

challenging religious privilege

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Section A

Introduction – Objective and Scope

The objective of the process of which this Paper forms part is “to review the present relations between the Church of England and government, and to consider how they may develop in the future”.

The relationship between the state and the Church of England is as deep-rooted and complicated as might be expected from its historical background. This Paper from the National Secular Society seeks only to highlight the principal constitutional and legal matters.

The Society acknowledges that many in the Church have performed selfless acts of charity and kindness, especially in deprived areas, and they have often been motivated to do so by their faith.

Several aspects of disestablishment merit much greater consideration than there is space to devote to them here. Particularly key ones are:

- Financial settlements including Queen Anne’s Bounty
- The legal incorporation of The Church and its many component parts.

References in this Paper to “we”, “us” and “the Society” refer to the National Secular Society. Some information about us is given in the Main Submission (see Section C). References to the “Church” are to the Church of England. We recognise that “establishment” and “disestablishment” are portmanteau and imprecise terms.

Section B

Executive Summary and Conclusions

(Including recommendations)

The Executive Summary mirrors the Synopsis already circulated. The same headings and Section letters are used in the Main Submission. In addition, the Main Submission includes a brief section (Section J) on The Church of England in Education and Chaplaincy which, whilst not strictly part of the present exercise, cannot be ignored in any review of Church and State.

Background

1. The Church of England has enjoyed significant privileges, particularly relating to “establishment”, for many centuries. These have not been limited in line with the other important developments that have carried our parliamentary democracy forward into the modern world, particularly those reflecting the increased importance afforded to Human Rights in our society.
2. These religious privileges have remained largely unchanged despite the massive and continuing reduction in support for the Church in the UK. This decline can be measured in terms of membership, attendance and – in the wider context of what the Church describes as its “mission to the nation” – belief in God or Christianity. The serious decline started around 75 years ago and has become more precipitous in recent decades. Realistically, this trend is irreversible for the foreseeable future.
3. The UK remains alone among Western democracies in granting seats in its legislature to religious representatives as of right. Other democracies discarded such practices centuries ago.

4. Astonishingly, the Government is bent on extending this archaic relic of religious privilege under the guise of “modernisation”. The Government has intimated that it would like to see representatives of other denominations and faiths given ex-officio places in the Lords. To do so would be a significantly retrograde step away from democracy and back towards the medieval origins from which the bishops attained their right to sit.

5. There are many informed and independent projections, and background statistics, to support our assertions on the long-term and continuing projected numerical decline of the Church of England. These are summarised below and cited in more detail in Section D of the Main Submission. But even the direst of these projections ignores the further diminution that will result from the all-but inevitable schisms over the induction of gay clergy and/or installation of women bishops. In May 2006 the former Archbishop of Canterbury, Dr Carey, expressed his fears that a “serious and final schism destroys the Communion”.

6. In the latest emerging schism, the fundamental direction of the Church is increasingly being decided through power struggles in which the main antagonists come from other parts of the Anglican Communion – particularly in the “global South”, as the Church calls it. The English hierarchy look on powerlessly as reactionary clerics in Asia, Africa and the USA drag the Church ever further from “Western” Human Rights values and British public opinion. Any church controlled in this way should forfeit the right to be England’s established church.

Overall Conclusions

7. In addition to the important objections of principle of establishment, the decline in support for the Church of England has already reached the point where it can no longer justify being regarded as the nation’s church. There is no justification for the State to be associated with a “mission to the nation”. But even if there were a justification, the Church’s decline is leading inexorably to it having insufficient personnel or buildings to provide any credible Anglican “mission to the nation”.

8. Assuming there were to be a move towards disestablishment, we would strongly object to any agreement that allowed the Church to “cherry pick” those aspects of disestablishment that suit it (such as the power of the Prime Minister to choose Bishops), while leaving its choicest privileges, such as the Bishops’ Bench, untouched.

9. Successive abortive attempts to reform of the House of Lords demonstrate how often agreed plans for constitutional change fail to be implemented. Other reforms have run out of steam as soon as their first stage has been completed. So, before any changes are made at all on disestablishment, the whole package of transformation must be agreed. This must include matters about which the Church is not enthusiastic as well as those that it supports. The plan must also include agreed implementation dates.

10. While we make the case that the CofE’s establishment is unsustainable, we consider that the extension of establishment to some other denominations and faiths would be the worst of all outcomes. The CofE can be expected to support limited extension of establishment to other denominations and faiths. It should not be forgotten that simply from their self-interested perspective, they stand a better chance of retaining any establishment at all that way. Yet from the Country’s perspective, a multi faith establishment would be a major blow to our democratic process. It would be likely to lead to a House of Lords where (often socially hyper-conservative) religious power would reach levels where it would undermine the House’s legitimacy. Multi-faith establishment would also heighten tensions with those religions or sects left out and yet further alienate the growing number of non-religious people.

11. We believe the case for disestablishment to be unanswerable, and that the question is “when”, rather than “whether”, it should take place. For the Government to leave the addressing of the inequalities which establishment embodies to the very body with the greatest vested interest

in maintaining the *status quo* seems to us to be a dereliction of its duties to the electorate. If the Government is determined to leave the initiative to the Church, we urge the Church to signify its willingness to start the process of disestablishment. If it does not do so, and leaves the disestablishment to be precipitated by some inevitable crisis, it runs the danger a potentially much harsher change being imposed on it, perhaps in haste.

C. Context - the non-religious population and their attitudes

1. We challenge the significance the Government attaches to the finding of the 2001 Census that 72% of the population define themselves as Christian. We cite below convincing independent research showing that if the Census result is read uncritically, it gives an entirely exaggerated picture of Christian adherence in the UK. We refer to a variety of other independent sources showing tens of millions of people casually attach the term “Christian” to themselves, without considering religion to be of much, or any, importance in their lives.

2. The many non-religious people, and those discomfited by the Government’s enthusiastic involvement of religious groups in public life, feel marginalised. The Government’s keenness to open further religious schools and the disproportionate significance given to the opinions of religious leaders are symptoms of this.

3. Multiculturalism, increasingly a euphemism for “multi-faithism” has fed this sense of isolation felt by the non-religious, as the Government increasingly addresses the population through leaders of the so-called “faith communities”. Such “leaders” are not elected in any democratic sense. The present Government continues to place great importance on religion and seeks out the views of the religious, despite evidence from a study it commissioned showing that religion is ranked only ninth in a list of characteristics regarded as important to respondents’ identity.

D. The Church of England, and some fundamental questions about how long it can survive

1. The precipitous decline in Church activity alluded to above can be most easily represented in statistics: membership is down to one third of 1930 levels; attendance has fallen by nearly a quarter in the last 25 years, and continues to decline rapidly.

2. Moreover, independent projections to 2040 show the decline will continue inexorably. Our own analysis of the data, particularly in relation to young people, confirms this. The statistics for the small and declining youth involvement are significant: young people form an ever-smaller proportion of ageing congregations. Two large studies show that the majority of teenagers are not believers and, of the minority that are believers, only some are Christian. And of these, only some are Anglican. These factors combine to confirm the church leaders' own predictions of a future melt-down, using terms like "extinct", "vanquished" and "post Christian nation".

3. By 2040, the number of Sunday churchgoers of all denominations is expected to fall further, to less than a third of even today's figures. Furthermore, over half of Anglican churches now open are expected to have closed by 2040, by which time there will be less than half the current number of clergy. This would make the "national mission ... carried out on behalf of the state", cited by some in the Church to justify establishment, all but impossible to deliver in practice. The figures showing this decline ignore the further impact of schism.

4. A further important and disturbing constitutional question arises from the prospect of schism: by what mechanism will the Church decide which of the two fundamentally different churches will prevail after the schism? The inescapable conclusion is that the matter will be decided by the balance of force, most of it being exercised outside the UK. That the country should be yoked to an established church whose fundamental ethos is to be decided in this way is a constitutional outrage.

E. Establishment and disestablishment (including the position in Sweden and Norway)

1. We call for disestablishment on the grounds of the fundamental principle of separation of church and state and of the inappropriateness of the Bishops' Bench, elaborated on below. The Church appears to believe its established status results from and is justified by its "ministering to the nation" – by providing services even to those who are not members. This is certainly not a valid justification for the continuance of establishment today, given the decline in belief, the availability of other places of worship and the mushrooming popularity of civil and non-religious ceremonies.

2. Sweden has taken the step of disestablishment and Norway is in the process of doing so. We believe this country should follow their good example.

3. We would consider it wrong in principle to attempt to open establishment to other denominations and faiths, and this would be even less democratic than the current position. We examine this further below.

NSS Recommendation No. 1

The Church of England should be disestablished.

NSS Recommendation No. 2

We totally oppose any extension of establishment to other denominations or faiths. This would be wrong in principle, grossly undemocratic in practice, and also impractical to implement. It should not be done.

F. Constitutional Position of Archbishops and Bishops

1. We do not rule out the appointment of some Bishops to the Lords on the basis of their individual skills and merit. And, if the Lords were to become an all elected chamber, then Bishops should be as free to stand as any other citizen. Bishops and archbishops are not appointed on merit, but because they hold a particular diocese/see, or because of their seniority. Our rationale for the removal of the Bench of Bishops can be summarised as follows:

- a. Their presence gives religion a double, or duplicate, and privileged representation in the legislature. This is not justified.
 - b. The Bishops are unrepresentative – they are all male, middle class and disproportionately white, and come only from dioceses in England.
 - c. We do not need the Bishops, or other religious representatives, to present a religious view. The religious are already well represented among the “Lords Temporal”, partly as a result of the higher age profile, and also the appointment of former bishops and other religious functionaries. Many lay peers declare their religious motivation during debates. We are convinced that the proportion of religious believers in the Lords, even without the Bishops’ Bench, far exceeds that in the population as a whole.
 - d. We do not need the Bishops, or other specifically religious representatives, to present a “moral view”. It would be a slur on the hundreds of other members of the Lords to suggest that they could not fulfil that role without the Bishops. And, in many cases, the Bishops’ votes all but cancel themselves out; suggesting that to dispense with them would not make much difference. But on the latest occasion when they turned out to vote in force, over The Assisted Dying Bill, their views were in stark contrast to those of the population at large. This suggests their moral stance is out of step with the rest of the society that will be bound by the legislation on which the bishops are voting.
2. We were not convinced by the assertion in the report of the Royal Commission on the Future of the House of Lords that a Bench of 16 Bishops in the House of Lords is justified by the Church’s claimed “membership” of 25 million, based on baptism. 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.

We will develop these arguments in the Main Submission below.

3. We also believe the Church's Archbishops should cease to immediately follow the head of state in seniority.

NSS Recommendation No. 3

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

NSS Recommendation No. 4

All religious representation should be removed from the Privy Council and the Church's Archbishops should no longer be regarded as being the most senior people in the country after the head of state.

G. The Monarchy, the Coronation, and the Oath

1. We oppose the religious discrimination relating to the Monarch or the Monarch's spouse.

2. We believe the installation of a head of state by means of a religious service, especially one steeped in complex and now largely irrelevant constitutional history, will have little, if any, meaning to the majority of the population. To the millions for whom religion has little or no significance it will also be an alienating event unless radical changes are made. We particularly oppose any opening up of active participation in the Coronation ceremony to those of other denominations and faiths¹. Such changes would, in effect, place those of no faith (probably, in reality, the majority of the population) in an invidious position of inferiority and non-involvement in an event supposed to unite the nation. The way to involve everyone and exclude no-one is to secularise the ceremony.

¹ Dean calls for multi-faith coronation Daily Telegraph 18 September 2002
<http://www.telegraph.co.uk/news/main.jhtml;jsessionid=QLU1KJUD1OGSZQFIQMGCFFWAVCBQUIV0?xml=/news/2002/09/18/nfaith18.xml>

NSS Recommendation No. 5

The religiously discriminatory provisions relating to the monarchy or monarch's spouse, for example in the Crown and Parliament Recognition Act 1689 and the Act of Settlement 1700, should be repealed.

NSS Recommendation No. 6

The role of head of state and head of the Church of England should be separated.

NSS Recommendation No. 7

The head of state should be allowed to exercise freedom of conscience.

NSS Recommendation No. 8

The wording of the Coronation and the oath should be changed to become inclusive of all, whether religious or non-religious.

NSS Recommendation No. 9

The Coronation (or act of appointment) oaths of the head of state should not be premised upon the preservation of religion (or any denomination) or on succession being dependent on any religious belief, far less a particular denomination. Instead, the emphasis should be upon the preservation of human dignity and of upholding human rights.

H. The Government's role resulting from the monarch's formal position as the head of the Church of England

NSS Recommendation No. 10

The role of the Crown and Government in ecclesiastical appointments should be ended, **but only as part of a package under which the privileges of establishment are similarly removed.**

I. The Church of England and the Law (in addition to repeals proposed in Section G.)

NSS Recommendation No. 11

Parliament should no longer be required to approve the Church's "measures", **but this change should only be brought about as part of a package in which CofE privileges are withdrawn.**

NSS Recommendation No. 12

The Ecclesiastical Committee of Parliament should be disbanded and the role of Second Church Estates Commissioner should no longer be allocated to a Member of Parliament.

NSS Recommendation No. 13

The powers of ecclesiastical courts to compel those who have not voluntarily submitted to their jurisdiction should be revoked. Ecclesiastical courts should no longer be able to summon witnesses or to require the production of documents.

NSS Recommendation No. 14

The jurisdiction of the Judicial Committee of the Privy Council over ecclesiastical appeals should be withdrawn.

NSS Recommendation No. 15

The common law offence of blasphemous libel should be abolished.

NSS Recommendation No. 16

Section 36 of the Offences Against the Person Act 1861 (Obstructing a Clergyman in the Discharge of his Duty) should be repealed.

NSS Recommendation No. 17

Section 7 of the Burial Laws Amendment Act 1880 should be repealed. Consideration to be given to a possible alternative: the right to an uninterrupted funeral (of religious or non-religious character) might fairly be made the subject of legal provision.

NSS Recommendation No. 18

Section 2 of the Ecclesiastical Courts Jurisdiction Act 1860 should be repealed. (Indecent behaviour in a place of worship, which other statutes also cover).

NSS Recommendation No. 19

Section 7 of the Parochial Church Councils (Powers) Measure 1956 should be repealed (power to levy “voluntary” rates).

* * * *

Important Caveat

We emphasise that this list is not exhaustive and that further specific areas needs additional study.

Appendices

J. The Church of England in Education, Chaplaincy and Parliament

This topic is only covered *en passant* as it mainly falls outside the scope of this Paper.

NSS Recommendation No. 20

Parliamentary prayers be abolished.

K. Church and State by Country

This table compares the constitutional position of Western democracies.

L. Sweden and Norway

This shows a summary of the situation concerning the newly-disestablished Church of Sweden and the emerging disestablishment of the Norwegian state church.

M. Recommendations

A consolidated list of our recommendations

MAIN SUBMISSION

Section C

Context

The non-religious population and some attitudes common among them

Who are we?

i. The National Secular Society is an organisation founded in 1866 with the objective of eliminating religious privileges. To quote its Articles of Association, it “*demands the complete separation of Church and State and the abolition of all privileges granted to religious organisations*”. The National Secular Society therefore calls for disestablishment of the Church of England and for its privileges to be withdrawn. The state should, it is submitted, be entirely neutral in dealing with the philosophical or belief systems of its citizens. The National Secular Society seeks to secure equal rights for the non-religious.

ii. The Home Office’s guidelines on Governmental consultation, *Working Together*, recommend that the Society is normally consulted when religious groups’ views are sought.

iii. Our Honorary Associates include: Graham Allen MP, Robert Marshall-Andrews QC MP, Prof. Peter Atkins, Iain Banks, Lorraine Barrett AM, Edward Bond, Michael Cashman MEP, Colin Challen MP, Nick Cohen, Prof. Richard Dawkins, Lord Desai, Rt. Hon. Michael Foot, Prof. A C Grayling, Dr. Evan Harris MP, Patrick Harvie MSP, Christopher Hitchens, Paul Holmes MP, Prof. Ted Honderich, Kelvin Hopkins MP, Sir Ludovic Kennedy, Baroness Massey of Darwen, Lord McIntosh of Haringey, Jonathan Meades, George Melly, Sir Jonathan Miller, Lord O’Neill of Clackmannan, Lord Peston, Harold Pinter, Philip Pullman, Lord Raglan, Claire Rayner, Martin Rowson, Joan Ruddock MP, Joan

Smith, Dr. David Starkey, Lord Taverne QC, Polly Toynbee, Baroness Turner of Camden, Sophie In't Veld MEP, Gore Vidal, and Prof. Lord Wedderburn of Charlton QC.

Who are the non-religious?

iv. According to the 2001 Census, the non-religious constitute 16% of the population - (23% if "not stated" responses are included). These figures are recognised by academics to be grossly understated, as many of the 72% recorded as Christians have little connection with any church. Doubt is similarly cast on them by the ODPM's report "Review of the Evidence Base on faith communities".² Our Submission in 2005 to the Office of National Statistics on the 2011 Census explores these points forensically.³ It concludes that the 72% broadly represents the proportion of the population brought up in nominally Christian households.

v. The Home Office Citizenship Survey, carried out in the same year as the Census⁴, confirms this and paints a starkly different picture from the 72%: indeed, the proportions of religious and non-religious almost change places. When asked "what says something important about you if you were describing yourself", religion came just ninth in the list of priorities. Even more significantly, four times as many thought religion was not important to their identity as those who did. A middle way would suggest the population is split fairly equally between the religious and non-religious.

² <http://www.odpm.gov.uk/index.asp?id=1165319> (Introduction)

³ <http://www.secularism.org.uk/uploads/35430434015cc7c284491961.pdf?CPID=4d84e7f0be1a4bf20258953bcdfed2df>

⁴ <http://www.homeoffice.gov.uk/rds/pdfs04/hors274.pdf> (Home Office Research Study 274 Religion in England and Wales: findings from the 2001 Home Office Citizenship Survey) publ 2004

Religious influence in public life, as viewed from a non-religious or neutral standpoint.

vi. Whatever their numbers, the non-religious are feeling increasingly marginalised; they are the only group the present Government still finds it respectable to ignore. An example of this mismatch is shown clearly over religious schools. The Government and the Church are happy to justify the expansion of religious schools on the basis that they are popular and, indeed, many are oversubscribed (as are some non-religious schools). The Prime Minister seemed shocked when confronted with a press corps overwhelmingly opposed to single faith schools, saying “I hadn't realised that you all felt so strongly”⁵. This is despite one survey showing 96% agreed that ‘Tony Blair should end his support for faith schools’⁶; and an ICM survey in 2005, making banner headlines in the *Guardian* to the effect that “Two thirds oppose state aided faith schools”⁷ We are convinced this suggests that many of those who ticked the “Christian” box in the Census are not consenting to the influence and centrality of religion in public life, particularly in relation to constitutional matters.

vii. The non-religious were also pointedly overlooked in the Government's White Paper *Modernising Parliament - Reforming the House of Lords* in 1998. On the one hand, the existence of the non-religious was acknowledged: “The Government also recognises 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.”⁸ Yet the same White Paper proposed that the Bishops' Bench should remain, and that representatives of other faiths be appointed; but - notably - no action was suggested for the remaining “and none”. Logically, the Lords could become more representative either through the appointment of specifically non-religious representatives or, what we would

⁵ (25 July 2005 at 10 Downing Street) <http://www.number-10.gov.uk/output/Page7999.asp> and <http://politics.guardian.co.uk/terrorism/story/0,15935,1536365,00.html>

⁶ New Statesman on-line poll, September 2005

⁷ Reported <http://education.guardian.co.uk/faithschools/story/0,,1554593,00.html> 64% of respondents thought “Schools should be for everyone regardless of religion and the government should not be funding faith schools of any kind”

⁸ *Modernising Parliament Reforming the House of Lords* (1998) Cm 4183 Chapter 7 Para 22 <http://www.archive.official-documents.co.uk/document/cm41/4183/ref-07.htm>

prefer, by achieving balance by not having any (essentially duplicate) representation at all.

viii. An example of religion (and by extension religious leaders) being promoted as contributing something very superior comes from the Home Office website⁹: “Home Office Minister Fiona Mactaggart said the information [in the Religion in England and Wales: findings from the 2001 Home Office Citizenship Survey]¹⁰, along with the 'Working Together' report published in March [2004], would help the government to take account of religious affiliation when it develops policy. 'For many people, their religious affiliation is important to their sense of self-identity. Our job is to take account of this in our policy making.'”

ix. We regard the Minister's comments to be a selective and, therefore, a highly misleading use of the Survey she was purporting to describe. As we have said, religion was ranked only ninth in importance by respondents to the Survey. They were asked: “Which of the following things would say something important about you, if you were describing yourself?” This ranking was given in Table 3.1 in the Survey which summarised the result of the work on identities.

x. These rankings were as follows: “Your family” was the most important component of identity, followed by “Kind of work you do”, “Age and life stage”, “Your interests”, “Level of education”, “Your nationality”, “Your gender” and (eighth) “Level of income”. As noted above, religion came ninth.

xi. This selectivity comes as no surprise, given the Government's tendency to over-emphasise the importance of religions and religious “leaders” (who are not elected in any democratic sense) at the expense of the non-religious. We do, however, acknowledge that religion featured higher in the Survey for most minority ethnic groups; and that, in recent decades, minorities have tended to change their own self-identity from being based on geography to being based on religion.

⁹ http://www.direct.gov.uk/N11/Newsroom/NewsroomArticles/fs/en?CONTENT_ID=4013439&chk=lfMWQ7 (extracted 29 May 2006)

¹⁰ <http://www.homeoffice.gov.uk/rds/pdfs04/hors274.pdf> (Home Office Research Study 274 Religion in England and Wales: findings from the 2001 Home Office Citizenship Survey) publ 2004

xii. Many religious bodies openly debate, preach and practise discrimination against homosexuals and women. They also discriminate on the grounds of faith in the recruitment, remuneration, promotion and dismissal of staff in taxpayer funded schools and in other organisations claiming a religious ethos. We regret the excessive breadth of religious exemptions granted under equality legislation, often granted as a result of demands from religious bodies. These exemptions are particularly regrettable because they are given to those we believe to be the most likely to want to discriminate, thereby fatally undermining the very objective of anti-discrimination legislation. These are examples only, but they lead to widespread dismay amongst the non-religious because we believe they undermine the universal human rights and human dignity that are supposed to be at the core of our society.

xiii. The Prince of Wales has expressed the wish to be defender of faith (as opposed to *the* faith)¹¹. Non-believers could be forgiven for wondering whether the heir apparent considered those of faith to be more deserving of his protection or patronage. We return to this question when considering the Coronation and Coronation oaths.

xiv. It is within this context that the non-religious feel increasingly marginalised when the relationship of church to state is debated. This feeling is strengthened by the apparent presumption that religion is to remain, in perpetuity, at the core of the state. This, in itself, seems to the non-religious to be unjustified when the increasing majority of people (as demonstrated below) do not practise any religion in a serious way, if at all.

¹¹ Daily Telegraph 12 February 2003
<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2003/02/12/nbish12.xml>

Section D

The Church of England, and some fundamental questions about how long it can survive

How the Church sees itself

i. The UCL Constitution Unit's preparatory document for the Seminar¹² contained the passage: "The Church of England continues to assume responsibility – without prior conditions of active or formal membership – for ministering to the whole population whenever members of that population come to it... It is this commitment to a national mission in partnership with the state which results in the Church of England's involvement with public affairs in a variety of ways."

ii. In the context of seeking to justify retaining most of the Church's 26 bishops in the House of Lords, the Royal Commission (which included a CofE bishop) made a somewhat grandiloquent claim: "With nearly 25 million baptised members, the Church of England ... [our emphasis]"¹³. The source of this figure (24.841 million) quoted by the Royal Commission, however, refers to the figure as "baptised population"¹⁴. Yet the *actual* membership shown by another table of the same source book is around a twentieth of the figure, at 1.280 million. Given this low figure, offering Church services "without prior conditions of active or formal membership" (as referred to above) would seem more of a financial necessity rather than a selfless act of duty.

iii. In seeking to head off the Royal Commission's suggested reduction of *ex officio* CofE bishops in the Lords from 26 to 16, the CofE claimed in 2002: "We do not believe the proposed reduction is in the interests of the parliamentary

¹² *Church and State: A Mapping Exercise* (2006)

¹³ *A House for the Future*, Royal Commission on the Reform of the House of Lords Pub 2000, page 155, ISBN 0 10 145342 6. <http://www.archive.official-documents.co.uk/document/cm45/4534/chap15.pdf>

¹⁴ Source for 24.841 million is *Religious Trends by Christian Research 1998/99*, table 8.14 (described as "Baptised population"). Source for 1.280 million Ibid Table 8.2.2 (described as England membership of the Church of England). Both figures are estimates for the year 2000.

service of bishops, nor in the interests of an effective second chamber committed to reflecting the spiritual life of the nation.”¹⁵

How others see the Church

iv. Church membership is only a third of what it was in 1930: less than 2% of the population attend its services on a normal Sunday.¹⁶ Normal Sunday attendance dropped by 23% between 1980 and 2005, and the proportional rate of decline is accelerating¹⁷. The Church’s communicants at Easter, regarded as Christianity’s most important festival, have fallen over the last 100 years from over 9% of the population to less than 2%.¹⁸ The proportion of all marriages performed by the CofE has fallen over the last 100 years from 64% to around 18%.¹⁹ This reflects a significant change from a century ago, when non-Anglicans were often married in the Anglican Church, to the present situation in which even Anglicans are often married in civil ceremonies.

v. It is not tenable to suggest the Church speaks for the nation. While the population has become less religious and more tolerant, the Church of England is widely thought to have become more aggressive and evangelical.²⁰ Our enquiries suggest this is because a high proportion of those abandoning the Church have been the more moderate. In activities where the Church has no alternative but to compete with other providers it has been forced to be less doctrinaire, for example over the remarriage of divorcees and over funerals, which are now more people-centred.

vi. Despite widespread public support for voluntary euthanasia, the bishops in the Lords voted *en bloc* to oppose even the most conservative version of this –

¹⁵ http://www.cofe.anglican.org/news/church_calls_on_government_to_revise_house_of.html (31 January 2002)

¹⁶ *Religious Trends 2001/2002* Publ. Christian Research, Ed. Dr Peter Brierley ISBN 1 85321 134 6

¹⁷ *Religious Trends 2001/2002* Publ. Christian Research, Ed. Dr Peter Brierley 2000/2001 Table 2.14.1 (Adult church attendance for Anglicans (in thousands): 1980 = 968. 2005 estimated = 748.

¹⁸ Derived from *UK Christian Handbook - Religious Trends Books 2 and 5* Ed Dr Peter Brierley Publ Christian Research

¹⁹ Derived from *UK Christian Handbook - Religious Trends Books 2 and 5* Ed Dr Peter Brierley Publ Christian Research

²⁰ Guardian 27 May 2006 <http://www.guardian.co.uk/comment/story/0,,1784172,00.html> (experience of doorstep collectors for Christian Aid confirms this, but not specifically about CofE)

the proposal to allow self-administered suicide by competent terminally ill adults after careful checks by doctors. The bishops directly contributed 14 of the 48 votes by which the Bill failed and further debate was curtailed, thereby also depriving the elected chamber from having its say on this matter of great public interest.²¹

vii. Other symptoms of this trend of being at odds with the public, on whose behalf the Church is so keen to speak, have been nearly half a century of internal warfare over women and homosexuals. This dispute originally focussed on women priests and homosexual laity and developed into one concerning women bishops and homosexual clergy. The decision of the 2006 Synod to permit women bishops has fuelled yet further controversy.

viii. The antagonists are so engaged in this latter fight, apparently heading for schism, they have not noticed that the spectators have walked away. The British public view their running battles with growing incredulity, and these battles simply feed the public's conviction that the Church has become increasingly out of touch and irrelevant.

ix. The claim that "the Church is the only society that exists for the benefit of those who are not its members"²² rings rather hollow, certainly now. As demonstrated above, while the public have become less and less religious, the Church has become more evangelical. This may also lie behind a much greater emphasis on religion – we would see it as proselytisation – in CofE schools, which are being vigorously expanded. It is widely suspected in secularist circles that the CofE's new found expansion in education, largely paid for by the state, is motivated by a perception that this is the Church's only hope of long-term survival.

²¹ Assisted Dying for the Terminally Ill Bill (Second reading) 12 May 2006 : Column 1295

<http://news.bbc.co.uk/1/hi/health/4763067.stm> and

"76% still thought that medically assisted dying should be a legal for those that want it." Per You Gov poll

<http://www.dignityinding.org.uk/information/surveys.asp?id=198> (8 May 2006)

²² attributed to Archbishop Temple 1881-1944

What does the future hold for the Church?

x. The only realistic prospect of reversing more than 75 years of declining membership and attendance would come from a burgeoning involvement of young people. But the proportion of English churchgoers dropped between 1979 and 1998 for *all* age categories under 30 years old, while the proportion of over 65s increased from 18% to 25%. According to a National Centre for Social Research study²³: “Two thirds [of 12–19 year olds] did not regard themselves as belonging to any religion, an increase of ten percentage points in as many years (from 55 per cent in 1994 to 65 per cent in 2003). The comparison with 2003 shows how rapidly adherence is dissolving. Another major source of new congregants is, or rather, was, Sunday schools. A century ago there were around 2,400 Church of England Sunday schools, which had dropped to fewer than 100 by the year 2000²⁴. If the rate of decline has continued, there will be fewer than 50 by now. In 1999 A *Daily Telegraph* headline²⁵ proclaimed: “The Archbishop of Canterbury has been forced to move a Millennium youth service intended for Wembley Arena to a marquee in his garden.”

xi. Dr George Carey appeared to accept the stark reality of such figures when he stated, as Archbishop of Canterbury in 1999, that the nation “has an allergy to religion”²⁶ He did so in the context of reviewing the Decade of Evangelism which failed to stem the decline. He is also quoted in a book review as saying that the Church is bleeding to death. “The turn-of-the-millennium UK church-attendance figures confirmed what many believed all along: that the church is still in decline, or as George Carey so dramatically put it in 1998, is “bleeding to death”²⁷.

²³ <http://www.dfes.gov.uk/research/data/uploadfiles/RR564.pdf> (page 10)

²⁴ Religious Trends 2000/2001 Table 2.15

²⁵ Daily Telegraph 16 February 1999

²⁶ at a Spring 1999 conference (in the west of England), as reported in the Telegraph

²⁷ From a review of *CofE The State It's In* by Monica Furlong

<http://www.amazon.co.uk/exec/obidos/ASIN/0340746351/202-0502066-5573429>

Projections to 2040

xii. Such comments are understandable given the projection of current trends by Christian Research²⁸. CofE UK Church membership was 1.815 million in 1980, 1.259 million in 2005 and is projected to drop to 0.544 million in 2040. Sunday churchgoers of all denominations are expected to fall to less than a third of what they are now. And the churches? Around 10,000 Anglican churches – more than half of the total now in existence – are expected to close by 2040. This would make the “national mission ... carried out on behalf of the state” – the mission that entitles the Church to establishment – all but impossible to deliver in practice.

xiii. According to the latest issue of Christian Research’s journal *Religious Trends*, “the churches may be heading for extinction by 2040 – with just two per cent of the population attending Sunday services and the average age of congregations rising to 64. Its special report, ‘The Future of the Church’, says “total membership of all the denominations will fall from 9.4 per cent of the population to under five per cent by 2040, and 18,000 more churches will close.” The Bishop of Manchester, Dr Nigel McCulloch, said in response: “We have to face the facts, and we are not always good at that.” The article continues: “Bishop McCulloch is not the first senior church leader to use the word ‘extinct’ in talking about the scale of the problem facing Christianity in Britain. In September 2001 the head of the Roman Catholic Church in England and Wales, Cardinal Cormac Murphy O’Connor, told a conference of priests in Leeds that traditional Christian faith could be vanquished unless they took their vocation seriously”²⁹.

²⁸ Religious Trends 2005/2006 Publ Christian Research (Section 12)

²⁹ Source of whole paragraph Religious Trends 2005/2006 Publ Christian Research (Section 12)
http://www.ekklelesia.co.uk/content/news_syndication/article_05095cro.shtml

Two key issues arising from the much-discussed prospective schism

xiv. An important implication of the almost *de facto* schism, referred to above, is that these diminishing future numbers will be divided into two distinct groups.

xv. Another even more serious aspect of the *de facto* schism, however, concerns who will decide which of the two very different churches is to prevail and to carry off the “trophy” of the country’s established church (if this status is preserved). This absolutely fundamental decision will not be made by the electorate, or even by the elected Government. It will be decided by the outcome of a power struggle, much of it being exercised outside the UK by those with little regard for Human Rights as understood in the West. Prominent in this struggle are Nigerian bishops with an obsessive hate of any form of western liberalism, not just of homosexuality.

xvi. The wing of the Church that is more moderate and representative of the majority of English opinion is being cowed into submission by the conservative faction that the Archbishop of Canterbury has opted to support. He does so to preserve an illusion of unity at all costs, even if by doing so he goes against his personal convictions. That the country should be yoked to an established church whose future is being controlled by such a tug of war is a constitutional outrage.

xvii. These problems have rumbled on for many decades like a guerrilla war, and there is no sign of any resolution in spite of the best efforts of several Archbishops of Canterbury. Indeed, threats from each faction are now being exchanged with increasing rapidity. There seem three possibilities for where the conflict will lead: the Anglican communion splits as described above with brute force being the arbiter; the guerrilla war continues; or there is some muddled, essentially anarchic, compromise where the Anglican Communion (including the Established Church in England) becomes a *de facto* loose federation. None of these scenarios for the established church should be acceptable to the nation, even to those who find the concept of an established church to be unobjectionable.

Section E

Establishment and Disestablishment

(Including the position in Sweden and Norway)

How the Church justifies establishment

i. According to the preparatory document for the seminar³⁰ “...*the fact that the Church of England expresses a mission to the English nation as a whole is not a condition of establishment but, rather, the result of the Church of England’s own volition... It is this commitment to a national mission in partnership with the state which results in the Church of England’s involvement with public affairs in a variety of ways.*” Interpreted, both these statements embody the very antithesis of secularist principles, as well as being self-contradictory. The first contends the Church is entitled to establishment, even without the offer of a national mission, provided on the basis of its beneficence. The second suggests this national mission is carried out on behalf of the state, and that this entitles it to “involvement” – a series of privileges which come with the status of Establishment, including a privileged entree to the corridors of power.

ii. An example of such privilege is demonstrated by the following extract from the Church of England Gazette³¹: “As with all of the Lords Spiritual, Bishop Herbert [Bishop of St Albans, the Rt Rev Christopher Herbert] values being able to gain an audience with a minister that might be denied to Peers. “I am listened to because of the position I occupy,” he says. “And if I write to a minister on House of Lords notepaper protocol dictates that I receive a reply, and speedily.”

³⁰ *Church and State: A Mapping Exercise* UCL Constitution Unit 2006

³¹ Church of England Gazette Volume 3 Edition 4 *A place in the Lords?*

Some reasons that the Church should be disestablished

iii. It is not a legitimate function of the state to engage in a national religious mission, whether in partnership with the Church or any other body or bodies.

iv. The Church should not be entitled to a privileged status and entrees to the corridors of power, whether or not it chooses to offer a “national mission” in which most people have no interest. The Government is keen to promote choice in other situations and should do so in mission and worship. There seems no shortage of religious bodies and officials happy to offer their services.

v. There is plenty of evidence elsewhere in this Paper to suggest the Church commands so little support, is so unrepresentative and has become so remote that it does not merit the huge privilege of establishment. The points raised above, relative to the prospective schism, add substantially to the weight of these arguments.

vi. Other European nations have recently recognised the changing circumstances that make establishment increasingly inappropriate and, after a mature debate, they acted accordingly. The Church of Sweden became disestablished with effect from the start of 2000. Negotiations are taking place in Norway with the same objective. More details for each are given in the Appendix.

vii. We will be pleasantly surprised if the same process takes place in the UK, given the excessive esteem for religion on the part of the present Government. It has, predictably, taken the same supine stance on disestablishment as it has over whether the blasphemy law should be abolished. It stands on the sideline refusing to act unless the Church takes the initiative. Should the Church – with its vested interest – be in the driving seat, or should the Government be taking the initiative in whatever is in the best interests of the Country? We think not, but in the absence of an initiative from Whitehall we commend the Church to at least signify its willingness to the Government for disestablishment to proceed. If it does not do so, it will inevitably find that the process is precipitated by some crisis and conducted in a manner and at a speed much less to its liking.

viii. One of the most visible and powerful manifestations of Establishment is the Bishops' Bench. The National Secular Society does not consider it to be legitimate, for reasons given below in Section F.

ix. While we would always oppose establishment in principle, it might be less intolerable if the overwhelming majority of the population were active in the Church, but in England today this is very far from being the case.

x. A privilege, such as establishment, can be eliminated either by withdrawing it, or by extending the privilege to all, in which case it ceases to become a privilege. In practice the latter would be all-but impossible. To extend privileges enjoyed by the Church of England to *some* other denominations and *some* other faiths would not create parity. It would if anything heighten the isolation of the non-religious (at least half the population), thus exacerbating the present anomalous situation. Yet that is just what the Prime Minister Tony Blair called for in 1998: "We shall be looking for ways of increasing the representation in the Lords of other religious traditions"³²

xi. If a decision were be made to disestablish, then the guiding principle must be one of complete disestablishment and not one in which the Church could "cherry pick" only those aspects which in any event might suit its own purposes.

NSS Recommendation No. 1

The Church of England should be disestablished.

NSS Recommendation No. 2

We totally oppose any extension of establishment to other denominations or faiths. This would be wrong in principle, grossly undemocratic in practice and impractical to implement.

³² Modernising Parliament Reforming the House of Lords (1998) Cm 4183 Chapter 7 Para 22
<http://www.archive.official-documents.co.uk/document/cm41/4183/ref-07.htm>

Section F

Constitutional Position of Archbishops and Bishops

(DCA references below relate to a detailed National Secular Society submission to the Department of Constitutional Affairs dated 1 December 2003 shown at <http://www.secularism.org.uk/uploads/lordsreform002.pdf>)

The Wakeham Commission

i. It is anomalous that bishops should sit in the legislature *ex-officio* above all because this results in double, or duplicate, representation of religious views. It is not, of course, disputed that some individual bishops do useful work in the House of Lords but that does not justify this anomaly. This is not the appropriate place to enter into a detailed discussion of House of Lords reform but, whatever the system of appointment ultimately decided upon, there is no reason why individual church dignitaries should not stand for appointment or election, and be judged on their personal merits.

ii. We regret that the Royal Commission in the Reform of the House of Lords (the Wakeham Commission) did not recommend the removal of the Bench of Bishops. Whatever its views, the Commission could hardly have proposed the removal of the Bench of Bishops as to do so would have contravened the express wishes of the Government as laid out in the White Paper setting up their Royal Commission. It was called *Modernising Parliament - Reforming the House of Lords*³³ (our emphasis) and was signed by the Prime Minister. It contained the following passage concerning the Bishops:

The Government does not propose any change in the transitional House of Lords in the representation of the Church of England within the House. The Bishops often make a valuable contribution to the House because of their particular perspective and experience. To ensure that contribution remains available, the Government proposes to retain the present size of the Bishops'

³³ Publ 1998 Cm 4183 extract taken from Chapter 7, para 21 headed "Religious Representation"

bench which we accept is justified, because the Church's official representation is made up of serving diocesan Bishops, who have duties which frequently call them away from the House. The present representation makes it possible for the Church to ensure its perspective is represented on all occasions when it would be particularly valuable.

iii. This diktat must have tested the Commission's ingenuity to the limits as to how to justify the unjustifiable. It was presumably this that lay behind them adopting such a patently absurd basis for Anglican representation. As noted above, this was based on the Church having "24.841 million baptised members", although the source given (shown in Section C) referred only to "24.841 million baptised population".

iv. The Wakeham Commission did not, however, obey all the strictures placed upon it. It recommended reducing the Bishops' Bench from 26 to 16³⁴, but proposed a formula for further seats for those of other denominations and faiths. The Government accepted the reduction of bishops' bench to 16, but opted for an *ad hoc* informal, rather than the proposed formal, allocation of seats for those of other denominations and faiths.³⁵ Neither of these changes has yet been implemented.

A secular second chamber

v. There is no democratic justification for extending privileged, in effect duplicate, religious representation, and thereby further eroding the franchise of the many non-religious members of the population.

vi. Research commissioned by the National Secular Society (please see Table K reproduced at the end of this Paper) reveals 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.

³⁴ A House for the Future Cm 4534 Publ 2000, recommendation 111

³⁵ The House of Lords Completing the Reform Cm 5291 Publ 2001, Paras 83-85

vii. Retaining the Bench of Bishops, or extending religious representation by selection on religious grounds alone,³⁶ would be inimical to the Government's stated aim of "modernisation" and is an affront to democracy. (DCA. 6)

viii. Independently published research shows a long-term and increasingly steep decline in church attendance. Normal Sunday attendance in England is officially estimated to drop by 2005 to 6.6% of the population, included in which is only 1.7% for the established church. These statistics cast doubt on claims that the Bishops – or any other religious representatives – speak for any significant constituency. Since the trend towards rejection of organised religion is predicted to continue, the role in Parliament of any religious representatives will become increasingly irrelevant. The suggestion of adding more representatives seems, by any rational analysis, perverse. (DCA. 7)

ix. 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. This case was also made in The Government White Paper of 2001 (Cm 5291)³⁷. Furthermore, those who profess no religion are no less capable of making moral and ethical judgements. The absolutist moral positions of most of the likely 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. (DCA. 9)

x. If representation were to be extended to some other denominations and faiths, this would lead to voluble demands from some of the remaining religions and sects for them too to be included. The wider representation would lead to factionalism as well as, for some of those excluded, a sense of grievance. Those unhappy with 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. (DCA. 10)

³⁶ For example as suggested in a report *Church of England and the State – Reforming establishment for a multi-faith Britain* by Iain McLean and Benjamin Linsley published in 2004 by the New Politics Network . It proposes creating a Council of Faith to formalise Government consultation with religious groups as an alternative to direct representation on the House of Lords.

³⁷ <http://www.dca.gov.uk/constitution/holref/holreform.htm> at Para 83

xi. 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. (DCA. 11) This has happened in other forums (e.g. the United Nations).

xii. A secular second chamber, without any formal religious representation would obviate the grave risks we have catalogued and avoid objections from those who would have felt left out.

xiii. 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-W.W.II (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.

xiv. 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 but, in recognition of developments in its 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.

xv. Even in Poland, where the importance of the Roman Catholic Church’s influence is acknowledged in the preamble to the Constitution, the remainder of the document contains very definite separation of Church and State.

Addressing the specific points made in the preparatory document for the Seminar³⁸

xvi. According to the document: “Archbishop Carey made it clear that the Church of England regarded its representation in the House of Lords to be available to all religions as a conduit into the legislative affairs of the nation, and that the Church of England would, moreover, welcome a broadening of religious representation in the Lords.” As the document makes clear, the more time goes by the less justification there is for religion having such a conduit when no other organisation is similarly privileged. Even so, the conduit presently exists. And yet the people (religious or otherwise) have no say as to the election of the bishops or as to their policy. This is a peculiar state of non-democracy and unaccountability. At the same time, as the document explains, the Church is not an agent of the state or of government, thereby underlining the absence of accountability.

xvii. In any event, the Bishops are unrepresentative: they are all male, overwhelmingly middle class, disproportionately white and represent only dioceses in England.

xviii. It should not be forgotten that the Church has a vested interest in calling for this privilege enjoyed by them alone – a privilege that is under threat. If they succeed in extending this privilege to any other denomination or faith, seats for the Church would be guaranteed for the foreseeable future. Any call to withdraw the seats allocated to recently appointed representatives, particularly of minority faiths, would cause a political furore. (DCA. 11)

NSS Recommendation No. 3

The Bench of Bishops should be completely removed from the House of Lords; and the new Second Chamber should have no formal religious representation, whether *ex-officio* or appointed, whether of Christian denominations or any other faiths.

³⁸ *Church and State: A Mapping Exercise* UCL Constitution Unit 2006

Archbishops as privy councillors and ‘second citizens’

xix. The position of the Archbishops as privy councillors and next in seniority to the Monarch is also anomalous. It is through the Privy Council that ministers exercise the Royal Prerogative, for example in decisions to go to war. The presence in the Privy Council of Church of England dignitaries is – it is submitted – an outdated and completely inappropriate hangover of constitutional history.

NSS Recommendation No. 4

All religious representation should be removed from the Privy Council and the Archbishops should no longer be regarded as being the most senior people in the country after the head of state.

Section G

The Monarchy, the Coronation, and the Oath

Discriminatory provisions

- i. The present position of the monarch as the head of the Church of England and the establishment of the Protestant succession are, of course, leftovers from the politics of the 17th and 18th centuries and are entirely inappropriate in a modern democracy.
- ii. In particular, the prohibition on a Catholic ascending to the Throne or on the heir to the Throne marrying a Catholic are intolerably discriminatory, as are any provisions limiting the rights of non-protestants of whatever faith (or none).

NSS Recommendation No. 5

The religiously discriminatory provisions relating to the monarchy or monarch's spouse, for example in the Crown and Parliament Recognition Act 1689 and the Act of Settlement 1700, should be repealed.

Divine rights and ceremonies

- iii. Monarchy has historically claimed to be based upon the archaic "Divine Right of Kings", and vestiges of this are more evident in the UK than in any other European country, indeed probably more than in any country in the world. It lives on in "*Dieu et mon Droit*", which remains the motto of the English Crown even today, and in the Coronation oath. We believe Elizabeth II to be the only living European monarch to have been anointed and crowned in a traditional religious ceremony that rests heavily on the idea of the Divine Right of Kings.
- iv. One view of the ceremonial flummery of the Coronation is that it is of little importance, provided it is regarded as mere pageantry. Some argue the wording that lies behind it to be of equally little significance. Secularists, on the other hand, do not believe these matters should be taken lightly, but feel

excluded from the Coronation because it is a religious service in which we cannot in conscience fully engage or participate. The wording implies that those who do not share the beliefs promulgated at the service are not fully citizens of the state.

v. Our sense of exclusion would be made more acute by the extension of the coronation “umbrella” to encompass those of other denominations and faiths.

vi. We feel similarly alienated by the religious aspects of the state opening of parliament and about parliamentary prayers.

Some difficulties with the coronation oaths (1953)

vii. The head of state is required to preserve the laws of God. To the non-religious this ostensibly has no meaning, but read literally it requires the head of state to rely upon God or the Church (not Parliament or the people or the judiciary) for guidance as to the substance and interpretation of such “laws”.

viii. The head of state is required to preserve the Protestant religion. In a free society the right to practise a religion should be protected. But there is no justification for state protection of a particular religion or denomination. Any expansion of the oath to other denominations, and possibly also faiths, in a like manner to Prince Charles’ declaration that he wishes to be “defender of faith” would, of course, introduce the logical absurdity of the head of state being obliged to preserve several mutually exclusive laws and faiths/deities.

ix. The head of state is required to preserve the doctrine of the Church of England. We contend that the head of state should be charged with preserving human rights, not the doctrines of a religion which frequently conflicts with them. The heir apparent and the immediate past Archbishop of Canterbury, Dr Carey, believe the next Coronation should be an interfaith coronation³⁹. Yet the current Archbishop of Canterbury, Dr Williams, has also objected to the Princes’

³⁹ Sunday Telegraph: 04/06/2006
<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/06/04/nchas04.xml&sSheet=/news/2006/06/04/ixuknews.html>

statement – understandably, he clearly wants to hold onto these exclusive privileges⁴⁰. In a similar vein, Dr Nazir Ali (Bishop of Rochester) has said⁴¹, in the context of Prince Charles' wish to be “defender of faith” that “the coronation service is such that whoever takes the oaths actually takes oaths to defend the Christian faith – the Catholic faith actually he will have to say – but having said that, if by saying that he meant [sic] that he wanted to uphold the freedom of people of every faith then I've no quarrel with that, but you cannot defend every faith because there are very serious differences among them.”

x. The head of state is required to preserve the rights and privileges of the Church of England and its clergy. There is no justification for the beneficial singling out of any organisation in this way.

xi. The concept that the monarch is answerable only to ‘God’ is not an acceptable principle of accountability for the head of state, particularly one that is not elected, is not impeachable, nor otherwise accountable.

xii. Non-Protestants are barred from becoming head of state, unless they are prepared to prevaricate, so denying them the monarchy. Similarly, monarchs are denied freedom of conscience.

Coronation oaths elsewhere in Europe

xiii. The coronation oath of Albert II of the Belgians was simply “I swear to observe the constitution and the laws of the Belgian people and to maintain the national independence and the integrity of the territory.”

xiv. Albert of Monaco's enthronement address in 2005 made no reference to God at all.

xv. We maintain that the oaths should represent, to use more modern language, the “values” by which the head of state conducts state business every single

⁴⁰ Daily Telegraph 12 February 2003

<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2003/02/12/nbish12.xml>

⁴¹ Interview 26 May 2006 BBC Radio 4 *Today* programme.

day. While the Belgian oath shown seems to omit some important aspects, it is infinitely preferable to the UK one.

Opening up active participation in the Coronation

xvi. We particularly oppose any opening up of active participation in the Coronation to those of other denominations and faiths⁴². Such changes would in effect be to uphold the mutually incompatible and further alienate those, probably the majority, who do not think the appointment of a head of state should be a religious matter, or who have not realised it has been so in the past.

xvii. If the Coronation becomes a multi-faith ceremony, there will be those who want to hold on to the exclusively Christian oaths, regardless of the huge reduction in Christian adherence since the last Coronation and the emergence of many more people of other religions. There will be a scramble for representation of denominations and faiths and, inevitably, resentment on the part of those who are not included and those who are not accorded the level of deference to which they believe they should be entitled. And then there will be those who are excluded or unrepresented, physically or philosophically, simply because the appointment of the head of state is made at a religious service. Included in this category are those who do not have a faith (or in their terms for whom faith has no meaning). It also includes those, such as the Chief Rabbi, who consider their own faith prohibits them from taking part in a religious service of another faith.⁴³

xviii. Maybe Dr Nazir Ali has the germ of part of a solution when he suggests the oath might include an obligation to “uphold the freedom of people of every faith”. But it would surely be more inclusive simply to defend religious freedom,

⁴² Dean calls for multi-faith coronation Daily Telegraph 18 September 2002
<http://www.telegraph.co.uk/news/main.jhtml;jsessionid=QLU1KJUD1OGSZQFIQMGCFFWAVCBQUIV0?xml=/news/2002/09/18/nfaith18.xml>

⁴³ The Chief Rabbi, Professor Jonathan Sacks, arrived early for the funeral [of Cardinal Hume]. In accordance with Jewish law, he watched proceedings in Archbishop's House. Per <http://news.bbc.co.uk/1/hi/uk/377765.stm> published June 25, 1999

expressly including the right not to believe, and equally significantly the right to change religion, a right denied by some religions.

xix. Britain has changed enormously since 1953 – and the change continues. It is likely that when a head of state is next appointed in Britain the process will, in many respects, be unrecognisable when compared with that time. Some may even argue that the oath should be unchanged as a symbol of some largely imagined enduring tradition. The fact is that the religious character and the centrality of Protestantism in the oath as it was used in 1953 (itself altered without legislation) would simply be divisive. The oath should aim for complete inclusiveness.

NSS Recommendation No. 6

The role of head of state and head of the Church of England should be separated.

NSS Recommendation No. 7

The head of state should be allowed to exercise freedom of conscience.

NSS Recommendation No. 8

The wording of the Coronation and the oath should be changed to become inclusive of all, whether religious or non-religious.

NSS Recommendation No. 9

The coronation (or act of appointment) oaths of the head of state should not be premised upon the preservation of religion (or of any denomination) or upon succession being dependent on religious belief, far less one denomination. Instead, the emphasis should be upon the preservation of human dignity and of upholding human rights.

Section H

The Government's role resulting from the monarch's formal position as the head of the Church of England

NB Additional repeals, relating to the Monarch and the Monarch's spouse, are proposed above in Section G.

Of further concern is the monarch's formal position as the Supreme Governor of the Church of England and the rôle of the monarchy in the appointment of bishops and other Church dignitaries. It is not acceptable that a government (for of course it is the Government, not the monarch, which plays the major part in these appointments) elected by **all** of the enfranchised population should spend any of its time on the internal affairs of one (or, indeed, of any) religious denomination. This is one area where the Church is at a disadvantage, in not even being able to appoint its own 'management'. And (one supposes) there is no call for equal treatment from other denominations. It seems unlikely (to say the least) that the Roman Catholic Church or the Mosques are clamouring to have their appointments made in Ten Downing Street, however keen Mr Blair might be to undertake this rôle.

NSS Recommendation No. 10

The rôle of the Crown and government in ecclesiastical appointments should be ended, but only as part of a package under which the privileges of establishment are similarly removed.

Section I

The Church of England and the Law

Measures

i. The Church of England occupies a unique position under the law of England and Wales. The *Church Assembly (Powers) Act 1919* involves Parliament in what are termed the “legislative” processes of the Church: in the case of any other association, these “legislative processes” would probably be called its constitution, articles of association, or disciplinary rules. Proposed “measures” come to the Ecclesiastical Committee of Parliament. As the mapping document notes, “...the Second Church Estates Commissioner came to be regarded as the Parliamentary spokesman for the Ecclesiastical/Church Commissioners”. There is no reason why Parliament should occupy itself with such matters. This unique privilege is anomalous and unnecessary. The High Court already has powers through its administrative jurisdiction (the old Divisional Court) to review the decisions of any body where those decisions impinge on public policy – bodies like the Jockey Club or indeed the Rabbinical Court (see for example *R v London Beth Din ex parte Bloom* 18/11/1997 CO-2495-96).

ii. Nevertheless, as things stand today, the Church initiates measures which Parliament can only approve or reject, but cannot amend. Such a system cannot be justified for one interest group as against another. Recently, there have been calls from Islamic groups for certain aspects of Sharia law to be recognised within the British system of laws. If the right of the Anglican Church to make its own law is maintained, this might be used to justify the introduction of other ecclesiastical laws, such as Sharia or the laws of other religious beliefs, into the modern “multi-faith” Britain.

NSS Recommendation No. 11

Parliamentary approval of Church “measures” should no longer be required, but this requirement should only be removed as part of a package whereby CofE privileges are withdrawn.

NSS Recommendation No. 12

The Ecclesiastical Committee of Parliament should be disbanded and the role of Second Church Estates Commissioner should no longer be allocated to a member of parliament.

Compelling of witnesses

iii. The ecclesiastical courts have powers to compel witnesses and to cause the production of documents which are enforceable by orders of the High Court. The power is sparingly used, but that is no reason for its survival.

NSS Recommendation No. 13

We recommend the revocation of any powers of ecclesiastical courts to compel those who have not voluntarily submitted to their jurisdiction to be witnesses. Similarly, we recommend the revocation of the requirement for the production of documents.

Privy Council work on ecclesiastical matters

iv. The Judicial Committee of the Privy Council ... also has a limited jurisdiction to hear certain ecclesiastical appeals.⁴⁴

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NSS Recommendation No. 14

We recommend withdrawal of the jurisdiction of the Judicial Committee of the Privy Council over ecclesiastical appeals.

Aspects of law

v. We take the view that a number of Common Law and statutory measures to protect the Church of England, or sometimes (more generally) the Christian religion, are superfluous and anomalous in a democratic society. Most of these are well enough known and, indeed, in many cases there is little support for their retention. A selection is listed below.

Blasphemy

vi. In spite of the successful prosecution for blasphemy in the famous 1970s case of *Whitehouse v. Lemon* and *Gay News*, the Lords Select Committee on Religious Offences now believe the common law offence of blasphemous libel would contravene the Human Rights Act.

vii. Furthermore the Law Commission has twice severely criticised the offence and recommended its abolition⁴⁵.

viii. There are, however, calls to extend the law of blasphemy to religions other than Christianity, which would open up the prospect of a re-invigorated law protecting religion from attack. To the non-religious, and to all defenders of free speech, it is unacceptable that any belief system should be ring-fenced from the criticism, or even ridicule, to which every other ideology and institution is subject.

ix. In particular, it is essential for the good of society that the right is upheld to criticise (and to insult the practitioners of) religiously inspired, but what many would regard as offensive, practices. Examples include discrimination against

⁴⁵ House of Lords Select Committee Religious Offences Report HL 95-I, Chapters 3 and 4 and Appendix 3 Publ 2003 <http://www.parliament.the-stationery-office.co.uk/pa/ld200203/ldselect/ldrel/of/95/9501.htm>

women or homosexuals, discriminatory practices in employment, the cruel slaughter of animals, the genital mutilation of infants and children, public executions for adultery and violent exorcism. Indeed, a strict new blasphemy regime could outlaw the objective teaching of history (and sociology) on matters such as religious wars, persecution of heretics and inquisitions.

x. Lord Avebury took the opportunity presented by the debate on the Racial and Religious Hatred Bill in 2005 to table a probing amendment on the abolition of the blasphemy law. The vote was lost by 113 to 153, as expected given that such an important matter was tagged on to the end of a bill on a different, albeit related, subject. Given this, Lord Avebury was convinced the vote represented a significant shift in opinion towards abolition: “[the vote] demonstrated a radical change in the opinion in your Lordships’ House since we last debated blasphemy. It is moving in the direction that I would like to see—that of total abolition—and we probably would have got there had there been a free vote on the Government’s side of the House as there was on this side. I will leave the Minister to reflect on that and on whether it is appropriate to embark on yet another round of consultation to substitute for the work that has already been done at such great length by the Select Committee, as she acknowledges.”⁴⁶

NSS Recommendation No. 15

The common law offence of blasphemous libel should be abolished.

Obstructing a Clergyman in the Discharge of his Duty (Offences Against the Person Act, 1861 (“OAPA”), S.36).

xi. There appear to have been no prosecutions under this section in modern times, and it is impossible to envisage any circumstances where the mischief outlined in the section could not be prosecuted under other provisions. Again, it may well be that a prosecution would now offend against the Human Rights Act. Moreover, it can be argued that there is no reason why the law should offer

⁴⁶ Lords debate on Racial and Religious Hatred Bill 8 Nov 2005 at Column 544

more protection to the clergy than to others who perform their duties in public – nurses, for example.

NSS Recommendation No. 16

Section 36 of the Offences Against the Person Act 1861 should be repealed. (Obstructing a Clergyman in the Discharge of his Duty)

Bringing the Christian Religion into Contempt (Burial Laws Amendment Act, 1880, s.7).

xii. This section is aimed at those who at a burial “wilfully endeavour to bring into contempt or obloquy the Christian religion, or the belief or worship of any church or denomination of Christians, or the members or any minister of any such church or denomination, or any other person.” The final four words of this section are obscure and appear never to have been tested in the courts. Since, however, one may assume the draftsman of the 1880 statute did not have in mind under “any other person” a mullah, rabbi, or Brahmin conducting a religious burial, or indeed an officiant conducting a non-religious/humanist funeral, it is apparent that the section offers protection to Christian denominations alone. Again, the measure is unnecessary and the mischief aimed at in the section could as well be prosecuted under existing laws of assault and public order. It should also be repeated that the situation would not be improved by extending the measure to cover religious denominations other than Christian.

NSS Recommendation No. 17

Section 7 of the Burial Laws Amendment Act 1880 should be repealed. Consideration should be given to a possible alternative: the right to an uninterrupted funeral (of religious or non-religious character) might fairly be made the subject of legal provision.

Riotous, violent or indecent behaviour in a place of worship

xiii. *Section 2* of the Ecclesiastical Courts Jurisdiction Act 1860 (ECJA) prohibits "riotous, violent or indecent behaviour in any Cathedral Church, Parish or District Church or Chapel of the Church of England..., or in any Chapel of any Religious Denomination or ... in any Place of Religious Worship duly certified" under the Registered Places of Worship Act 1855, "whether during the celebration of divine service or at any other time". Section 2 also makes it an offence to "molest, let, disturb, vex, or trouble, or by any other unlawful means disquiet or misuse any Preacher duly authorised to preach therein, or any Clergyman in Holy Orders ministering or celebrating any Sacrament, or any Divine Service, Rite, or Office, in any Cathedral, Church, or Chapel, or in any Churchyard or Burial Ground".

xiv. We are aware that the churches wish to retain this archaic law, but have been unable to find any convincing evidence it is needed. The number of cases shown by the statistics is minute and it seems that most, if not all, could have been brought under other statutes (whether relating to criminal damage or sexual offences).

xv. We also object to the unreasonably harsh maximum penalties, especially given that cases can be heard in magistrates' courts. We know of no other law which has been lampooned by a stipendiary magistrate, as happened over this law, by the magistrate levying a fine of £18.60 (the year of the Act) in the last high profile case⁴⁷. We recommend the law is repealed rather than allowed to fall further into disrepute. Any protection thought necessary for ceremonies such as funerals could easily be dealt with as an amendment to the Meetings Act. There is no equivalent provision in Scots law: in its jurisdiction, Breach of the Peace is held to be sufficient to deal with the mischief outlined in this section.

⁴⁷ Gay rights campaigner Peter Tatchell stood trial at Canterbury Magistrates' Court on 30 November 1998. Amnesty International monitored the case, following calls for Tatchell to be adopted as a "prisoner of conscience" if he were jailed. As a result of their support and public pressure, a stipendiary magistrate from London was brought in to hear the case. Concerns were expressed as to whether the accused would have been seen to be tried fairly if tried by a local magistrate known to the Church.
<http://www.parliament.the-stationery-office.co.uk/pa/ld200203/ldselect/ldrelol/95/95w79.htm>

xvi. We concur with Lord Avebury's conclusion in the debate on Racial and Religious Hatred Bill in 2005: "The ECJA has been superseded by modern laws on criminal damage and public order. It is hardly ever used, as I have demonstrated, and it is not of sufficient consequence for the Home Office to bother keeping reliable statistics or enabling the cases to which they refer to be retrieved. This is a good opportunity for Parliament to remove a piece of clutter from the statute book."⁴⁸

NSS Recommendation No. 18

Section 2 of the Ecclesiastical Courts Jurisdiction Act 1860 should be repealed. (Indecent behaviour in a place of worship, which other statutes also cover).

Levying Rates

xvii. Under Section 7 of The Parochial Church Councils (Powers) Measure 1956, parishes of the established Church alone are able to levy voluntary rates. We are aware of several wards in the City of London where this occurs. It is inequitable and discriminatory for the Established Church to have recourse to a privileged mechanism for raising voluntary contributions, compared with other religious organisations and charities, whether religious or not. While the rates are stated to be voluntary, the retention of the word "rates" and the way in which they are presented gives the impression to all but the most careful recipient of such a demand that they are similar in nature to Council rates, and therefore a legally enforceable debt.

NSS Recommendation No. 19

Section 7 of the Parochial Church Councils (Powers) Measure 1956 should be repealed. (Power to levy "voluntary" rates).

⁴⁸ Debate on Racial and Religious Hatred Bill, Lords *Hansard* 8 Nov 2005: Column 546. He elaborates on the rationale for his conclusion in earlier columns.

Section J

The Church of England in Education, Chaplaincy and Parliament

(Not covered in detail)

Education

i. The Constitutional Unit's document deals only tangentially with the Church's rôle in education, and adds that this is neither exclusive to the Church of England (since other denominations have their own schools) nor a requirement of establishment. Nevertheless, it is the established Church that owns or controls the vast majority of Church schools within the maintained sector, and a quarter of all maintained schools are Church schools. The Society's objection in principle to maintained religious schools is well known, but is not reiterated here in any detail as it is outside the scope of this Paper.

ii. The Government has welcomed, and we believe actively promoted, the opening of a significant number of state funded CofE schools and academies. These are long-term projects involving massive amounts of public money, which could alternatively have been made available to local education authorities. The huge doubts about the survival of the Church are well known and Section D (above) cites copious evidence available in the public domain on this topic.

iii. We simply note in passing that even a *Church Times* survey (question of the week for 13.04.06) showed 75% of those questioned to be in favour of phasing out faith schools. Further statistics about public dissent on religious schools in general are contained in Section C "Religious influence in Public Life ..."

Publicly funded chaplaincy and equivalents (references are to publicly funded work, unless stated otherwise).

iv. Because this no longer derives from the constitutional relationship of the Church to the State we do not address the matter in detail within this Paper. We do not see the need for chaplaincy in colleges, as alternatives are generally readily available to those who want them.

v. The situation in prisons and hospitals is more complex as some people of all faiths and none may have a need to discuss emotional and other personal matters with someone independent on site. We have concerns that the non-religious should be given such assistance, in proportion to their (considerable) numbers. It should not be the norm that such assistance is only provided by the religious.

vii. We are also concerned that any public funding provided (and we do not take it as read that any is necessary) should be broadly proportionate to the religious and non-religious mix of the institutional population.

viii. We note in passing our opinion that the undue emphasis on religion in prisons, which has developed over the last decade, is likely to impede cohesion while encouraging sectarianism and radicalisation. There should be an absolute bar on proselytisation.

Parliament

We do not consider it appropriate to open Parliamentary sessions with prayers.
(DCA. 14)

NSS Recommendation No. 20

Parliamentary prayers be abolished.

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Important rider

As noted above, several aspects of disestablishment merit much greater consideration than there is space to devote to them here. Particularly key ones are:

- Financial settlements including Queen Anne's Bounty
- The legal incorporation of The Church and its many component parts.

Both will be even further complicated by issues relating to the schisms referred to above.

Further study is also needed to establish the extent of any remaining Church privileges, for example with respect to education, finance, banking, property, tax, marriages and chaplaincies. Some of these matters have complex ramifications, for example those outside the Church being liable for Chancel repairs under Section 39 of the Endowments and Glebe Measure 1976.

K. TABLE**Religious Characteristics of the Constitutional Governments
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
United Kingdom	Yes	Yes	Yes	Yes	Yes	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 Republic	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	Yes	Yes	No
Switzerland	No	Yes	No	No	No	Yes
Turkey	No	Yes	No	No	No	No
United States	No	No	No	No	No	No

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.

L. APPENDIX

Recent moves on disestablishment in Sweden and Norway

SWEDEN BECAME DISESTABLISHED IN 1999/2000

<http://www.svenskakyrkan.se/tcrot/press/eng/99/Nu%20kyrkoordning%20p%E5%20v%E4g.htm>

Church of Sweden PRESS RELEASE Uppsala 11th March 1999

New Church Order on the way

Today, Thursday, the Church of Sweden Central Board took a decision to send a proposal for a new Church Order for the Church of Sweden to the 1999 Church Assembly. It is intended that the Church Order should come into force on 1st of January 2000, when relations between the Church of Sweden and the state will be changed. It will then replace most of the legislation on the Church of Sweden, and in particular the Law about the Church of Sweden from 1992. The basic organisational structure of the Church will still be expressed in a short Law about the Church of Sweden.

“Today's decision is yet another step towards the new relation between the Church of Sweden and the state, which among other things means that the church will come closer to the present reality, including the people of today”, Archbishop KG Hammar, says, adding:

“I hope and believe that the Church of Sweden will remain "the open church" even in the future. A church that is open and active among people everywhere, right across Sweden, which keeps its doors open and available for the visitor, and which is also a spiritually open church.”

The basis for the proposal from the Central Board is six reports from a two year long work of investigation and a very extensive material of answers to enquiries, given in more than 2,850 replies. The Church Assembly will take the final decision on the Church Order later on, at the beginning of the summer.

The Church Order will contain regulations about the structures and the work of the Church of Sweden. A wide spectrum of issues will be featured, particularly

concerning the confession of the church and its order of services as well as procedures for elections and regulations on financial matters.

Current legislation is largely being transferred to the new Church Order. That is a mark of the intention that the Church of Sweden should remain the same church even though its established status ceases. It should be an open national church, democratically organised and, through its parochial structure, it should cover the entire country. Those who belong to the Church of Sweden when the changing of relations take[s] place will remain members even after 1st January 2000.

The proposal divides the Church Order into 13 different parts with altogether 58 chapters.

According to the proposal, the members of the Church Assembly – the highest decision-making body of the church – should be appointed through direct elections on the day appointed for church elections: the third Sunday of September in years preceding general elections. The first time everyone who belongs to the church will be able to elect the Church Assembly will, in other words, occur in the year 2001.

Among the issues which received the greatest attention when the proposal from the investigating committee was presented in March 1998 was the suggestion that the voting age should be lowered from 18 to 16. That part of the proposal has met the most opposition during the rounds of debate. The Central Board therefore proposes that the voting age of 18 should be retained.

The civil servant status for priests will cease and priests will be locally employed. Priests will however be accountable to their bishop and the 'domkapitel' (legally appointed diocesan body) for their ministry and way of life, following their ordination promises. The 'domkapitel' shall make a statement before anyone is employed as a priest, and the parishes will have no power to exert any disciplinary measures against the priests on issues concerning the teaching of the church or on other matters which fall under the remit of the 'domkapitel'

The pastoral duty for priests to keep under absolute seal anything that is said during the administration of sacramental confession and absolution, or during similar private pastoral conversations, will continue. Regulations on these matters are included in the Church Order. Additionally, there is legislation incorporated into the law about trial before a court, prohibiting the court to call a priest as witness on matters of this kind.

The Church of Sweden Central Board will take over appointment of bishops from the government. Current practice of appointing one of the three candidates that have gained most of the votes in diocesan elections will continue.

The decision by the Church Assembly on the new Church Order will mark the end of the period of extensive investigations which has taken place both by civil and ecclesiastical authorities since the decision to disestablish the church was taken in principle by the Riksdag (parliament) in December 1995. In December 1998 the Riksdag took the decision to alter the constitution of the country, and at the same time accepted a short law about the Church of Sweden and other Denominations. It is expected that the Government will take decisions later this March on regulations concerning the provision of funerals and the maintenance of cemeteries; official help from the state for the church to collect its membership fees; and on the maintenance of culturally valuable ecclesiastical heritage sites.

When the Church Assembly has taken its decisions, extensive information-campaigns and training programs will be provided during the autumn of 1999, in order that the new relations between the church and the state, and the inauguration of the new Church Order, will run as smoothly as possible.

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NORWAY MOVES TOWARDS DISESTABLISHMENT

(Source: extracts from the Society's own weekly e-newsletter *Newsline* for 28 April 2006)

Norway opened a series of hearings on [24 April 2006] to consider a separation of church and state after 469 years of Lutheranism as the official religion. The government asked 2,500 people and groups, including every congregation and city in Norway, to comment by 1 December on a special panel's recommendation that church and state be separated.

Minister of Culture and Churches Trond Giske said at the launch of the hearings: "I would encourage those asked to comment to organise information and discussion sessions, in local communities as well as on the regional and national level."

In January, the majority of a 20-member government panel recommended separation. However, no change can be made until at least 2014 because it would require a constitutional amendment approved by two successive parliaments. About 86 percent of Norway's 4.6 million people are registered members of the Church of Norway. However, registration is automatic at birth - a far smaller number are active.

The method used was also shown and may be of interest:

The religious and secular members of the State-Church Panel spent nearly three years working on the issue. Eighteen members recommended ending the state church system. Of those, 14 said the church should have a special legal status, while four said it should be treated the same as all other beliefs.

Lutheranism became Norway's official religion in 1537 by royal decree. Denmark has a similar Lutheran state church, while Sweden ended its state church system on January 1, 2000.

* * * * *

Disestablishment seems likely, given the following Norwegian Government press release: "Majority opposes Church establishment"⁴⁹

A clear majority of Norwegians – 57.7 per cent – are in favour of separating church and state, according to a survey commissioned by Dagsavisen. "This comes as a surprise, given the results of previous polls," said Hallgeir Elstad, senior lecturer at the University of Oslo's Faculty of Theology. The results of the poll have been warmly welcomed in the Storting. Only the Labour Party and the Centre Party are in favour of retaining an established church. But the two parties do not have enough votes between them to block the two-thirds majority that is needed to change the Constitution and disestablish the Church of Norway.

⁴⁹ The Royal Ministry of Foreign Affairs, Oslo Press Division 16 December 2002
<http://odin.dep.no/odinarkiv/norsk/ud/2002/eng/032091-991607/dok-nn.html>

M. APPENDIX

Consolidated List of NSS Recommendations

In relation to the constitutional position of church and state

NSS Recommendation No. 1

The Church of England should be disestablished.

NSS Recommendation No. 2

We totally oppose any extension of establishment to other denominations or faiths. This would be wrong in principle, grossly undemocratic in practice, and also impractical to implement. It should not be done.

NSS Recommendation No. 3

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

NSS Recommendation No. 4

All religious representation should be removed from the Privy Council and the Church's Archbishops should no longer be regarded as being the most senior people in the country after the head of state.

NSS Recommendation No. 5

The religiously discriminatory provisions relating to the monarchy or monarch's spouse, for example in the Crown and Parliament Recognition Act 1689 and the Act of Settlement 1700, should be repealed.

NSS Recommendation No. 6

The role of head of state and head of the Church of England should be separated.

NSS Recommendation No. 7

The head of state should be allowed to exercise freedom of conscience.

NSS Recommendation No. 8

The wording of the Coronation and the oath should be changed to become inclusive of all, whether religious or non-religious.

NSS Recommendation No. 9

The Coronation (or act of appointment) oaths of the head of state should not be premised upon the preservation of religion (or any denomination) or on succession being dependent on any religious belief, far less a particular denomination. Instead, the emphasis should be upon the preservation of human dignity and of upholding human rights.

NSS Recommendation No. 10

The role of the Crown and Government in ecclesiastical appointments should be ended, but only as part of a package under which the privileges of establishment are similarly removed.

NSS Recommendation No. 11

Parliament should no longer be required to approve the Church's "measures", but this change should only be brought about as part of a package in which CofE privileges are withdrawn.

NSS Recommendation No. 12

The Ecclesiastical Committee of Parliament should be disbanded and the role of Second Church Estates Commissioner should no longer be allocated to a Member of Parliament.

NSS Recommendation No. 13

The powers of ecclesiastical courts to compel those who have not voluntarily submitted to their jurisdiction should be revoked. Ecclesiastical courts should no longer be able to summon witnesses or to require the production of documents.

NSS Recommendation No. 14

The jurisdiction of the Judicial Committee of the Privy Council over ecclesiastical appeals should be withdrawn.

NSS Recommendation No. 15

The common law offence of blasphemous libel should be abolished.

NSS Recommendation No. 16

Section 36 of the Offences Against the Person Act 1861 (Obstructing a Clergyman in the Discharge of his Duty) should be repealed.

NSS Recommendation No. 17

Section 7 of the Burial Laws Amendment Act 1880 should be repealed. Consideration to be given to a possible alternative: the right to an uninterrupted funeral (of religious or non-religious character) might fairly be made the subject of legal provision.

NSS Recommendation No. 18

Section 2 of the Ecclesiastical Courts Jurisdiction Act 1860 should be repealed. (Indecent behaviour in a place of worship, which other statutes also cover).

NSS Recommendation No. 19

Section 7 of the Parochial Church Councils (Powers) Measure 1956 should be repealed (power to levy “voluntary” rates).

NSS Recommendation No. 20

Parliamentary prayers be abolished.

Note: The above list is not intended to be exhaustive. The NSS would be pleased to participate in an exercise to determine the full extent of changes necessary in order to eliminate religious privilege.