after 1997**

### *Modernising Parliament: Reforming the House of Lords (Cabinet Office Jan 1999)*

Stated that the Bishops would remain in the transitional House of Lords and that the representation of other religions as of right would 'form one of the issues for examination in longer-term reform of the Lords.' (p. 40) But that document left the question open.

### *The Report of the Wakeham Commission, A House for the Future (Jan 2000)*

Recommended that:

- 1) The reformed second chamber should continue to include people capable of articulating a range of philosophical, moral and spiritual viewpoints, both religious and secular. (Recommendation 107)
- 2) The Church of England should continue to be explicitly represented in the second chamber, but the concept of religious representation should be broadened to embrace other Christian denominations, in all parts of the United Kingdom, and other faith communities. (Recommendation 108)
- 3) The Appointments Commission should ensure that at any one time there are at least five members of the second chamber specifically selected to be broadly representative of the different non-Christian faith communities. (Recommendation 109)
- 4) The total number of places in the reformed second chamber for members formally representing the various Christian denominations throughout the United Kingdom should be 26. Taking into account the relative size of the population in each of the nations which comprise the United Kingdom, 21 of these places should go to members representing the Christian denominations in England and five should go to members representing the Christian denominations in Scotland, Wales and Northern Ireland. (Recommendation 110)
- 5) Of the 21 places available for members of Christian denominations in England, 16 should be assigned to representatives of the Church of England and five to members of other Christian denominations in England.' (Recommendation 111) Here the Commission also said 'we recommend that the allocation of places to representatives of the various denominations should be done on the basis of the number of baptised members of each denomination rather than on levels of regular Sunday attendance. For virtually all Christian denominations, baptism is *the* mark of membership and it reflects the basis on which people identify their religious beliefs.'
- 6) The Appointments Commission should have the ultimate responsibility for appointing individuals to the five places available for members of Christian denominations in England other than the Church of England. But, in doing so, it should consult extensively with the relevant ecumenical instrument, Churches Together in England. (Recommendation 112)
- 7) The Appointments Commission should have the ultimate responsibility

for appointing individuals to the five places available for members of Christian denominations in Scotland, Wales and Northern Ireland, but it should consult extensively with the relevant ecumenical instruments. (Recommendation 113)

- 8) Demographic changes and changes in the level of adherence to particular sets of religious beliefs should be reflected in adjustments to the pattern of religious representation which we have proposed. (Recommendation 114)
- 9) The Church of England should review the options for providing formal Church of England representation in the reformed second chamber. Their detailed recommendations should be made to the Government in time for incorporation into whatever legislation is required to implement our own recommendations. (Recommendation 115)

The White Paper, *The House of Lords: Completing the Reform* (Nov 2001)

The Government stated that they believed the number of Bishops should be reduced to 16 but that the practical obstacles were too great to allow formal representation of other denominations and religions. Instead they stated that they expected the Appointments Commission to make appointments on a religious basis (p. 29).

Public Administration Select Committee Fifth Report of Session 2001-02 *The Second Chamber: Continuing the Reform* (Feb 2002)

Recommended the removal of Bishops:

'154. The Government's proposal is that the new chamber should contain 16 Church of England Bishops, instead of the present 26. To recognise the "significant contribution" other faiths can make to the chamber, the White Paper suggests that the Appointments Commission would be expected to give "proper recognition" to non-Church of England faith communities "as they seek greater representativeness in the independent members of the House".

155. The Royal Commission recommended a reduction in the number of Bishops to allow for the representation of other faiths. We took little evidence on this issue, but note that the continued presence of Bishops, described by the Constitution Unit as "a medieval hangover"<sup>16</sup> based originally as much on their role as landowners as on spiritual leadership, makes Parliament unique among modern European legislatures. The case against seats for the Bishops is only strengthened by the unwillingness of the Government to allow formal representation of other faiths. We note the analysis made by Professor McLean, who points out that the Government's aspirations in the White Paper for representation of other religions is made mathematically impossible by the presence of the Bishops.<sup>17</sup>

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<sup>16</sup> Constitution Unit Submission (Cmd 5291)

<sup>17</sup> HC 494-II, LR 58

156. The Church of England, in a submission following the report of the Royal Commission<sup>18</sup>, made a case for the continued presence of a substantial body of bishops in the second chamber. This was based on the view that 'a Christian perspective is an important feature of debates that concern the common good and public life as a whole'. It called for a 'certain minimum level of representation' to ensure that bishops and similar groups of non-politicians can 'play an effective role in the complex and detailed processes of the legislature'.

157. But the debate has moved on considerably since the Royal Commission. We entirely accept the case that a healthy variety of opinions, which could include a range of religious, moral and ethical viewpoints, should be represented in the second chamber. However, the political support for a very large second chamber, of the sort that could accommodate the bench of bishops, has diminished, with the Conservative Party for instance now proposing a chamber of 300. The continuing process of reform, with a largely elected second chamber and the active statutory appointments commission we propose, would rapidly make the tradition of ex officio religious membership an anachronism. 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 appointments process (and they should be free to stand for election). This appears to us to represent the fairest approach.

158. If we are serious about equipping Britain with a modern Parliament and constitution, it is time to modernise this aspect of our constitution too, and to bring to an end formal representation of the church in Parliament. This need not lead to disestablishment: there is, as the Royal Commission acknowledges, no necessary connection between the establishment of the Church of England and places for its Bishops in the second chamber. Disestablishment in Wales in 1920 led to the disappearance of Bishops from that country from the House of Lords.

159. To give the new statutory Appointments Commission time to develop a policy on diversity in the new House, we recommend that the Bishops of the Church of England should no longer sit ex officio from the time of the next general election but one. There will be nothing to prevent the Appointments Commission from appointing Bishops, or retired Bishops, if they have a contribution to make and can give sufficient time to the House to make a real contribution, along with representatives from other faith communities.'

Joint Committee on House of Lords Reform Second Report (Apr 2003)

Notably reserved judgment on the question of religious representation, saying:

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<sup>18</sup> Church of England Submission to the Royal Commission (Cm 4534, 2000)

*'We have already indicated in our First Report that the position of Church of England bishops would need to be considered in a reformed House. We believe that such reforms, aimed at making the House more representative of British society as a whole, must entail examining the merits of religious representation.'*

Department for Constitutional Affairs Consultation Paper *Constitutional Reform: Next steps for the House of Lords* (Sept 2003)

Stated that,

*'The Government has previously proposed reducing the size of the Church of England's representation in the House from its current 26 to 16. This would have been in the context of a much more fundamental reform than is being proposed at this stage and probably in the context of a smaller House. There is a separate issue about how to increase the representation for other faiths and denominations, and this is one of the issues to which the Appointments Commission could be asked to give consideration.'*

Ministry of Justice White Paper *The Governance of Britain. An Elected Second Chamber: Further reform of the House of Lords* (2008)

The Government proposed in its White Paper to retain the right of Bishops to sit in Parliament in a partially appointed chamber, and to give the Church of England new powers to decide precisely which Bishops will represent them.

Cabinet Office House of Lords Reform Draft Bill and White Paper (2011).

The House of Lords Reform Draft Bill and White Paper proposes to retain the right of Bishops to sit in Parliament but with a reduced number of 12 Bishops. In a smaller chamber of 300 Peers, that would represent a proportional increase from 3% to 4%. It also proposes to give the Church new powers to decide which 7 of the 12 Bishops will sit in the chamber. Although they would have the same speaking and voting rights as other members of the reformed House of Lords, the Bishops would continue to sit in the reformed House of Lords on a different basis from other members, which includes an exemption from the rules on serious misconduct, suspension and dismissal. The Draft Bill and White Paper are to be scrutinised by a Joint Committee, with the possibility of new proposals being made.

**Church of England Bishops**

91. Currently, the Lords Spiritual – the 2 Archbishops and 24 Bishops of the Church of England – have reserved places in the House of Lords. They do not sit for life, but only for their period as an Archbishop or Bishop of a diocese. Although historically they sit as independent members of the Lords they are widely regarded as representatives of the Church of England.

92. The Government proposes that in a fully reformed second chamber which had an appointed element there should continue to be a role for the established Church. However, in line with proposals for a reduction in the size of the second chamber, the Government proposes that the number of reserved places for Church of England Archbishops and Bishops should also be reduced, from 26 to a maximum of 12.

93. The Government proposes that transitional arrangements should also apply to the Bishops to allow a gradual reduction to take place. The Government believes that this arrangement would allow the Bishops to continue to contribute effectively to the reformed House of Lords.

94. The Archbishops of Canterbury and York and the Bishops of London, Durham and Winchester hold a seat in the House of Lords as of right under the Bishops Act 1878. The Government proposes that they should be entitled to occupy reserved places in the reformed second chamber throughout the transitional period and in the fully reformed chamber for as long as they hold that named office. If one of these Archbishops or Bishops were to leave that office, then he would be replaced in the reformed House of Lords by the new holder of that office.

95. The other 7 places would be reserved for Bishops of dioceses in England. These Bishops would be selected to sit in the reformed House of Lords by the Church of England.

### **First transitional period**

96. Presently, in addition to the holders of the five named offices, there are 21 Church of England Bishops entitled to sit in the House of Lords, in order of seniority. It would be for the Church to select up to 16 of these 21 Bishops to remain in the House of Lords during the first transitional period. These members would have to be selected from those in the House of Lords who immediately before the dissolution of Parliament before the first election, would be entitled to sit as Bishops in the House of Lords.

### **Second transitional period**

97. At the time of the second election to the reformed House of Lords, it would be for the Church to select a maximum of 11 of the Bishops to remain throughout the second (and final) transitional period. They would be selected only if they had been in the reformed House of Lords immediately before the dissolution of the Parliament of the first transitional period.

98. At the time of the third election to the reformed House of Lords, it would be for the Church of England to select up to 7 of these Bishops to sit in the chamber.  
House of Lords Reform Draft Bill

### **Fully reformed chamber**

99. For each subsequent electoral period, a maximum of 7 serving Church of England Bishops could be selected by the Church to sit in the reformed House of Lords. They would be able to be selected from those Bishops who were sitting in the reformed House of Lords at that time or serving Church of England Bishops not in the chamber, but they would not be the holder of a named office.

100. The Church would not be obliged to fill any of the places reserved for Bishops at the start of each transitional or electoral period. If however it chose to fill any of these seats, and a vacancy subsequently arose among them, the Church would be able to fill the vacancy only if not to do so would cause the number of Bishops (excluding holders of a named office) to fall below 7. The Church would be able to select any serving Bishop, except a named office holder, to fill the vacancy.

101. A vacancy would arise if a Bishop becomes one of the named office holders or ceases to be a Bishop, or resigns from the reformed House of Lords. If, at any time, one of the Bishops in the reformed House of Lords became the Bishop of a different diocese, he would continue to hold a reserved place.

102. The Bishops who would remain in the reformed House of Lords after the end of the transitional period would have the same speaking and voting rights as other members of the reformed House of Lords.

103. The Bishops would continue to sit in the reformed House of Lords on a different basis from other members. Currently, Bishops sit in the House of Lords by virtue of their being serving office holders within the Church of England. They attend on a rota basis as their episcopal duties allow. They are also subject to the Church's terms and conditions on remuneration and discipline. Therefore in the transitional period, and in a fully reformed chamber, the Government proposes that:

- Bishops would not be entitled to a salary or pension in the reformed House of Lords;
- Bishops would be exempt from the tax deeming provision;
- Bishops would be entitled to claim allowances under the scheme administered by the IPSA for members of the reformed House of Lords;
- They would be subject to the disqualification provision;
- They would not be subject to the serious offence provision and those on expulsion and suspension as it is anticipated that such members would be subject to the disciplinary procedures established by the Church of England.

## Annex C – Religion in the UK today

A favourite argument of those who defend the continuing presence of Bishops is that the UK is still a 'Christian country' and that the 2001 census demonstrates this. In fact the UK, in matters of religion and belief, is heterogeneous in a way unimaginable to previous generations. The 2001 census was notably deficient in its gathering of data on religion (not only asking the leading question, 'What is your religion?' but placing the question itself in the context of ethnicity) but even so, the results of the census can give a preliminary picture. 72% of respondents responded 'Christian'; the second largest group was those responding 'no religion' (15.5%); and the third group was those who chose not to respond at all (8%). Beyond these larger categories, within the remaining 4.5%, there was great diversity. Respondents here gave religious self-definitions (in order of frequency) of Muslim, Hindu, Sikh, Jewish, Buddhist, Spiritualist, Pagan, Jain, Wicca, Rastafarian, Bahai, and Zoroastrian.

The census tells us how people respond to a particular question in a particular context; other surveys give a different picture. From 31%<sup>19</sup> to 56%<sup>20</sup> of people in some polls, for example, do not profess a belief in god(s), and the most recent British Social Attitudes survey found that 43% are happy to self-identify as non-religious<sup>21</sup>. Within religions great diversity in belief and practice, and not only along denominational lines, may be concealed by identical self-definitions. Also concealed behind simple religious labels is a wide variation in levels of observance and commitment. Research for the Home Office<sup>22</sup> reveals that religion is the ninth most cited characteristic that respondents believe says 'something important' about them, after family, employment, age, interests, level of education, nationality, gender, and level of income. For Christians it is tenth. The fact that regular church attendance hovers around 7% of the population is well known, but an ICM poll of 2005 found that 24% of those describing themselves as Muslim never attended a mosque and 51% of Jews never attended a synagogue. The information provided by people's religious self-identification is in fact very limited and subject to heavy qualifications. Even so, well-founded academic research such as that of David Voas and Alasdair Crockett<sup>23</sup> has demonstrated a long-term trend of steep decline in religious belief, practice, and self-identification. At the very least, we can assert that there is no single dominant religion or belief professed by the majority of the UK today and that a sizeable proportion of the population is not religious.

Five recent polls may allow us to go further and claim that a majority of the British people are not 'religious' in any meaningful sense:

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<sup>19</sup> British Social Attitudes survey, 1992

<sup>20</sup> YouGov poll, 2004

<sup>21</sup> British Social Attitudes survey, 2010

<sup>22</sup> Home Office Research Study 274: Religion in England and Wales: findings from the 2001 Home Office Citizenship Survey (March 2004)

<sup>23</sup> Such as Religion in Britain: Neither Believing nor Belonging; Sociology; 39(1):11-28; London; 2005

### *1. YouGov poll, March 2011*

In a poll conducted by YouGov in March 2011 on behalf of the BHA, when asked the census question 'What is your religion?', 61% of people in England and Wales ticked a religious box (53.48% Christian and 7.22% other) while 39% ticked 'No religion'.

When the same sample was asked the follow-up question 'Are you religious?', only 29% of the same people said 'Yes' while 65% said 'No', meaning over half of those whom the census would count as having a religion said they were not religious.

Less than half (48%) of those who ticked 'Christian' said they believed that Jesus Christ was a real person who died and came back to life and was the son of God. Asked when they had last attended a place of worship for religious reasons, most people in England and Wales (63%) had not attended in the past year, 43% of people last attended over a year ago and 20% of people had never attended. Only 9% of people had attended a place of worship within the last week.

The Humanist Society of Scotland commissioned a separate poll asking the Scottish census question, 'What religion, religious denomination or body do you belong to?'. In response, 42% of the adult population in Scotland said 'None'. When asked 'Are you religious?' 56% of the same sample said they were not and only 35% said they were.

### *2. British Social Attitudes survey, January 2011*

Figures published in March 2011 but from a BSA survey conducted in 2009 showed for the first time a majority of people (50.7%) while only 43.7% claimed to be Christian. Just 5% belong to non-Christian religions, almost half of these Muslim.

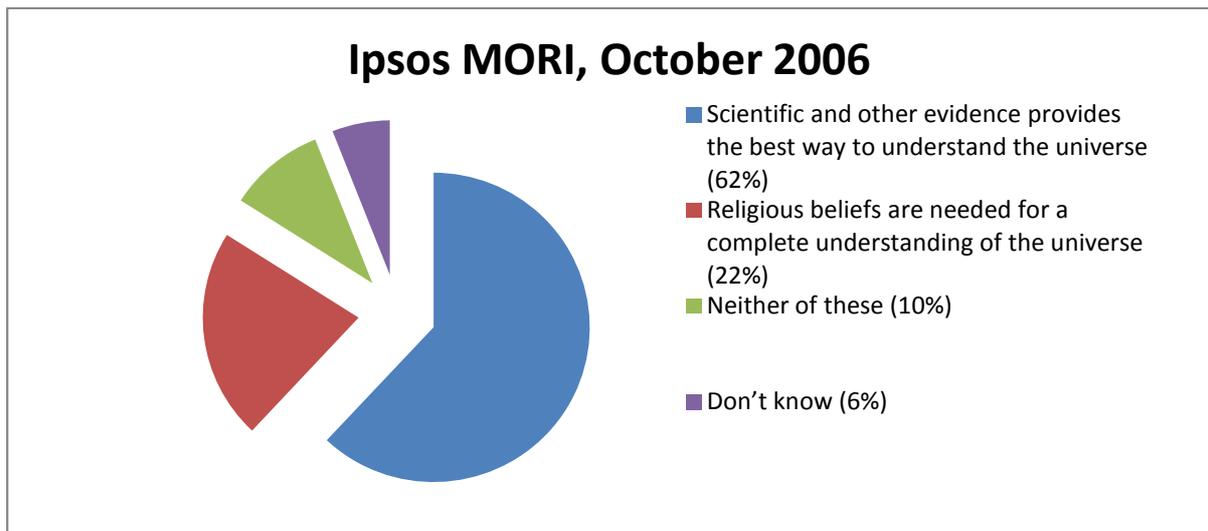
### *3. British Social Attitudes survey, January 2010*

Self-assessed religiosity in Britain

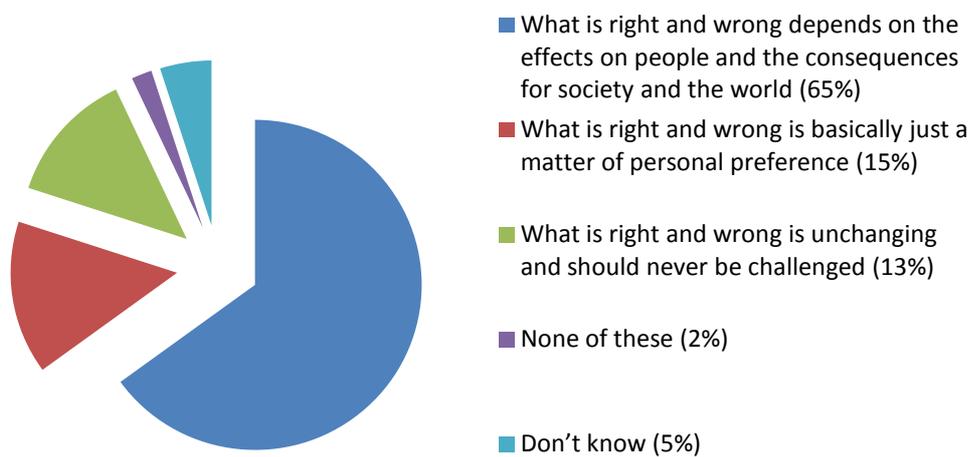


of respondents did not describe themselves as religious.

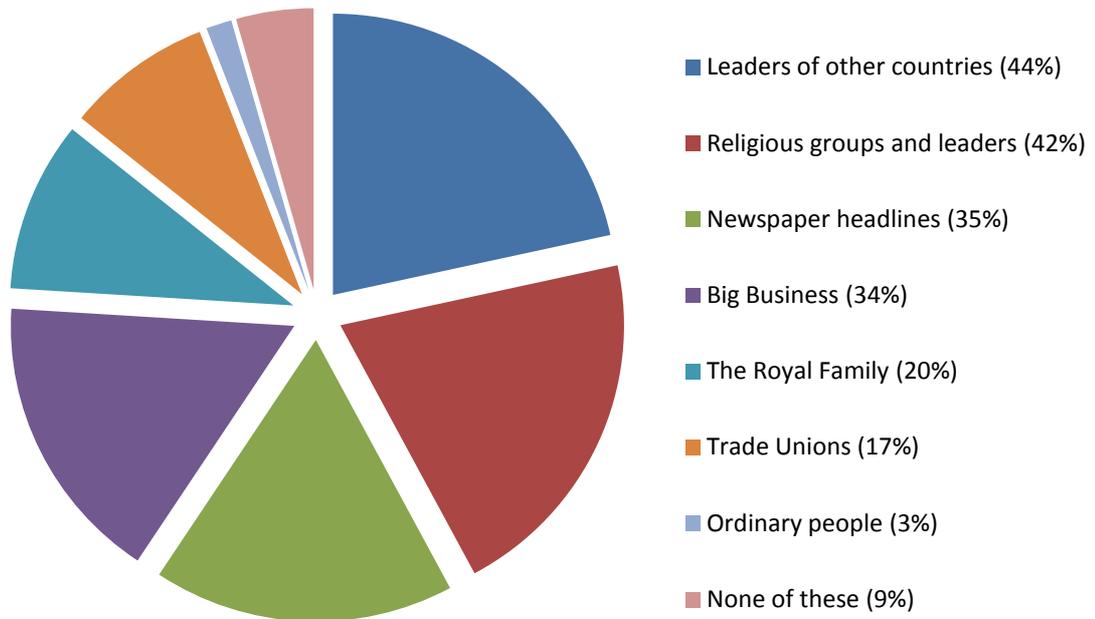
4. Ipsos MORI, October 2006



### Ipsos MORI, October 2006



b. Respondents were asked: ‘People often comment on the level of attention the Government pays to certain groups in society. Which, if any, of the following groups of people do you think the Government pays too much attention to?’ and presented with a list of seven possibilities from which they could select up to three responses. Responses were:



5. ICM, December 2006 (reported by *Guardian*, 23/12: <http://tinyurl.com/y3uund>)

**82%** of those questioned say they see religion as a cause of division and tension between people. Only 16% disagree.

**33%** of those questioned describing themselves as ‘a religious person’. A clear majority, at 63%, say that they are not religious.

**17%** think/say the country is best described as a Christian one.

**Annex D – Extracts from papers by Iain MacLean, professor of politics, Nuffield College, Oxford**

**i. From his original paper on Lords reform:**

39. I do not think that the SC [second chamber] should contain:
- Ex officio representatives of one, or more than one, religion;
  - Ex officio members of the supreme judicial body of the UK.
40. The choices for the SC are that it should recognise all religions (above some size threshold) or that it should recognise none. There are both practical and principled objections to any attempt to recognise all religions.
41. There will probably be religious affiliation questions in the 2001 Census. These questions may, at least in principle, solve the question of how many SC members each religion should be allocated (assuming that a block of seats in the SC was reserved for religious representatives). They will go nowhere towards solving the problem of how each religion should choose its representatives. For instance, no one body speaks for all UK Moslems, or all UK Jews, or all UK Hindus. It would be possible for each elector to be able to declare him/herself a member of a recognised religion and then to vote in the constituency of that religion in SC elections. I expect that many of the UK's spiritual leaders would be too unhappy with such a constitutionalisation of religion for such a scheme to have any legitimacy.
42. All schemes of religious representation confront the problem of fair representation of those who declare that they have no religion.
43. I believe these problems are insuperable, therefore I think that the SC should contain no reserved places for religious communities.

**ii. From his paper on the Government proposals for the Lords:**

B5 . . . . Table 2 shows the relative size of the UK's faith communities.

If the Church of England is assigned 16 representatives (whether by ex officio Bishops or otherwise), then a total of 77 senators will be needed to represent all faith communities. Many of them will have to be female, whatever the wishes of the faith community in question, to satisfy the gender requirement. At worst, this could leave the Appointments Commission with only 53 crossbench places to fill with representatives of anything other than faith communities.

**Table 2. Faith communities in the UK**

		<b>N (000)</b>	<b>% of total</b>	<b>Entitlement to seats</b>
Christian	Anglican	1654	20.89 %	16
	Catholic	1768	22.33 %	17
	Free Churches	1278	16.14 %	12
	Presbyterian	989	12.49 %	10
	Orthodox	235	2.97 %	2
	Non-Trinitarian	533	6.73 %	5
Buddhist		50	0.63 %	0
Hindu		165	2.08 %	2
Jewish		95	1.20 %	1
Muslim		665	8.40 %	6
Sikh		400	5.05 %	4
Others		85	1.07 %	1
<b>TOTAL</b>		<b>7917</b>		<b>77</b>

Source of column 1: Office of National Statistics, UK 2002, Table 15.1

Column 3 is derived by comparing the relative size of each faith community to that of the Church of England, for which the White Paper proposes 16 reserved seats.

C1. There is no good argument for retaining either Bishops of the Church of England or the Lords of Appeal in Ordinary in the senate.

Contrary to the claim in the Royal Commission Report (Cm 4534, 15:9), the presence of the Church of England Bishops in the House of Lords has not always promoted 'ever greater religious tolerance and inclusiveness'. A dispassionate historian would have to say that until the 20th century it did just the opposite. Between 1893 and 1914, the Bishops voted en masse against Irish Home Rule and Welsh Disestablishment. As they were disestablished in Ireland in 1869, it is hard to see how they felt entitled to vote at all on Home Rule; and in Wales, their denomination was a small minority sect. If faith communities are to be represented in proportion to size, then the Church of England should have approximately 21% of those seats. Nothing in Cm 4534 or in the White Paper explains why the ex officio representation should remain.