

# **A response to the Consultation on the House of Lords Reform Draft Bill**

## **National Secular Society**

**October 2011**

## Submission to the Joint Committee on the Draft House of Lords Reform Bill

1. The National Secular Society (NSS) is a not-for-profit non-governmental organisation founded in 1866. It promotes the separation of religion and state, and seeks a society where law and the administration of justice are based on equality, respect for Human Rights and objective evidence without regard to religious doctrine or belief.
2. We welcome the opportunity to respond to the Draft House of Lords Bill. The NSS takes no position on the question of whether the reformed upper chamber should be wholly or mainly elected. Our response focuses solely on the role of bishops in the House of Lords. We attach as an appendix the report we prepared on Lords Reform in relation to the current review.<sup>1</sup> It was sent to the Deputy Prime Minister Rt Hon Nick Clegg MP, The Cabinet Office and the House of Lords Reform Team in December 2010. We ask that this be accepted as supporting evidence to our submission.
3. The NSS promotes secularism as the best means to create a society in which people of all religions or none can live together fairly and cohesively. A key objective of the NSS since its inception in 1866 has been to oppose all forms of religious privilege. We are therefore very disappointed by the Draft Bill's proposals to provide continued places for bishops of the established Church in a partly appointed House.
4. We argue that the retention of reserved places for Church of England bishops in a reformed House of Lords is grossly undemocratic; the bishops' only qualification is not personal merit, but that the Church appointed them. On the strength of this, they are able to argue strongly and vote for the Church's self-interest – whereas in other walks of life, those with a vested interest generally abstain from voting for matters where they have a self-interest<sup>2</sup>. Their continued presence is also a manifestation of the disproportionate, entrenched power and privilege of the Church.
5. Academic research commissioned by the National Secular Society reveals that the United Kingdom is unique among Western democracies in having ex-officio religious representation in its legislature, a fact confirmed by Lord Strathclyde in a PQA: "The House of Lords is the only legislature that includes ex officio representation of clerics".<sup>3</sup> The vast majority of Western democracies have abandoned all links between Church and State, with no discernible adverse consequences.
6. Independently published research shows long term and steepening decline in church attendance. Normal Sunday attendance in Britain is projected by Christian Research<sup>4</sup> to drop by 2020 to 4.2% of the population, less than 1% of which is attendance at the Established church. These statistics cast doubt on claims that the bishops speak for any significant constituency, indeed perhaps even for those in Anglican pews. Since the trend away from organised religion is predicted to continue, the role in Parliament of any

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<sup>1</sup> Lords Reform: Why religious representation should be removed from the House of Lords

<http://www.secularism.org.uk/uploads/lords-reform.pdf>

<sup>2</sup> For example Lord Avebury pointed out in the Education Bill debate where the bishops were obstructing some relaxation of mandatory Collective Worship that it was no coincidence that England and Wales are the only countries with mandatory (daily) collective worship in community schools and that the House of Lords is the only legislature with *ex officio* clerics. HL Deb 18 July 2011, cGC372.

<sup>3</sup> HL Deb, 1 July 2011, c484W

<sup>4</sup> Source: Religious Trends 7, 2007/2008 publ by Christian Research derived from Table 12.6.2

religious representatives will become increasingly irrelevant and unjustifiable. Nor should it be overlooked that the bishops are all male and middle class, and almost exclusively white. And none are from dioceses in Wales, Scotland or Northern Ireland. We also reject the self-serving idea they promote that they provide a moral perspective on matters of ethical importance on behalf the religious and non-religious alike, regardless of their location.

7. In March 2010, a survey conducted by ICM Research<sup>5</sup> showed that three-quarters of the public and 70 per cent of Christians believe it is wrong for bishops to have reserved places in the House of Lords.
8. The results of the Consultation Responses from the *House of Lords — Completing the Reform* (2001) showed an overwhelming majority against Church of England bishops sitting as of right. It concluded: “Calculating on the basis that those who want an all-elected house do not want bishops (or anyone else) sitting as of right gives an 85% majority against the formal representation of the Church of England.
9. It is vitally important that the reformed Second Chamber should not have any specific religious representation whether *ex-officio* or appointed, whether of Christian denominations or any other faiths. The presence of religious leaders amounts to double representation of religious interests as many temporal peers already identify themselves as being religiously motivated.
10. We are therefore pleased that the Draft Bill contains no proposals to extend religious representation in the Lords to other denominations/religions. The NSS believe such a move would not only be unworkable and unpopular, but it would also carry a high risk of creating resentment in minority communities that are already sensitive to discrimination, were they not to be represented. There is a real slippery slope problem in that there is no obvious point at which to stop extending representation - and there will be pressure from sub groups within minority religions. The more faith groups acceded to, the less representative the slimmed down second chamber would become.
11. If proposals were made to extend religious representation to other faiths through the appointments process, there are serious questions about the extent to which such leaders would be representative of the group they purport to represent. Opinion polls conducted during the Pope’s visit to the UK in 2010 showed that Catholic bishops are at almost complete variance with Catholics on the same social issues where they seek most strongly to exert their influence. Only 4-11% of Catholics polled agreed with the bishops’ position on contraception, homosexuality and abortion.<sup>6</sup> Similar arguments would equally apply to minority faiths’ leaders. Within religions, there is a whole spectrum of belief and practice. Treating such groups as homogenous can be particularly detrimental for women and sexual minorities.
12. In line with proposals for a reduction in the size of the second chamber, the Draft Bill 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. In an upper chamber of 300 members this represents an increase in the proportion of bishops. The NSS regards this as unacceptable. We note that the Wakeham Commission sought in 2001 to justify a reduction by ten of the number of archbishops and bishops on the manufactured and

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<sup>5</sup> [http://www.ekkleisia.co.uk/content/survey\\_on\\_bishops\\_icm.pdf](http://www.ekkleisia.co.uk/content/survey_on_bishops_icm.pdf)

<sup>6</sup> YouGov / ITV Survey Results, Sample Size: 1636 Catholic Adults, Fieldwork: 31st August - 2nd September 2010

grossly inaccurate basis of the Church's claimed "membership" of 25million, based on baptisms. The Church's actual membership is one twentieth of this number. In any event, if size-of-membership were a valid criterion for seats in the Lords, many other organisations (religious and non-religious) could equally claim such privilege.

13. The Draft Bill proposes that the Archbishops of Canterbury and York and the Bishops of London, Durham and Winchester retain their right to hold a seat in the House of Lords as of right under the Bishops Act 1878. The Government proposes that the remaining 7 places would be selected by the Church of England. We regard this as a disturbing development and maintain that the Church should not gain any greater freedom over the appointment of its nominees.
14. We are concerned that such a proposal could herald the introduction of specifically appointed bishops – in effect full time professional lobbyists not just with access to ministers but with power to call them to account – who would be expected to intervene much more than the present bishops and create a new voting bloc. It is likely they could at times hold the balance of power. Under such circumstances this undemocratic group might be able to dictate the parliamentary agenda and therefore be in a position to make their own demands, particularly on contentious social issues.
15. We are also very concerned about the exemptions proposed by the Government for the Lords Spiritual from the tax deeming provisions, the serious offence provisions and those on expulsion and suspension. This proposal would mean that in the most serious of matters, bishops will be accountable to the Church rather than Parliament. We oppose this unjustifiable privilege and recommend that if seats are to be reserved for bishops in a reformed House, they should be accountable to Parliament in the same way as other members.
16. We believe that the proposals contained within the Draft Bill concerning the Church of England bishops represent a missed opportunity for real modernisation and enhanced democracy. Britain is already the only western democracy left that reserves seats for clerics in its Parliament – elsewhere only theocracies have such arrangements. The proposals for their retention will inevitably give rise to calls for representation to be extended to other denominations or faiths – a move we regard as deeply undesirable and entirely unworkable.
17. We therefore urge the Committee to reject the Draft Bill's proposals to retain the Bench of Bishops. With a view to creating a more democratic chamber, we ask the Committee to ensure that reserved seats for Church of England Bishops are completely removed from the House of Lords.

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# Appendix



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# Lords Reform:

## Why religious representation should be removed from the House of Lords

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# Executive summary

## Conclusion — and the only long term solution

There is no justification for retaining bishops in a reformed House of Lords. Their retention would be inimical to what has become a *de facto* secular society.

Furthermore, any proposals for their retention — especially at a high number — would give rise, on the grounds of equality, to calls for large numbers of non-CofE representatives to be selected by the Appointments Commission. There is a real risk that they would generally be much more morally absolutist than the bishops and out of step with the country as a whole. They may seek to force legislation on to the nation that is unwanted and divisive and they could impede progressive legislation, as the bishops have done in the past.

Adding more religious representatives would be a risky venture. If it turned out — as we predict — to be unworkable and unpopular, it would certainly carry a high risk of being divisive and creating resentment in minority communities that are already sensitive to discrimination.

The only solution is an entirely secular chamber. It would obviate the very real risks we have catalogued and avoid objections from those who would feel left out.

### 1. **We recommend:**

That the Bench of Bishops be completely removed from the House of Lords and that the new Second Chamber should not have any religious representation whether *ex-officio* or appointed, whether of Christian denominations or any other faiths and

Neither prayers nor religious oaths should form any part of the proceedings of the Second Chamber.

2. Research commissioned by the National Secular Society (table in Section 4) reveals that the United Kingdom is unique among Western democracies in having *ex-officio* religious representation in its legislature. The vast majority of Western democracies have abandoned all links between Church and State, with no discernible adverse consequences.

3. Retaining the Bench of Bishops or extending religious representation by selection on religious grounds alone would be inimical to the Government's stated aim of "modernisation" and is an affront to democracy. (Section 6)
4. Independently published research shows long term and steepening decline in church attendance. Normal Sunday attendance in Britain is estimated to drop by 2020 to 4.2% of the population, included in which is less than 1% for the established church. These statistics cast doubt on claims that the all-male bishops — or any other religious representatives — speak for any significant constituency, indeed perhaps even for those in Anglican pews. Since the trend towards rejection of organised religion is predicted to continue, the role in Parliament of any religious representatives will become increasingly irrelevant, and the suggestion of adding more representatives seems, by any rational analysis, perverse. (Section 7)
5. We reject the implication that the bishops somehow provide special moral insights denied to other members of the House. Many temporal peers already identify themselves as being religiously motivated. Furthermore, those who profess no religion are no less capable of making moral and ethical judgements. The absolutist moral positions of many of the bishops and potential religious candidates for additional seats are out of touch with the population and are regarded by many (especially in matters of sexual ethics) as extreme and inhumane. (Section 9)
6. Were representation to be extended to other denominations or faiths, religious factionalism is very likely to lead to large and increasing demands for representation from the many religions and their various sects extant in Britain. Those unhappy as to the extent of the representation they were granted (if any), would probably claim this was the result of discrimination, and, possibly racism. The Established Church has already reacted with hostility to the suggestion that its representation should be reduced from 26 to 16. (Section 10)
7. A "reformed" House of Lords which contained extended religious representation would become unworkable. Not only would it be distracted by sometimes strident sectarian and doctrinal arguments, this unrepresentative (and mostly morally absolutist) group could, if it were more than minimal in number, vote en bloc and even hold the balance of power in debates over specialised issues. (Section 11)  
This has happened in other fora — e.g. the United Nations.
8. There is no democratic justification for extending privileged religious representation. To do so would further erode the franchise of the many who are non-religious, and



indeed of the many liberal religious people whose leaders - those most likely to be offered seats in the Lords - tend to hold considerably more orthodox views.

9. In our view, all oaths should be replaced by non-religious affirmation and public prayers should be abolished from the Chamber. (Section 14)

# House of Lords Reform

## 1 Basis of Report

This Report concentrates on the compelling arguments against religious representation in the Lords on the grounds of practicality, democracy and equity.

A key objective of the National Secular Society since its inception in 1866 has been to oppose all forms of religious privilege and we regard the presence of the bishops in the House of Lords as a prime example of this.

## 2 Principal recommendations

- a) That the Bench of Bishops be removed from the House of Lords and that the new Second Chamber should have no *ex-officio* or specifically appointed religious representation, whether of Christian denominations, or any other faiths. (The Commons Public Administration Committee Fifth report, dated 12 Feb 2002 reached a similar conclusion, as shown in more detail in Appendix 3)
- b) That, in future, neither prayers nor religious oaths should form any part of the proceedings of the Second Chamber.

## 3 The UK compared with other Western democracies

Research commissioned by the NSS into the constitutional arrangements of the UK and other major democracies revealed that the UK is unique among Western democracies in affording the 'prerogative' of *ex-officio* religious representation in its legislature. The remaining 27 countries in the table appear to operate their legislatures properly without specific religious representation.

Countries with totally secular constitutions — as the table below shows — include Albania, Belgium, Canada, the Czech Republic, Finland, France, Japan, the Netherlands, New Zealand, Poland, Portugal, Spain and the United States of America. Of these, Japan's Post WWII (and thus westernised) constitution is one of the most modern. It specifically prohibits State involvement in religion, and vice versa; it also guarantees that the practice of religion will not be mandatory.

The table (in Section 4) also reveals how unusual the UK is among Western democracies in having such strong links between Church and State. Practically all states, even those which are not entirely secular, recognise the dangers of such arrangements.

Italy provides a European example of how religious influence can be separated from the legislature. The Italian Constitution once protected Catholicism as the established religion. Recognising developments in Italian history and society over the last hundred years, Italy has recently enacted reforms based upon a concordat agreement designating spheres of influence. The Italian legislature no longer has *ex-officio* religious representatives.

Even in Poland, where the importance of the Roman Catholic Church's influence is acknowledged in the preamble to the Constitution, the rest of the Constitution contains very definite separation of Church and State<sup>1</sup>.

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<sup>1</sup> In practice, the concordat gives the Church such far-reaching influence that it arguably nullifies the constitutional separation.

#### 4 Religious Characteristics of the Constitutional Government in Leading Western Democracies

| Country       | <i>ex-officio</i> religious representation in the state | control of religious education by parliament | control of religious institutions by parliament | religion established by law | limitation upon the expression of “blasphemy” | oaths or preamble contain a religious component |
|---------------|---|--|---|-----------------------------|---|---|
| UK            | Yes   | Yes  | Yes   | Yes                         | No*   | Yes   |
| Albania       | No  | No   | No  | No                          | No  | No  |
| Austria       | No  | Yes  | No  | No                          | Yes   | No  |
| Australia     | No  | No   | No  | No                          | Yes   | No  |
| Belgium       | No  | No   | No  | No                          | No  | No  |
| Canada        | No  | No   | No  | No                          | No  | No  |
| Czech Rep.    | No  | No   | No  | No                          | No  | No  |
| Denmark       | No  | Yes  | Yes   | Yes                         | Yes   | No  |
| Finland       | No  | No   | No  | No                          | No  | No  |
| France        | No  | No   | No  | No                          | No  | No  |
| Germany       | No  | No   | No  | No                          | Yes   | Yes   |
| Greece        | No  | Yes  | Yes   | Yes                         | Yes   | Yes   |
| Ireland       | No  | No   | No  | No                          | Yes   | Yes   |
| Italy         | No  | No   | No  | No                          | Yes   | No  |
| Japan         | No  | No   | No  | No                          | No  | No  |
| Luxembourg    | No  | No   | Yes   | Yes                         | Yes   | No  |
| Macedonia     | No  | No   | Yes   | No                          | No  | No  |
| Netherlands   | No  | No   | No  | No                          | No  | No  |
| New Zealand   | No  | No   | No  | No                          | No  | No  |
| Norway        | No  | Yes  | Yes   | Yes                         | Yes   | Yes   |
| Poland        | No  | No   | No  | No                          | No  | No  |
| Portugal      | No  | No   | No  | No                          | No  | No  |
| South Africa  | No  | Yes  | No  | No                          | No  | No  |
| Spain         | No  | No   | No  | No                          | No  | No  |
| Sweden        | No  | No   | No  | No                          | No  | No  |
| Switzerland   | No  | Yes  | No  | No                          | No  | Yes   |
| Turkey        | No  | Yes  | No  | No                          | No  | No  |
| United States | No  | No   | No  | No                          | No  | No  |

*\*Blasphemy as such was abolished in the UK in 2008, but there still remains the possibility of a conviction for “religiously aggravated harassment”.*

All countries covered by this research are included in the above summary. With the exception of the United Kingdom, the Society has been unable to identify a single Western democracy with *ex-officio* religious representation in its legislature.

The above table was prepared by Dr. David Nash of Oxford Brookes University specifically for the National Secular Society.

## **5 Why the UK alone?**

The United Kingdom's unique position among European and leading Western democracies in having *ex-officio* religious representatives in its legislature raises serious questions about the UK's democratic credentials. The time has come for this anachronism to be addressed.

Given the UK's singular position on this issue, it should be for those wishing to perpetuate *ex-officio* religious representation, on whatever scale, to justify conclusively why such religious privilege is appropriate for a 'modernised' UK when it was never, or is no longer, considered appropriate in other democratic states — particularly as interest in religion in this country is at an historic low.

The Royal Commission failed to make a cogent case for the retention of the bishops (as set out in Section 7).

## **6 Could the Second Chamber truly be considered to have been 'modernised' if it contains *ex-officio* religious representatives?**

The very position of the Bishops' Bench in the Chamber — on the front benches just next to the Government front bench — is symbolic of the bishops' historic power and influence, which they have indicated that they wish to perpetuate. They refused to concede the front benches to accommodate the Liberal Democrats after the 2010 election, relegating them all to occupy back benches. They reacted in a hostile fashion to the suggestion that their number be reduced to 16 in the 2001 White Paper on Lord's Reform: *The House of Lords — Completing the Reform* Publ. 7 November 2001.

Virtually all of what are now democratic countries have undergone some kind of revolution in which their constitutions were drawn up, generally in writing and with appropriate safeguards. The UK has had no equivalent revolutionary modernisation, and, famously, has no written Constitution. In order to make their constitutional arrangements more democratic, many other democracies (including our European neighbours) had to endure

the upheaval and bloodshed of revolution. We now have a belated opportunity to start the process of true modernisation without such strife.

The former Lord Bishop of Durham, Bishop Jenkins, acknowledges that “the days when it was assumed that states exist under the sacred canopy within which religious authorities are responsible under God for legitimating power, morality and civil order have long since passed.” He also wrote in the *Independent on Sunday*, “if hereditary peers are undemocratic, what is the standing of the lords spiritual drawn from the Church of England? In my view disestablishment is bound to happen<sup>2</sup>”

No reform failing to banish *ex-officio* religious representation could legitimately be described as ‘modernising’.

## **7 Who do the bishops represent?**

The bishops represent the Established Church, which the overwhelming majority of the UK population ignore on a typical Sunday, when less than a million people (fewer than two percent of the population) worship at the Church of England. This number is forecast to fall to just 87,800 by 2050.

According to *Religious Trends*, a comprehensive statistical analysis of religious practice in Britain, published by Christian Research, the projected total Church attendance in Britain by 2050 will have declined to 899,000. Meanwhile, the active Hindu population, now at nearly 400,000, will have more than doubled to 855,000 and there will be 2,660,000 active Muslims in Britain – nearly three times the number of Sunday churchgoers. The number of actively religious Muslims is forecast to increase from about one million today to around 2 million in 2035.

While we accept that there are alternative measures of attendance or adherence, none give a figure sufficiently high to represent the Church as anything other than a small minority interest.

An Ipsos Mori poll in 2006 found that 42% thought that the government paid too much attention to religious leaders, and 82% thought that religion was a cause of division and dissension. Only 17% thought that the UK was a Christian country.

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<sup>2</sup> 17 January 1999

More recently, the British Social Attitudes Survey in 2010 added weight to the argument that the majority of British people are now in fact non-religious. The poll showed that 59% of respondents did not regard themselves as religious, and 62% said they never went to church (likely to be an underestimate, since people exaggerate their church attendance as Dr Peter Brierley, author of *Religious Trends* has stated). 67% thought that religious leaders should stay out of government decision-making, and only 6% would follow their religious leaders in matters of morality.

Our written and verbal evidence to the Royal Commission on Reform of the House of Lords set out the very low and declining level of Church of England worshippers. Yet the Commission's Report conspicuously avoided any reference to this when seeking to justify the retention of 16 bishops. Instead, the Commission did so by claiming that nearly 25 million Britons are members of the Church of the England. "With nearly 25 million baptised *members* [emphasis added], the Church of England..." (Wakeham 2000: 155). The source of this figure, however, refers to the figure as 'baptised *population*' (Brierley 1999: Table 8.14). Yet the actual confirmed membership shown by another table (Brierley 1998: Table 8.2.2) is around a twentieth of the figure, at 1,280 million.

The projections of a continued sharp decline in church attendance are not just an extrapolation of past trends. They are based on younger people increasingly finding religious creeds incredible<sup>3</sup> and the proportion of the young attending church continuing to decline. This reform of the House of Lords should be catering for the forthcoming generation and the arguments posited here about the inappropriateness of, in effect duplicate, religious representation become even more pressing as Christian religious adherence declines.

The reforms being contemplated now should be designed for the future rather than the past.

The bishops represent English dioceses alone, and come from a Church which itself does not reflect society. All 26 bishops are male and middle-class. The method of their selection ensures that they are mainly in their fifties or sixties. Attention has also been drawn to how, in their palaces, many bishops are remote from both their clergy and their congregations. There is no case for retaining this unrepresentative group with its totally disproportionate power.

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<sup>3</sup> <http://www.education.gov.uk/research/data/uploadfiles/rr564.pdf>

## **8 Do we need the bishops, or other religious representatives, to present a religious view?**

The leaked 2010 White Paper asserted that religious representations are especially helpful when “moral, philosophical and theological considerations” are required. We challenge this view, which has been repeatedly expressed by religious people outside of Parliament that the religious viewpoint of bishops (or that of other religious representatives) is *per se* any more valuable than the insights of anyone else in the House of Lords.

If there are any very specific issues on which ecclesiastical input is required, then consultations could take place in the same way as already works successfully for other special interest groups, without the need for *ex-officio* representatives.

Even without the ‘Lords spiritual’, religion would be well represented in the House of Lords. There are a significant number of peers who are, or who have been, prominent in religious organisations, a small number of clerics who have peerages, and many peers identify themselves as speaking from a religious perspective. Even excluding the bishops, the strength of this religious representation in the Chamber is, we believe, considerably in excess of the norm for the country (partly because of the House’s higher average age than the population); this reinforces our view that there is no need for *ex-officio* religious representation.

## **9 Do we need the bishops, or other religious representatives, to present a moral view?**

In addition to our evidence on why there is no need to retain religious representatives to present religious views, it seems even more evident that there is no need to retain such representatives to present allegedly superior moral views. Such representatives seem to have largely lost any ability to provide moral inspiration to the nation. Declining figures for belief and religion in the UK reinforce this observation. The former Archbishop of Canterbury, for example, appeared to be admitting this when he stated that the nation “has an allergy to religion”. Research also places the clergy very low in the list of those to whom people look for moral guidance.

An objective measure of this is contained in the BBC’s *Soul of Britain* survey (2000).



Respondents were asked:

*Generally speaking, do you think that the leaders of religion are giving adequate answers to...?*

|  |      |     |     |     |
|--|------|-----|-----|-----|
| The moral problems and needs of the individual | Yes: | 21% | No: | 67% |
| The problems of family life                    | Yes: | 23% | No: | 67% |
| The social problems facing our country today   | Yes: | 22% | No: | 70% |

An Ipsos Mori poll in 2006 indicated that only 22% thought that religious beliefs were necessary for a complete understanding of the universe, while 65% held to a situationist (that is, non-religious or doctrinaire) view of morality.

It seems the Government's insistence that religion provides the nation with a "moral steer" is sentimental nostalgia not shared by the population at large.

It would be offensive to other members of the Second Chamber (especially those who profess no religion) to suggest that the religious representatives have (or would have, in the case of any extension) greater moral insights — or indeed integrity — than other members of the Chamber. It is not unknown for the bishops to use their entrenched position of power and privilege to behave in self-serving ways that sometimes border on the discreditable.

One example of such behaviour occurred during the passage of the Human Rights Bill through the House of Lords in 1998. Although their action was later substantially diluted in the Commons, the Lords initiated, lobbied and voted in effect to exempt religious organisations from the terms of the European Human Rights Convention, despite the fact that the freedom to practise religion is already enshrined in that Convention. The vast majority of the bishops voted for this exemption, relying on arguments that were repeatedly proved to be disingenuous, to say the least. Such arguments included (i) that the Church would be required to "marry" homosexual couples, even though the Human Rights Convention clearly envisages marriage as being exclusively between men and women, and (ii) that the bishops sought exemptions on employment issues, despite the ECHR not extending to employment.

A further example of disdain for Human Rights was the majority of the bishops present voting against the equalisation of the age of homosexual consent in 1998 and 1999,

despite there being a Government undertaking to the European Court of Human Rights to equalise it with the age of heterosexual consent.

In each of the above cases we understand that the bishops further promoted the churches' views by using its privileged access to the Government.

Further examples of the Lords' opposition to progressive reform, defeating the government in:

2005 Racial and Religious Hatred Bill - to restrict the grounds on which incitement to religious hatred could be applied

2009 Equality Bill – to promote religious privilege in employment practices<sup>4</sup>

2009 Coroners and Justice Bill – to provide a defence of free speech in homophobic hate cases – in effect, to allow the religious to continue to describe homosexuals as sinners.

On 25 January 2010 the bishops' votes caused a Government defeat on equality legislation which almost certainly made the legislation in breach of the EU Employment Directive. As a result, the Equality Act<sup>5</sup> reads that organised religion is allowed to discriminate in employment against homosexuals practically without restriction.

Ralph Wedgwood, Professor of Philosophy at the University of Cambridge, has put this issue succinctly:

*The basic principle of human rights, which is accepted all over the world, is that it is wrong for governments to discriminate between classes of people without an uncontroversial and compelling justification. ... When a sectarian religious view conflicts with a universal principle of human rights, it is clear which of the two should prevail.*

The bishop's actions noted above demonstrate that they do not unreservedly accept Professor Wedgwood's statement. Despite the Human Rights Act, we are fearful that continued religious representation in the Second Chamber would result in attempts to challenge Human Rights - if not the concept itself - introducing legislation which is contrary to Human Rights principles. Recent history in the USA indicates attempts by the religious Right to reverse previous Human Rights legislation, for example in relation to homosexuals and abortion.

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<sup>4</sup> <http://www.secularism.org.uk/equality-bill-reforms-hit-the-bu.html> and [http://news.bbc.co.uk/1/hi/uk\\_politics/8479761.stm](http://news.bbc.co.uk/1/hi/uk_politics/8479761.stm)

<sup>5</sup> Schedule 9 Paragraph 2 <http://www.legislation.gov.uk/ukpga/2010/15/schedule/9/part/1>

Were there to be official/'professional' Roman Catholic religious representatives in the Second Chamber, there would inevitably be conflict over issues such as artificial contraception and abortion. Such issues are ones in which they have a legitimate doctrinal interest, but over which they should have no privileged input in framing legislation to which the whole of our society would be subject.

As an example of what might happen if the Lords admitted Catholic bishops, we quote the previous government's yielding to pressure from the church to allow faith schools to teach sex and relationships education in accordance with the religious ethos of the school, so allowing religious schools in effect to nullify the intention of the legislation<sup>6</sup>.

No representative of *any* religious organisation supported the extension of legal protection from discrimination to the provision of goods and services on grounds of sexual orientation when this was passed in 2006 and 2007<sup>7</sup>. As the Church of England diminishes in size, its hierarchy is becoming more evangelical and particularly on matters concerning sexual ethics and the start/end of life. It is becoming even less representative of the country, and possibly also its own congregations.

The dramatic extent to which the hierarchy is more orthodox than congregations and believers who do not attend Church, has been dramatically demonstrated in recent surveys about the Roman Catholic Church. And it is always the orthodox position that is promoted by clergy in public and when seeking to influence legislators. Examples show<sup>8</sup> only 9% of Catholics thought contraception should not be available to everyone; only 22% thought women should not have the right to an abortion. Only 11% of respondents supported the Catholic Church doctrine that homosexual acts are morally wrong.

## **10 Should representation be extended to other denominations and faiths?**

We were pleased to note from the 2001 White Paper (*The House of Lords — Completing the Reform* Publ. 7 November 2001) that the Government intended to abandon the idea proposed by the Royal Commission of giving *ex-officio* representation to other faiths and denominations. It rightly concluded that "the practical obstacles are too great". In our submission to the Commission we made this case strongly, and indeed many of the

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<sup>6</sup> <http://www.publications.parliament.uk/pa/cm200910/cmbills/061/amend/pbc0611002a.925-926.html> and <http://www.cesew.org.uk/standardnews.asp?id=9190>

<sup>7</sup> Lords Hansard for The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 or The Equality Act (Sexual Orientation) Regulations 2007, which applied to Great Britain.

<sup>8</sup> YouGov / Marie Stopes Survey Results – survey 31 August 2010- 2 September 2010 with 1,636 Catholic adults (homosexuality figure from ITV section of same poll)

practical problems which we set out there (and again below) were acknowledged by the Commission in their Report, especially in Sections 15.10 — 15.15.

The 2008 White Paper<sup>9</sup> on reforming the House of Lords had the following aims:

*The reformed second chamber should be 80 percent or 100 percent elected;*

- *The 26 Bishops should not retain reserved places in a 100 percent elected House, but may so in a House with an appointed element;*
- *The link between a peerage and a place in the second chamber should be broken;*
- *The government should not hold a majority in the second chamber and its members should be independent;*
- *In an 80 percent elected House the Appointments Commission should be placed on a statutory footing; and*
- *That there should be no changes to the powers of the second chamber and that the House of Commons should retain its primacy.*

Epolitix.com went on:

*The draft Bill stops short of proposing a completely elected chamber in favour of an 80 percent elected House. This would see the remaining hereditary peers ejected, but the 26 Bishops would remain.*

*A ComRes poll taken in January 2009 showed Conservative peers (73 percent) are overwhelmingly of the view that changes to the status quo to remove the Bishops are unnecessary.*

*Labour peers predominantly (49 percent) say that there should not be any faith based representation in the Upper House.*

...

*And the Electoral Reform Society believe it "not appropriate" that the second chamber of a democratic society be hand-picked by the political establishment and have called for members to be elected by the Single Transferable Vote system.*

The reason why the previous government “stopped short of proposing a completely elected chamber” was because discussions had already taken place on the basis of retaining 12 bishops and representatives of other religions.<sup>10</sup>

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<sup>9</sup> <http://www.epolitix.com/legislation/legislation-details/newsarticle/draft-house-of-lords-bill/> and <http://www.number10.gov.uk/other/2009/11/queens-speech-house-of-lords-reform-draft-bill-21358>

<sup>10</sup> <http://www.guardian.co.uk/politics/2010/apr/19/house-of-lords-reform>

To quote from the executive summary of the 2010 leaked White Paper (see appendix 1) (our emphases):

*The Government proposes that a fully reformed second chamber, in recognition of the enduring importance of the established Church in national life, and irrespective of the outcome of the staging post review, should continue to allow a role for the established Church. So the continued role of the Church would be guaranteed. The draft legislation provides for a limited role for a reduced number of Lords Spiritual in the reformed second chamber, **but the exact arrangements would be subject to the views of the Church**. The Government also acknowledges the contribution which all faith communities have made to commenting on legislative proposals in the past. This is particularly true of the Church of England, but it is not confined to them. The Government will also consider how the contribution of the faith communities more generally can still be made available.*

But it goes on to say:

*The reformed second chamber will be **entirely composed of elected members**. The key aim in all our proposals for reform is to create a strengthened, more legitimate second chamber. The increased legitimacy conferred by a popular mandate will give it a level of accountability that is vital in a modern democracy.*

while in the main body of the paper it said:

*88. 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 remain in the reformed second chamber throughout the transitional period and in the fully reformed second chamber.*

*92. The selection of the additional Lords Spiritual is to be made by the Church of England in **whatever way it considers appropriate**. Additional Lords Spiritual at the start of the first and second transitional periods must be selected from the existing Lords Spiritual; those appointed to the fully reformed chamber or as replacements during the transitional periods may be selected freely from the bishops of dioceses in England.*

We were to be grateful, it seems, for this provision:

*93. The Lords Spiritual who remain in the House after the end of the transitional period will have speaking rights, and will be able to vote on Church legislation but not on other legislation.*

which itself was unlikely to remain the case especially if other religious groups were to have representation.

The democracy arguments noted earlier in this submission apply with even more force to an extension — through appointment — to other denominations and faiths. There are also serious dangers in such an extension and overwhelming practical difficulties in implementing it. Some of these are explored in Appendix 2.

Many of the other Christian denominations would want to have their voices heard, a problem multiplied when a leader is appointed annually (as is the case for several denominations).

Despite their relatively small size, a wide variety of religions are practised in the UK (many with a substantial number of denominations and sects) than practically any other country in the world. There can therefore be no realistic expectation of finding a formula of representation that would satisfy them all — unless it were to make the Lords practically a theocratic chamber. As the 2008 White Paper acknowledged, some faiths such as Hinduism do not have a hierarchical structure, and some may also have no formal structure and have highly independent congregations. In many cases therefore it will not be possible to find a suitable individual who would both represent the followers of the faith and would be acceptable to the vast majority of them. Whatever choice the Appointments Commission would make, it would often be opposed by a competing leader or someone from another subdivision of that faith.

Such difficulties have already emerged over the very first non-Christian faith to be represented in UK institutions — Judaism. Despite its small number of adherents (around 300,000 and diminishing), divisions make it impossible to find one representative who could convincingly speak for all, as is specifically acknowledged in the Wakeham report (15.14). Given such difficulties even with Jewish representation when Jews have been a significant presence in the country for hundreds of years, are well integrated into society and are generally non-proselytising, it can be expected that the difficulties in finding suitable representatives for other religions will be much greater.

Similarly, given the historic differences between the various Muslim sects it is hard to imagine any would be happy with a single representative, a choice complicated by the non-hierarchical nature of Islam.

In general, the very existence of sects is evidence of differences with other sects or the mainstream religion which the adherents consider to be crucial and will fight to maintain. Were this not the case, there would be no purpose in maintaining the sect.

In this religious free-for-all, other minority religions might come forward, demanding — in the interests of religious freedom and parity — to be represented. The Unification Church (Moonies), for instance, has many adherents in this country, as does the Church of Latter Day Saints (Mormons), Scientology, Salvationism, Satanism, Wicca etc. etc. Even to dispassionate observers, there is no obvious cut-off point for those religions to be granted representation and those that should not — for those excluded their exclusion will be to them a matter of great injustice.

There are also several problems relating solely to the Roman Catholic Church. We understand that they are divided as whether to continue the self-imposed (and codified in their own church law) detachment of their clerics from politics. Lord Desai said in February 1999:

*I believe that if we want the faiths to be represented we should take the same stance as the Catholic Church; that faiths should be represented by the lay people who believe in them and not by the 'professionals'.*

We concur with Lord Desai's view on this point, as long as seats granted to religious lay people are allocated on their merit, skills and experience, rather than simply because of their faith. If an extension were to take place, however, the RCs — as one of the largest faith groups — would probably feel pressurised to seek representation. The seeds of this conflict have already sprouted (as we will demonstrate in next section).

There is a further constitutional problem with RC representation. If the Appointments Commission, as would be likely, appointed representatives from the senior hierarchy of the Church, this would amount to the leader of a foreign quasi state (the Pope) acquiring in essence the power to appoint members of the UK legislature. As the former Bishop of Birmingham pointed out several years ago, the Pope could acquire the effective right to appoint members of the House of Lords. Similar arguments apply to other non-UK-controlled religions. Such appointments would add to the democratic objections, and would not be popular with the electorate as a whole.

When any religious claimant is denied a seat, or considers his faith has insufficient representation, a justifiable cry of religious discrimination will arise. There may even be legal challenges when seats are allocated to some and not to others.

In our opinion, the only way to avoid this problem is to remove religious representation from the House of Lords entirely, leaving religion – or the lack of it – to be represented informally as part of the multiplicity of members’ personal characteristics.

## **11 How many religious representatives should there be and would such a reformed chamber work?**

One important additional argument against a multi-denomination/faith representation is that religious input to debates would increase dramatically in the already overcrowded timetable of the Chamber. At present only one or two bishops of the 26 entitled to sit are normally present in the House for routine debates. It is to be expected that, having been granted the privilege of religious representation, any new appointees would wish to exercise it, and would wish to express their view as often as possible in an attempt, perhaps through legislation, to impose their minority view on the rest of the populace.

As already noted, the previous Government wisely declined to follow the Royal Commission’s proposals to extend representation as of right to non-Anglican Christians and to other faiths. These proposals would have resulted in around four times the number of religious representatives in the chamber for contentious moral debates, compared with the situation now when there are rarely more than five Anglican bishops. A major factor in this calculation is that any reduction from 26 to 16, or 12, Anglican bishops would not reduce Anglican presence in the chamber; it would simply mean that fewer bishops would attend more frequently. Indeed, were greater freedom to be extended to the Church in the appointment of its nominees as a *quid pro quo* for the reduction, it is possible that the Church would put forward full time professional lobbyists who could be expected to intervene much more than the present bishops.

Were each of the annually appointed religious leaders to be invited by the Appointment Commission take up a seat in the Lords there could eventually be ten or more retired heads for each denomination still sitting in the Lords, dependent on the tenure of their seats. A similar problem will arise to a lesser extent every time a non-annually appointed new leader is installed. No suggestion has yet been made that seats for such leaders should be annual or for their term of office or until a replacement is appointed, but there would doubtless be resistance to such an idea on the grounds that it normally takes some years to ‘learn the ropes’ before making any effective contribution.

The extension of religious representation could in itself frustrate the best intentions of reform of the Second Chamber. Were the religious representatives to form coalitions and



vote en bloc — as has been the case in other fora such as the United Nations — it seems likely they could hold the balance of power, particularly in less well-attended debates. Under such circumstances this undemocratic group might be able to dictate the parliamentary agenda and therefore be in a position to make their own demands, particularly on contentious social issues. The bishops currently restrict their votes to broadly social issues, but this is only a convention. If further religious representatives were appointed, they might not adhere to this convention, and would thus be in a stronger position to exert pressure through the exercise of their votes on other topics.

We are also concerned about parliamentary time being taken up by representatives of the competing sects and religions in discussions on theological points, point scoring and power seeking. The evidence is too overwhelming to require specific examples, that where there is religion, there is conflict. Further consequences of plural representation could be sectarian speeches or the Chamber's precious debating time being monopolised by religious disagreements, however peacefully expressed.

We expect there to be pressure to appoint *ex-officio* religious representatives to match the current profile of belief across the country. Were this to be accommodated, it would not withstand the passage of time. Any religion or sect which is attracting an increasing number of adherents would demand more seats, but those in the reverse situation, would, like the established Church, be unwilling to give any seats up. In 20 or 30 years the profile of belief will be materially different. Indeed, even by 2013 the number of active Muslims will outstrip practising Anglicans. The profile will change both through fluctuations (we anticipate a reduction) in the number of religious believers, and through the altering proportions of the believers of each religion and sect. Complications will also arise through amalgamations (e.g. potentially the Anglicans and Methodists). Additional representatives would be sought for new sects or religions, perhaps arising from a split, or ones whose influence had grown. Entrenched appointees would resist being displaced to provide a more appropriate balance. Thus we would be creating a new anachronism. The pressure would continually grow for ever more religious seats.

## **12 How are the non-religious to be represented?**

Unless *ex-officio* religious representation is terminated, the third of the population who do not believe in God<sup>11</sup> (actually 55% of those under 35) — could demand, in the interests of

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<sup>11</sup> Social Trends 2008, published by the Office for National Statistics.

equity, specific “non-faith” representation. According to the Office of National Statistics, in 2006 47.5% of the population considered they belong to Christianity and 45.8% to no religion. Pro-rating these figures to 2010 the position has reversed to be 45.5% and 47.1%, i.e. with a higher percentage not belonging to a religion.

Those who oppose the establishment of a specifically non-religious group generally do so by pointing to the presence of non-believers on the temporal benches. Yet such an argument is two-edged. There are also many more on those same benches who espouse the religious cause.

We do not, however, advocate specifically non-religious representatives (from this organisation or any broadly similar humanist or secular group) any more than we do religious representatives. The appointment of a significant number of religious representatives would already be unworkable. To compound this by appointing specifically non-religious representatives would be to add to the manifest absurdity of retaining any religious representatives and would further damage the parliamentary process.

An example of a completely secular constitution is shown in Appendix 5, Japan’s post-war constitution.

### **13 Religious representation in the Lords is not popular**

74% of the British public believe it is wrong that Bishops have an automatic right to a seat in the House of Lords, including 70% of Christians, according to an ICM survey conducted in 2010 on behalf of the Joseph Rowntree Reform Trust.<sup>12</sup>

The results of the Consultation Responses from the *House Of Lords — Completing the Reform* (2001) showed an overwhelming majority against CofE bishops sitting as of right. It concluded: “Calculating on the basis that those who want an all-elected house do not want bishops (or anyone else) sitting as of right gives an 85% majority against the formal representation of the Church of England. (The complete result is reproduced in Appendix 4)

A questionnaire published in the report of the Royal Commission also revealed public opposition to religious representation. On the Lords’ powers relative to organised religion, 53% thought that they should be reduced while only 27% thought that they should be maintained or developed. If the 20% who did not respond are excluded, this becomes a

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<sup>12</sup> [http://www.ekkleisia.co.uk/content/survey\\_on\\_bishops\\_icm.pdf](http://www.ekkleisia.co.uk/content/survey_on_bishops_icm.pdf)

two to one majority in favour of reduced involvement with organised religion. (Of thirteen topics including representation, respondents were asked whether the Lords' present functions should be reduced or, conversely, maintained/developed. Respondents were far less keen on religious representation being maintained/developed than any of the other twelve topics.)

One of the questions asked as part of research conducted for the BBC's 'Soul of Britain' programme in 2000 was "Should religious leaders such as bishops be in the House of Lords or not?" Only 35% answered yes, whereas 55% answered no.

This research shows that outside a minority of the religious there is no overwhelming constituency clamouring for religious representation in the House of Lords. Indeed the general feeling is quite the reverse, so changes to increase representation actually run counter to public opinion. The various statistics shown above were based on surveys conducted prior to the events of 11 September 2001. Since then, many more people have come to the realisation of the dangers of mixing politics and religion, and the importance of their being kept apart. We support this stance.

The Church of England's demand for the retention of its bishops in the House of Lords is self-serving and is not in the long-term interests of this country. On the contrary, we foresee it creating friction and conflict as other faiths grow stronger than the CofE, and come to feel resentment at their exclusion.

*The Times* stated on 16 May 2002:

*More than 80 percent of the 1,100 members of the public, faith groups, MPs and others consulted by the Government on House of Lords reform were against representation of the Church of England. The Government wants to cut the number of bishops in the Lords from 26 to 16.*

Seemingly against the flow, the religious think tank *Ekklesia* recently urged bishops to join a campaign to make a positive reform of the House of Lords in terms that we find encouraging – but, alas, with some scepticism (emphases are ours):

*The religion and society think-tank Ekklesia has today teamed up with democracy campaign Power2010 in an initiative to urge Church of England bishops to take a lead in reforming the House of Lords.*

*Local churches and others are being encouraged to contact bishops, and ask them to continue in their support for the 'bottom up' campaign to reinvigorate*

*democracy, which saw 100,000 votes cast, many in support of a reformed Second Chamber.*

*Several bishops have previously spoken favourably about Power2010, which aimed to identify five key political reforms.*

*A public vote, which finished on 22 February 2010, saw an all elected second chamber supported as the third most popular reform.*

*Bishops are now being urged to support the results, and in particular five principles for reform of the House of Lords that:*

- *people of faith participate alongside others in public life through civic action, free debate and good example - **not through special reserved places and exemptions***
- *members of the second chamber are elected, publicly accountable and recallable - **not based on the appointed status and privilege for a few***
- *legislation is scrutinised for its impact on the most vulnerable in society - not primarily the rich and powerful*
- *membership is open to independent and minority elected voices - not dominated by the big party machines*
- *Parliamentary business is discussed and voted upon in ways that encourage common action, co-operation and understanding of differences - rather than division and confrontation.*

## **14 Prayers and Oaths**

Since it is accepted that we live in a multicultural society, which we maintain is largely secular in nature, we feel that continuation of the use of prayers and religious oaths in the Second Chamber — and also indeed in the House of Commons — is an anachronism. Most other States include in their constitutions non-religious affirmations of allegiance to the State. The same affirmation can thus be taken by everyone. Britain should do likewise to ensure that our legislature is truly open and representative of the whole population.

Mindful of time pressures, we would prefer neither prayers nor silence, but the Northern Ireland Assembly seems to have reached a reasonable compromise by opening with a few moments of silent contemplation, which members can utilise according to their conscience.

# Appendix 1

## Leaked Government paper on House of Lords reform (April 2010)<sup>13</sup>

### Extract from Executive Summary

#### Lords Spiritual

The Lords Spiritual — the 26 Archbishops and Bishops of the Church of England — have always held a special and different position in the House of Lords. They differ from Peers (the Lords Temporal) in two key respects. First, they do not sit for life, but only for their period as a Bishop or Archbishop of their Diocese; secondly, although historically they sit as independent members of the lords they are widely regarded as representatives of the Church of England.

The Government is and remains committed to the establishment of the Church of England, with the sovereign as its Supreme Governor, and relationship between Church and State. None of these reforms should or are meant to diminish establishment. The established Church has for centuries played a seminal role in our national life and has played a major part in helping to shape the constitutional, legal and social fabric of the nation.

The nature of establishment has changed down the years to reflect changing circumstances, but a presence in the Lords has been a constant manifestation. Bringing this to end would therefore herald a significant change to a constitutional arrangement that binds Monarchy, Church and State together in a variety of ways. These include the fact that the Church of England's own legislation is subject to Parliamentary scrutiny, and it is the Bishops who speak to that legislation in the House of Lords.

The Government proposes that a fully reformed second chamber, in recognition of the enduring importance of the established Church in national life, and irrespective of the outcome of the staging post review, should continue to allow a role for the established Church. So the continued role of the Church would be guaranteed. The draft legislation provides for a limited role for a reduced number of Lords Spiritual in the reformed second chamber, but the exact arrangements would be subject to the views of the Church.

The Government also acknowledges the contribution which all faith communities have made to commenting on legislative proposals in the past. This is particularly true of the Church of England, but is not confined to them. The Government will also consider how the contribution of the faith communities more generally can still be made available.

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<sup>13</sup> <http://www.guardian.co.uk/politics/2010/apr/20/leaked-house-of-lords-reform-paper>

## **The Lords Spiritual — extract from details of the proposals.**

### **Set out in clause 2, 9 and 10 and Schedules 1 and 5**

88. The Government proposes that transitional arrangements should also apply to Lords Spiritual so that at the end of the transitional period only 12 Lords Spiritual will remain. The Government believes that these arrangements will allow the bishops to continue to contribute effectively to the second chamber.
89. 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 remain in the reformed second chamber throughout the transitional period and in the fully reformed second chamber. If one of these Archbishops or Bishops leaves their position, he will be replaced in the reformed second chamber by the new holder of that office.
90. 21 further bishops are currently entitled to sit in the House of Lords, in order of seniority. Up to 14 of those 21 who are in the House of Lords at dissolution immediately before the first second chamber elections may be selected to remain as Lords Spiritual in the first transitional period. At the time of the second election up to 7 of these bishops may be selected to remain as Lords Spiritual in the second (and final) period of transition. If one of the additional bishops becomes the Bishop of a different diocese, he will continue to be a Lord Spiritual.
91. Additional Lords Spiritual will be able to resign from the reformed second chamber both during the transitional periods and in the fully reformed chamber. If the number of additional Lords Spiritual falls below 7, whether through resignation or otherwise, the Church of England will choose

replacements to ensure that 7 additional Lords Spiritual remain.

92. The selection of the additional Lords Spiritual is to be made by the Church of England in whatever way it considers appropriate. Additional Lords Spiritual at the start of the first and second transitional periods must be selected from the existing Lords Spiritual; those appointed to the fully reformed chamber or as replacements during the transitional periods may be selected freely from the bishops of dioceses in England.
93. The Lords Spiritual who remain in the House after the end of the transitional period will have speaking rights, and will be able to vote on Church legislation but not on other legislation.
94. As Lords Spiritual, bishops would sit in the reformed second chamber on a different basis from other members. Therefore in the transitional period, and in a fully reformed chamber, the Government proposes that:
  - Lords Spiritual will not be entitled to a salary or pension in the reformed second chamber (see paragraphs 62 to 71);
  - Lords Spiritual will be exempt from the attendance requirement and the tax deeming provision (see paragraph 59 to 61 and 75 to 78);
  - Lords Spiritual will be entitled to claim allowances under the scheme administered by the IPSA for members of the reformed second chamber (see paragraphs 72 and 73); and
  - Removal, expulsion and suspension provisions equivalent to Part 3 of the CRAG Bill will not apply to the Lords Spiritual (see paragraphs 47 to 49).

## Appendix 2

Extract from Response by Iain McLean, Professor of Politics, Oxford University to Cm 5291: *The House of Lords - Completing the Reform* (Extract reproduced with kind permission.)

### Summary

(Only relevant parts of this section are reproduced)

The Government wishes to meet its manifesto commitment to a representative House by laying a duty on the Appointments Commission to make the House representative of the UK by gender, ethnicity and faith community.

However, the Government's rejection of [Lord] Wakeham's Recommendation 98 makes this mathematically impossible. The Appointments Commission would have to shape a House of 600 while able only to choose 120 of its members.

### Making the White Paper\* proposals work.

\**The House of Lords — Completing the Reform* [Publ. 7 November 2001]

(Only relevant parts of this section are reproduced)

B3 To require gender balance, ethnic minority representation, and diversity among the elected members would require very intrusive primary legislation to control parties' nominating procedures; be impossible to impose on individual independent candidates (Dr Richard Taylor MP (Ind. Wyre Forest) has only one gender, one ethnicity, and at most one religion); and constitute a contempt of the electorate. Therefore, the Appointments Committee could achieve its proposed targets for gender, ethnic and faith-community representation (Supporting Documents 7:24-28) only by choosing the gender (etc.) of at most 406 members, and for some purposes at most 120 members, of a 600-member house.

B4 The Government's decision to reject Recommendation 98 of the Royal Commission makes the Appointment Commission's task impossible. If a party's list of nominees does not help to achieve the required gender, ethnic and faith-community representation, what is the Appointments Commission to do about it? If a gender, ethnicity, or faith is under-represented among the political senators (elected or appointed) and if the political parties (or some of them) do not voluntarily produce 'balanced tickets', the Appointment Commission will have no powers to make them do so.

B5 In such an event, the Commission would have to produce diversity in a house of 600 while being able to control the relevant features in only 120 members. This gearing could make the gender requirement (at least 30% of each) impossible to achieve, and the ethnic and faith requirements extremely difficult. 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.

B6 The only solution I can see is that the Appointments Commission must ask each party voluntarily to produce a ticket of nominees that is balanced as to gender, ethnicity, and faith. Table 3 shows how difficult that would be in respect of ethnicity. Because one ethnic

group is so overwhelmingly large, it would be difficult for any one party to nominate from each of the other groups in the appropriate proportions.

B7 If the Government does not remove the bishops (all of one gender, and all from one minority faith) and the Lords of Appeal in Ordinary (historically almost all of one gender) from the senate, then the above becomes even more problematic.

### **C. Bishops and Law Lords**

C1 There is no good argument for retaining either bishops of the Church of England.

C2 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 nor in the White Paper explains why the *ex-officio* representation should remain.

C3 The Human Rights Act is forcing the UK towards a formal separation of the judicial function from the executive and the legislature. The Pinochet and Factortame cases have shown how easily the multiple roles of the Lords in Appeal in Ordinary could be confused. Sooner or later, the Law Lords will have to leave the legislature. There is no better time than now. [Of course this has happened, but the Bishops' Bench remains.]

### **D. The transitional House**

D1 The White Paper exaggerates and misrepresents the problem of transition from the existing House to the senate. It exaggerates the problem of managing the attrition in the number of Life Peers. It misrepresents the problem of achieving political balance during the transition.

D2 The present House contains 144 hereditary peers, bishops and Law Lords (only 4 of whom are women). It is agreed that the first will go and strongly urged above that the second and third should also go. Of 555 life peers (excluding those on leave of absence, bankrupt, or in jail), death can be expected to remove 18 a year for the next ten years and a somewhat smaller number thereafter. A voluntary retirement scheme, with club rights preserved (as with hereditaries in 1999) will certainly produce enough retirements to keep the total house size within the cap of 750 during the transition.

D3 There is a serious mistake in §93 of the White Paper, where it is stated that Labour Party peers would need to be created in order to give that party a lead over the Conservatives. But the Conservative lead over Labour among existing peers is purely a function of the remaining 92 hereditaries continuing to sit. When they go (and assuming no deaths or resignations among life peers), Labour will have, as it already does, a plurality of life peers.



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

|              |                 | N (000)<br>col 1 | Percent of total | seat entitlement<br>col 3 |
|--------------|-----------------|------------------|------------------|---------------------------|
| Christian:   |                 |                  |                  |                           |
|              | Anglican        | 1,654            | 20.89            | <b>16</b>                 |
|              | Catholic        | 1,768            | 22.33            | <b>17</b>                 |
|              | Free Churches   | 1,278            | 16.14            | <b>12</b>                 |
|              | Presbyterian    | 989              | 12.49            | <b>10</b>                 |
|              | Orthodox        | 235              | 2.97             | <b>2</b>                  |
|              | Non-Trinitarian | 533              | 6.73             | <b>5</b>                  |
| Buddhist     |                 | 50               | 0.63             | <b>0</b>                  |
| Hindu        |                 | 165              | 2.08             | <b>2</b>                  |
| Jewish       |                 | 95               | 1.20             | <b>1</b>                  |
| Muslim       |                 | 665              | 8.40             | <b>6</b>                  |
| Sikh         |                 | 400              | 5.05             | <b>4</b>                  |
| Others       |                 | 85               | 1.07             | <b>1</b>                  |
| <b>Total</b> |                 | <b>7,917</b>     |                  | <b>77</b>                 |

**Column 1:** Source is 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 Church of England, for which the 2010 White Paper proposed 16 reserved seats.

## Appendix 3

Commons Public Administration Committee Fifth report, dated 12 Feb 2002 (Extract)

### The 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 [*The House of Lords — Completing the Reform* Publ. 7 November 2001] 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>[65]</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>[66]</sup>

156. The Church of England, in a submission following the report of the Royal Commission,<sup>[67]</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.** 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.

*End notes to Commons Public Administration Committee Fifth report:*

65 Constitution Unit Submission (Cmd 5291)

66 HC 494-II, LR 58

67 Church of England Submission to the Royal Commission (Cm 4534, 2000)

## Appendix 4

*The House of Lords — Completing The Reform (2001)*

Analysis of Consultation Responses

(Published by The Lord Chancellor's Department, April/May 2002)

### **Bishops (Page 7)**

185 respondents (17%) mentioned the place of bishops in the new house specifically. **56% of these thought there should be no bishops at all in the new house.** Another 15% thought that bishops should not sit of right, but only if appointed by the independent commission. A quarter of those who responded thought that there should be some bishops sitting as of right. In addition, 340 respondents called for an all-elected house, but did not mention the role of bishops specifically. Calculating on the basis that those who want an all-elected house do not want bishops (or anyone else) sitting as of right gives an 85% majority against the formal representation of the Church of England.

### **Representation of non-CofE faiths (Page 9)**

6% of respondents mentioned this issue. 39% said that other faiths should be represented of right. Most of these respondents also favoured representation for the Church of England. 26% said that other faiths should be represented as of right only if the Church of England bishops remained. **Most of these respondents (where they expressed a preference) did not want bishops to sit in the new house of right.**

## Appendix 5

### Japanese Constitution

One of the most modern constitutions, that of post-WWII Japan (thus westernised) shows clearly how Church and State can be separated. We maintain this separation is a prerequisite for a truly democratic state.

“Article 20 [Freedom of Religion, Secularity of the State]

1. Freedom of religion is guaranteed to all.
2. No religious organisation shall receive any privileges from the State, nor exercise any political authority.
3. No person shall be compelled to take part in any religious act, celebration, rite or practice.
4. The State and its organs shall refrain from religious education or any other religious activity.

## **Appendix 6**

### **About the National Secular Society**

Founded in 1866, the National Secular Society is Britain's only organisation working exclusively towards a secular society.

Promoting the separation of Church and State, we campaign both in the UK and in European Institutions against the undue influence of religion in public life.

We campaign for a state where law and the administration of justice are based on equality, respect for Human Rights and objective evidence without regard to religious doctrine or belief.

The NSS sees secularism as an essential element in promoting equality between all citizens. We therefore take a keen interest in such causes as social cohesion and the fight against all forms of discrimination.