



ARTICLE

Bishops in the House of Lords: fit for the future?

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Abstract

This article seeks to provide a constitutional law perspective on the contribution of the Lords Spiritual to the scrutiny of legislation in the House of Lords. It examines the legal basis of the bishops' role in the Upper House and how this has evolved. It considers how far the bishops currently meet expectations about their role against the background of calls for reform of the House of Lords and changes in religious affiliation in the United Kingdom. The paper draws, amongst other things, on the experience of a group of current and former Lords Spiritual who shared their views with the author in the course of some informal semi-structured conversations. It also examines the relationship between the Lords Spiritual and the Church of England's national institutions. It concludes that the Lords Spiritual make a distinctive contribution to the legislature which should be maintained, with some modifications to meet the needs of the time.

Keywords: bishops; British constitution; Church of England; establishment; House of Lords; reform

Introduction and overview

The findings of the 2021 Census on religion in England and Wales¹ revealed that less than half the population² identified as 'Christian'.³ 'No religion' was the second most common response. The findings triggered fresh calls for disestablishment of the Church of England and an end to bishops in the House of Lords.⁴ The United

¹ Office for National Statistics (ONS), released 29 November 2022, ONS website, statistical bulletin: <<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/religion/bulletins/religionenglandandwales/census2021>>, accessed 30 December 2023.

² 46.2%, 27.5 million people.

³ The question was voluntary; 94% of the overall population in England and Wales (56.0 million people) responded.

⁴ For a summary of media reaction, see F Cranmer, 'Law and religion round-up – 4th December', *Law and Religion UK*, available at: <<https://lawandreligionuk.com/2022/12/04/law-and-religion-round-up-4th-december-2/#more-74547>>, accessed 30 December 2023.

Kingdom is very rare in having explicit religious representation in the sovereign national legislature.⁵

Whether the established Church should occupy a privileged place in the legislature has been considered to hinge on reform of the House of Lords. Within days of the release of the 2021 census findings, the Labour Party published *A New Britain*,⁶ which included radical constitutional proposals to replace the House of Lords with a democratically legitimate second chamber. The authors considered that the unelected House of Lords was ‘completely indefensible’.⁷

The role of the Lords Spiritual in the legislature has attracted relatively little attention from lawyers and constitutionalists,⁸ commenting on the bishops’ low

⁵ M Steven, *Christianity and Party Politics: Keeping the Faith* (Oxford, 2011), 75. Clergy have been represented in other European Parliaments, for example in France, Ireland, Spain and Sweden. That representation has disappeared with the modernisation of their constitutions: J Lewis-Jones, *Reforming the Lords: The Role of the Bishops* (London, 1999), 3 and 14–15. Nevertheless co-operation between church and state in matters of common concern may be exercised on the basis of the establishment, or other formal relations, between a church and state, but each is independent in its own sphere: N Doe, *Comparative Religious Law* (Cambridge, 2018) at 360–362 and ‘Principles of Christian Law’ (2016) 19 *Ecc LJ* 138–145, Principles IX.1.1 and X.1.

The Church of England Bishop of Sodor and Man sits in the Tynwald, the legislature of the Isle of Man, which is a largely autonomous UK Crown Dependency. In 2016 Lord Lisvane conducted a review of the Tynwald which included a number of proposals although he concluded that the bishop’s membership of the Legislative Council was desirable: *Review of the Functioning of the Tynwald* (2016) GD 2016/ 0047, available at: <[review-of-the-functioning-of-tynewald-gd-2016-0047.pdf \(gov.im\)](#)>, accessed 30 December 2023. See also P Edge, ‘Tynwald and the Bishop of Sodor & Man’, *Law & Religion UK*, 28 June 2017: <<https://www.lawandreligionuk.com/2017/06/29/tynewald-and-the-bishop-of-sodor-man/>>, accessed 30 December 2023. See also P Edge and C Pearce, *Religious Representation in a Democratic Legislature: A Case Study of the Lord Bishop of Sodor and Man in the Manx Tynwald* (Oxford, 2003).

In Andorra, the Bishop of Urgell, whose diocese in Catalonia includes Andorra, is one of two constitutionally designated princes of the Principality who is appointed by the Pope and discharges certain executive functions as joint Head of State with the President of France: 2012 *Andorra International Religious Freedom Report* (2021), available at: <<https://www.state.gov/reports/2021-report-on-international-religious-freedom/andorra/>>, accessed 30 December 2023.

In the Channel Islands (which are self-governing Crown Dependencies), the Dean of Jersey (leader of the Church of England in Jersey) is an *ex officio* member of the States of Jersey, the legislature. Although he may not take part in any parliamentary votes, the Dean may speak in debates on any matter: <<https://www.jerseydeanery.je/about>>, accessed 30 December 2023.

⁶ *A New Britain: Renewing our Democracy and Rebuilding our Economy—Report of the UK’s Future* (5 December 2022), available at: <www.labour.org.uk/page/a-new-britain/>, accessed 30 December 2023.

⁷ *Ibid.*, 17 and 135. Although the report did not refer to the future of the Lords Spiritual, the bishops appear to have been seen, with the surviving hereditary peers, as among ‘the last vestiges of the medieval estates of the realm’. Nevertheless it was acknowledged that whatever changes were made should not lose the benefits which House of Lords scrutiny of legislation and government action brought: *ibid.*, 136.

⁸ J Oliva and H Hall, *Religion, Law and the Constitution: Balancing Beliefs in Britain* (Oxford, 2018) redress this. Earlier commentators focused on the decline of the importance of the Lords Spiritual following a reduction in their numbers and reduced activism: see, for example, P Bromhead, *The House of Lords and Contemporary Politics 1911–1957* (London, 1958) and M Russell, *The Contemporary House of Lords: Westminster Bicameralism Revived* (Oxford, 2013). These studies

turn-out, infrequent attendance and occasional voting (generally against the government).⁹ Nevertheless, several commentators suggest that the bishops were more likely to sway peers' opinions in debate and private conversations rather than in voting.¹⁰

In 2008 a critical analysis of the bishops' contribution to the House of Lords was offered by Harlow, Doe and Cranmer.¹¹ I examine a number of questions which they considered in today's context.¹²

In the remainder of this article, I summarise the constitutional functions of the House of Lords before examining the legal basis of the Lords Spiritual in the legislature. After considering the current cohort and organisation of Lords Spiritual, I focus on what the bishops actually do in relation to parliamentary scrutiny,¹³ informing desk research with the results of conversations with a small group of current and former Lords Spiritual.¹⁴ I conclude by looking to the future against the background of changes in religious affiliation and the evolving nature of 'Church-State' relations in England.

The House of Lords in the UK Constitution: a summary¹⁵

The Lords Spiritual (26 Archbishops and Bishops sitting on an *ex officio* basis) and the Lords Temporal¹⁶ sit together and jointly constitute the House of Lords. It shares in the work of the legislature by making and shaping laws, a process protected by the rule of law.¹⁷

acknowledged some limited engagement by the bishops with legislative scrutiny, with modest results. Some slight increase in activism was discerned post-1999 by A Partington and P Bickley in *Coming off the Bench: The Past, Present and Future of Religious Representation in the House of Lords* (London, 2007). Russell's work in 2013 found that the average episcopal turnout in divisions during the period 1999–2010 was less than one member and their votes affected outcomes in under 1% of divisions.

⁹ V Weare, 'The Lords Spiritual' (1966) *Church Quarterly Review* 167, at 208; F Bown, 'Influencing the House of Lords: The Role of the Lords Spiritual 1979–1987' (1994) 42 *Political Studies* 105; and A Partington, *Church and State: The Contribution of the Church of England Bishops to the House of Lords During the Thatcher Years* (Milton Keynes, 2006).

¹⁰ M Russell and D Gover, *Legislation at Westminster: Parliamentary Actors and Influence in the Making of British Law* (Oxford, 2017), 154.

¹¹ A Harlow, N Doe and F Cranmer, 'Bishops in the House of Lords: A Critical Analysis' (2008) *Public Law* 490–509.

¹² Including the Lords Spiritual (Women) Act 2015.

¹³ This investigation covered a 12-month period of legislative activity during the 2021–22 parliamentary sessions. It takes up the challenge set by Norman Doe in Oliva and Hall (note 8), 276: 'The question is whether the bishops adequately discharge their functions as members of a second chamber. So, we must look for the evidence. What do they do? Do they contribute? How? Do they have a critical attitude themselves about what their position is? I think the gathering of all that evidence and a solid debate about it is needed'.

¹⁴ A selection of their anonymised views appears in an Appendix to this article.

¹⁵ See further, for example, O Hood Phillips, P Jackson and P Leopald (eds), *Constitutional and Administrative Law* (8th edn) (London, 2001), 183–189.

¹⁶ That is, hereditary and life peers.

¹⁷ Venice Commission, 'The Rule of Law Checklist' (Council of Europe, 2016) Benchmark A4. Parliament must be supreme in deciding the content of the law, and any law-making powers of

The House of Lords performs three main functions. First, it scrutinises legislation,¹⁸ serving as a ‘revising chamber’. Secondly, the House holds the executive to account for its broader policy-making and administration. Thirdly, the House acts as a national forum for debate on key issues of the day (often with an ethical content).¹⁹ These functions, which remain substantially unchanged since they were stated by the Bryce Conference in 1918, have been subsequently recognised explicitly by the two main political parties.²⁰

Members of the House of Lords are constrained by established conventions of the constitution as well as the law.²¹ These conventions are flexible and may be subject to change. The Lords is officially the junior player to the elected chamber in the legislative process.²² Under the Parliament Act 1911, it can no longer veto legislation and under the Parliament Act 1949 it can only delay Bills originating in the Commons for up to one year.²³

the executive should be prescribed and controlled by Parliament: Benchmark A5 and C. It need hardly be added that Parliament will not be supreme in deciding the content of the law if it cannot properly scrutinise proposed legislation. Guidance given to Whitehall officials by the Cabinet Office warns officials that ‘The House of Lords is usually the more difficult House to take legislation through’. The guidance emphasises the particular importance to the executive of having a good parliamentary handling strategy, agreed with the Government Whips’ Office, for the Lords’ stages because the Government has no majority there: *Cabinet Office Guide to Making Legislation* (2022), 245. This is available at: <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1099024/2022-08_Guide_to_Making_Legislation_-_master_version_4_.pdf>, accessed 30 December 2023.

¹⁸ Bills are enacted ‘... by and with the advice and consent of the Lords Spiritual and Temporal ...’. The words of this ‘enacting formula’, which were developed in the 15th century, precede the clauses of a Bill: *Erskine May* (25th edn) (2019), para 26.9.

¹⁹ Including such matters as marriage, assisted dying, abortion, human rights and issues of sexuality.

²⁰ Conference on the Reform of the Second Chamber, Cd 9038 (1918). They were recognised explicitly in the Labour Government’s white paper, *House of Lords Reform* Cmnd 3799 (1968) and the *Report of the Conservative Review Committee on the House of Lords* (1978), and implicitly in the *Report of the Conservative Party’s Constitutional Commission on Options for a New Second Chamber* (1999) and the *Report of the Royal Commission on the Reform of the House of Lords*, Cm 4534 (2000).

²¹ The term ‘conventions of the constitution’ was used by Dicey in his *Lectures Introductory to the Study of the Law of the Constitution* (1st edn) (London, 1885), 24–25. Within the over-arching framework of law, these conventions are essentially rules which may be followed as consistently as rules of law and determine the procedure which those concerned with government should follow: I Jennings, *The Law of the Constitution* (5th edn) (London, 1973), 80. One basic constitutional convention is that the monarch acts on the advice of ministers and does so within a framework of law. A good example of the operation of this convention in practice was given in *R (Miller) v The Prime Minister and others* [2019] UKSC 41, [2020] AC 373 when the Supreme Court considered whether advice given by the Prime Minister to the late Queen to exercise her prerogative power to prorogue Parliament was lawful.

²² See Russell (note 8), 90–91.

²³ With the exception of a Bill to extend the term of a Parliament originating in the Commons. In reality, the House of Lords hardly ever uses its power to delay government legislation, following a policy of restraint which is symbolised by the Salisbury Convention which requires deference to measures foreshadowed in the governing party’s manifesto. Nevertheless, that convention was designed for a House dominated by hereditary peers, which since 1999 is no longer the case. The Lords could and, in the view of some, should be more assertive in scrutinising government legislation: see V Bogdanor, *The Coalition and the Constitution* (Oxford, 2011), 46–47. However, if the second chamber were reformed and directly elected, its members would be much less likely to

The Lords Spiritual are able to play a full part in the functions of the House.²⁴ They enjoy the same rights as the Lords Temporal including the benefit of parliamentary privilege, but not the benefit of Privilege of Peerage.²⁵

Legal basis on which the Lords Spiritual sit in the House of Lords

The legal basis on which the Lords Spiritual sit in the House of Lords derives from a combination of custom and usage, convention, common law and statute.²⁶ The legal basis is a complex web of normative rules, principles, procedures, policies and practices. However, the various instruments which specify, and thereby legitimate, the legal basis for the Lords Spiritual can only serve the limited purpose of describing how the charism of episcopal leadership is exercised in this context. That is a gift of the Holy Spirit exercised through episcopal ministry, the metes and bounds of which are necessarily imprecise.²⁷

The historical development of the 'right' of the Lords Spiritual to sit in the House of Lords

Bishops have sat in Parliament at least since the 13th century. The historical development of the 'right' of the Lords Spiritual to sit in the House of Lords goes some way towards explaining the guaranteed *institutional* representation of the bishops in the Lords²⁸ together with their contribution to the business of the House.

Pre-Reformation

Before the Reformation, the number of bishops and other ecclesiastics in the House of Lords was much larger and more significant than it is today.²⁹ In the

defer to the Commons. They would have a mandate of their own, and this would almost certainly result in more conflict and possible deadlock between the chambers.

²⁴ Before a bishop can take his (or her) seat in the Lords and participate in its work, the bishop must receive a writ of summons and be introduced: *Companion to the Standing Orders and Guide to the Proceedings of the House of Lords* (26th edn) (2022), para 1.7. Following approval of the bishop's nomination and pending receipt of the writ of summons, the bishop may sit in the Lords' chamber on the steps of the throne but not participate in debate. The Dean of Westminster may also enter the Chamber to listen to debates from the steps of the Throne. Once they have been introduced, the Lords Spiritual can enjoy all the facilities of the House including a first-class library, the peers' dining room and other places of refreshment.

²⁵ *Standing Orders of the Proceedings of the House of Lords*, SO No. 6. See further *Erskine May* (note 18), para 1.12, note 2.

²⁶ To this may be added measures which provide internal regulation of the House of Lords in the form of Standing Orders, as well as guides on the customs and protocols of the House. See, for example, the *Code of Conduct for Members of the House of Lords, Guide to the Code of Conduct and Code of Conduct for Members' Staff*, HL Paper 13 (12th edn) (June 2022) and *Rules Governing the Use of Facilities*, HL Paper 47 (2nd Report, session 2009–2010). These measures combine to regulate the conduct of parliamentary business and provide norms which members, including the bishops, are expected to follow.

²⁷ For an extended treatment of the theology of episcopacy, see *Episcopal Ministry: The Report of the Archbishops' Group on the Episcopate* (1990).

²⁸ Harlow et al (note 11) at 491.

²⁹ Not least because the size of the House of Lords was much smaller. In the 14th century, Temporal Peers rarely exceeded more than 50 in number. Even by the 18th century it had risen

Middle Ages Temporal Peers were about 50 in number. During the reign of Edward I, 140 persons were summoned to the Parliament which met on 13 November 1295. Nine earls and 41 barons were outnumbered by two archbishops and 18 bishops as well as 67 abbots and three other clerics (including the Master of the Knights of the Temple) who were summoned to participate in affairs of state. Few of them would have regarded it as a privilege, more as an inconvenience. The object of being summoned by the Crown to attend Parliament was to obtain the assent of the Lords Spiritual, as well as the Lords Temporal, to the taxes to be imposed upon them. The summons to the Lords Spiritual was in virtue of their ecclesiastical office and status even when they were the King's tenants by barony. They attended Parliament as *sapientes* or *witan* to advise and determine matters of the realm, independently of their temporal possessions and status.³⁰ A writ of summons which included a *praemunientes* clause required not only a bishop but also all the other clergy of the diocese to attend themselves or be represented.³¹

Post-Reformation

The Act of Supremacy of 1534 declared Henry VIII Supreme Head of the Church of England, thus separating England from papal authority. This, and subsequent acts,³² gave the Crown the authority to disband monasteries in England, Wales and Ireland with the result that abbots and priors were no longer summoned to Parliament. From 1550, during the reign of Edward VI, the number of Lords Spiritual summoned to Parliament did not exceed 26. In 1642 all the bishops were removed from membership of the House of Lords by the Bishops Exclusion Act 1642,³³ and the House of Lords was subsequently abolished by the Protectorate. It was not re-established until the Restoration of Charles II in 1660, and bishops were re-admitted under the Clergy Act 1661.³⁴

During the long 18th century membership of the House of Lords increased to about 220, although actual attendance was much smaller. The votes of the Lords Spiritual, which had increased to 24, were important especially if there were divisions. Nomination as a bishop was largely decided by the part he was expected to play in the House of Lords. It became a prize of patronage exercised by successive governments. Indeed, before becoming Bishop of London in 1713,

to little more than 200 peers, with significantly fewer actually attending on a regular basis. For a useful account of the early development of the bishops' involvement in the House of Lords, see L Pike, *A Constitutional History of the House of Lords* (London, 1894), chapter IX.

³⁰ C St George, 'The Composition of the House of Lords' (1953) VII *Parliamentary Affairs* 61. See also Archbishop of York (Cyril Garbett), 'The Lords Spiritual' (1953) VII *Parliamentary Affairs* 96–101.

³¹ Pike (note 29), 155.

³² Including the Suppression of Religious Houses Act 1535 and the Dissolution of Lesser Monasteries Act 1539.

³³ See further C Firth, *The House of Lords during the Civil War* (London, 1910), 96–110.

³⁴ The Archbishop and three bishops added to the House of Lords as Lords Spiritual on the Union with Ireland, by the Union with Ireland Act 1800 art 4, s 2, were withdrawn after 1871 on the disestablishment of the Irish Church by the Irish Church Act 1869, ss 2 and 13 (since repealed). On the disestablishment of the Church in Wales in 1920 (under the Welsh Church Act 1914, s 1) bishops of that Church ceased to be qualified to sit or vote in the House of Lords as Lords of Parliament: s 2(2) of that Act. See further M Hill, R Sandberg, N Doe and C Grout, *Religion and Law in the United Kingdom* (3rd edn) (Netherlands, 2021), 112–115.

the Bishop of Bristol, John Robinson held ministerial office as Lord Privy Seal in 1711.³⁵ Even if they were not members of the government, many bishops were appointed for their political services.³⁶

By the 19th century, the bishops had broken away from the Whigs and usually voted with the Conservatives.³⁷ They often continued to speak in an overtly partisan way and governments relied upon them in order to maintain their strength in Parliament.³⁸ The Bishops' support for the government in debates over the Great Reform Bill, for example, was overwhelmingly against reform. This prompted the House of Commons to propose the removal of the bishops from the Lords. Although the Commons failed, the Bishopric of Manchester Act 1847 capped the number of bishops in Parliament at 26, which remains the case to this day.³⁹

The two Archbishops and the Church of England's three most senior bishops, of London, Durham and Winchester, as a matter of custom, are effectively guaranteed a seat in the Lords *virtute officii*.⁴⁰

Like other Lords Spiritual, the Archbishop of Canterbury is a Lord of Parliament.⁴¹ He occupies a space in the corner seat immediately above the gangway between the bishops' benches and the government benches.⁴² The Archbishop of York sits next to him on 'the same form and side'.⁴³ The bishops

³⁵ *Dictionary of National Biography*, vol 49, 23, 24. The Bishop of Salisbury, Gilbert Burnet demonstrated 'violent partisanship' under Queen Anne: A Turbeville, *The House of Lords in the VIIIth Century* (Westport, CT, 1927), 40.

³⁶ See J Moorman, *A History of the Church in England* (London, 1973), 278–280. To give another example, Edmund Gibson, Bishop of London (1723–1748) was noted for his anti-Jacobite and anti-Tory sermons which, coupled with his support of Whig causes, undoubtedly propelled his elevation to the episcopal benches. Ability to attend to the needs of the diocese and its people and to balance those claims with those of the legislature did not weigh very heavily among the criteria for selection and appointment as a diocesan bishop in the 18th century.

³⁷ G Drewry and J Brock, 'Prelates in Parliament' (1971) 24 *Parliamentary Affairs* 249.

³⁸ P Bromhead, *The House of Lords and Contemporary Politics 1911–1957* (London, 1958), 55 and E Smith, *The House of Lords in British Politics and Society 1815–1911* (New York, 1992).

³⁹ Bishopric of Manchester Act 1847.

⁴⁰ They are the 'Named Lords Spiritual' (i.e. persons in a named office) to distinguish them from the 'Ordinary Lords Spiritual': Bishoprics Act 1878, s 5. The Archbishop of Canterbury is the most senior member of the House of Lords. He is the first member entitled to take the Oath of Allegiance at the start of a new Parliament (after the Lord Speaker). At the beginning of a new Parliament, the Archbishop also leads a service of blessing and gives an address to new members of the Commons and Lords, which usually takes place at St Margaret's Church Westminster. The Archbishop is also named as one of the Lords Commissioners (Privy Counsellors who can open or prorogue Parliament on the monarch's behalf) but he does not usually participate: D Torrance, *The Relationship Between Church and State in the United Kingdom*, Commons Library Research Briefing No. CBP8886 (September 2023), 16.

⁴¹ *Standing Orders of the House of Lords relating to Public Business* (2024, HL Paper 232) SO 6. Bishops to whom a writ of summons has been issued are not Peers but Lords of Parliament. A standing order on this is first recorded on 27 March 1621: <<https://www.parliament.uk/globalassets/documents/publications-records/house-of-lords-publications/rules-guides-for-business/standing-order-public-business/standing-orders-public-tracked-changes.pdf>>, accessed 19 March 2024.

⁴² House of Lords Precedence Act 1539, s 3, as amended by the Statute Law Revision Act 1888.

⁴³ *Ibid.* See also *Erskine May* (note 18), para 6.52.

sit on the government side of the House on the two front benches on the right of and nearest the Throne⁴⁴ from which they speak.⁴⁵

Before 2015 when a vacancy arose in one of the 21 of the 26 places not reserved, the next most senior bishop replaced them. When a vacancy arises among the Lords Spiritual by the avoidance of the sees of Canterbury, York, London, Durham and Winchester, the vacancy is filled by the issue of a writ of summons to the bishop who is appointed to the vacant see. Prior to the enactment of the Lords Spiritual (Women) Act 2015, if the vacancy was caused by the avoidance of any other see, a writ of summons was issued to the senior English diocesan bishop who was not already a Lord of Parliament.

Since the Lords Spiritual (Women) Act 2015⁴⁶ if there is at least one eligible bishop who is a woman, the vacancy is to be filled by the most senior eligible bishop who is a woman.⁴⁷ These arrangements are time-limited for 10 years until 2025.⁴⁸

A Lord Spiritual retains his or her seat in the House of Lords as long as they retain their bishopric. Unlike any other members, they are required to retire at the age of 70.⁴⁹ Some Lords Spiritual on retirement are granted a Life Peerage⁵⁰ and are entitled to sit as Peers in their own right (and are re-introduced as such).

⁴⁴ The seating arrangement of bishops, which is recognised by the House of Lords Precedence Act 1539, explains the distinction which is made between the 'Spiritual side' of the House, on the right-hand side of the woosack looking from the Throne to the bar of the House, and the 'Temporal side' on the left. The Act provided that when the Sovereign is seated on the Throne, the Bishops of the Church of England should sit on his right side and that custom has been maintained.

⁴⁵ *Companion to the Standing Orders of the House of Lords* (note 24), para 1.68. Only the two Archbishops and the Bishops of London, Durham and Winchester may speak from the front one of these benches, and they also have priority in relation to seating on this bench.

⁴⁶ A measure to provide positive discrimination in order to remedy a historic imbalance.

⁴⁷ Lords Spiritual (Women) Act 2015, s 1(1), (2), (3). For these purposes, 'eligible bishop' means a bishop of a diocese in England who is not yet entitled in that capacity to the issue of writs of summons. If at the time of the vacancy arising there is only one eligible bishop who is a woman, the vacancy is to be filled by the issue of a writ of summons to her. If at the time of the vacancy arising there are two or more eligible bishops who are women, the vacancy is to be filled by the issue of writs of summons to the one whose election as a bishop of a diocese in England was confirmed first.

⁴⁸ Lords Spiritual (Women) Act, s 1(1)(a).

⁴⁹ Ecclesiastical Offices (Age Limit) Measure 1975.

⁵⁰ Customarily the Archbishops of Canterbury and York are granted such peerages, under the Life Peerages Act 1958. Lord Carey (former Archbishop of Canterbury), Lord Chartres (former Bishop of London), Lord Eames (former Bishop of Armagh and Primate of All Ireland), Lord Harries of Pentregarth (former Bishop of Oxford) and Lord Sentamu (former Archbishop of York) are among the current life peers at the time of writing. Lord Williams of Oystermouth (former Archbishop of Canterbury) has retired from the House of Lords. The 1958 Act has enabled appointments to be made of people regarded at least in some respect as representative of other faiths and denominations, which have included Muslims, a former President of the Methodist Conference and former Chief Rabbis.

The ancient 'right' of the Lords Spiritual who attend on Parliament,⁵¹ their appointment⁵² having been made by the Monarch as Supreme Governor of the Church of England, on the 'advice' of the Prime Minister,⁵³ rests on a mixture of ancient usage and statute.⁵⁴

After a bishop has done homage⁵⁵ he is qualified to receive a writ of summons to the House of Lords. An Archbishop on appointment and a bishop who has become entitled to sit, applies for a writ of summons to the Lord Chancellor.⁵⁶ Members of the House may not take their seat until they have obtained the writ.⁵⁷

The wording of the writ of summons to a bishop is slightly different from that addressed to a peer.⁵⁸ What is common is the purpose for which the Parliament

⁵¹ The Bishops of Sodor and Man and of Gibraltar in Europe are not eligible to sit in the House of Lords notwithstanding that the diocese of the Bishop of Gibraltar in Europe forms part of the Province of Canterbury. The Bishop of Sodor and Man did not originally hold his temporalities directly from the Crown: *Erskine May* (note 18), para 113, note 3.

⁵² Involving a process of nomination, election, confirmation and homage. The process has not changed very much in its essentials at least since the enactment of the Appointment of Bishops Act 1533 which enshrined much of the earlier practice and procedure of the medieval Church. See further S Coleman, 'The Process of Appointment of Bishops in the Church of England: A Historical and Legal Critique' (2017) 19 *Ecc LJ* 212.

⁵³ The Prime Minister forwards the name submitted by the Crown Nominations Commission for approval to the Monarch.

⁵⁴ The statement of duties of diocesan bishops specified in Canon C18, para 8, refers to the 'ancient right' of bishops attending Parliament. Residence in 'any house in London' during such attendance (of more significance before the beginning of a national network of railways in the mid-19th century) shall be taken as performance of episcopal duties within the bishop's diocese. See also *Halsbury's Laws of England* (5th edn) (2018), vol 78, 631; and *Erskine May* (note 18), para 1.13.

⁵⁵ That is to say, after the bishop's election by *conge d'élire* has been confirmed and the temporalities have been received: *Evans v Ascough* (1627) Lat. 233.

⁵⁶ *Companion to the Standing Orders of the House of Lords* (note 24), para 1.9. Writs of summons are issued by direction of the Lord Chancellor from the Office of the Clerk of the Crown in Chancery. The Crown Office is now part of the Ministry of Justice, the Clerk of the Crown being the Permanent Secretary to the Lord Chancellor.

⁵⁷ *Ibid*, para 1.7.

⁵⁸ The text of a writ issued to a bishop (the example given below being settled during the reign of the late Queen) is as follows:

Elizabeth the Second by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen Head of the Commonwealth Defender of the Faith To the Right Reverend Our Right Trusty and well beloved [] Greeting Whereas Our Parliament for arduous and urgent affairs concerning Us the state and defence of Our United Kingdom and the Church is now met at Our City of Westminster We strictly enjoining command you upon the faith and love by which you are bound to Us that considering the difficulty of the said affairs and dangers impending (waiving all excuses) you be personally present at Our aforesaid Parliament with Us and with the Prelates Nobles and Peers of Our said Kingdom to treat and give your counsel upon the affairs aforesaid And this as you regard Us and Our honour and the safety and defence of the said Kingdom and Church and dispatch of the said affairs in nowise do you omit Witness Ourselves at Westminster the nineteenth day of April in the seventy-first year of Our Reign.

The version for a peer contains the words: 'We strictly enjoining command you upon the faith and allegiance by which you are bound to Us'. For a bishop 'allegiance' is replaced by 'love'. I am

has been called; that is, to consider affairs concerning the state of the kingdom and for the need of the recipient to be personally present when Parliament is sitting, and to ‘treat and give your counsel’. This formally constitutes the Crown’s role description for a Lord Spiritual. The writ of summons is read aloud when the new bishop is introduced to the House.⁵⁹

Current complement and organisation of the Lords Spiritual

How does sitting in the House of Lords fit with an understanding of episcopal ministry and the appointment of bishops today? Canon C18 provides only some help. This provides that the role of a bishop is ‘chief pastor’ of all within his diocese. The nature of the office is ‘to teach and to uphold sound and wholesome doctrine, and to banish and drive away all erroneous and strange opinions’. A bishop is also expected to ‘maintain quietness, love and peace among all men’.⁶⁰

On appointment a diocesan bishop becomes a national figure who might be expected to demonstrate an interest in public affairs. Whether the experience and skills which make for an effective member of the legislature feature among the criteria for selection of diocesan bishops is a moot point. When the Crown Nominations Committee is considering candidates for a bishopric they have embarked on a process that could take the successful candidate to a seat in the House of Lords. It is effectively a process in which there is now little to no state involvement.⁶¹

The Church of England describes the role of the Lords Spiritual on its website,⁶² which is to say prayers before the beginning of the proceedings of the House⁶³ and

very grateful to Sir David Beamish (former Clerk of the Parliaments) for drawing this to my attention.

⁵⁹ The introduction of a Lord Spiritual has fewer heraldic elements than for a temporal peer: see Appendix J of *The Companion to the Standing Orders of the House of Lords* (note 24).

⁶⁰ Canon C18, para 1.

⁶¹ The Lords Spiritual are effectively appointed by the Church of England itself: see Coleman (note 52). Once a bishop has been appointed by the Church’s own procedures, albeit procedures involving the state, there is no discretion in any state actor as to whether a bishop becomes a member of the House of Lords: P Edge, *Religion and Law: An Introduction* (Oxford, 2006), 99.

⁶² See: <<https://churchinparliament.org/about-the-lords-spiritual/>>, last accessed 30 December 2023.

⁶³ *Companion to the Standing Orders of the House of Lords* (note 24), para 3.6. Attendance in the House to read prayers is agreed by Lambeth Palace in consultation with the Lords Spiritual on a rota basis with each bishop being on duty for one or two sitting weeks a year. The practice of prayers is believed to have started in about 1558 and appears to have become common practice by 1567: J Ainsworth, *Customs and Traditions of the House of Lords* (House of Lords Library Briefing, 2017), 18: <<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/LLN-2017-0050>>, accessed 5 January 2024. The present form of prayers is thought to date from the reign of Charles II. The text of the prayers read by the duty bishop is printed as Appendix I in the *Companion to the Standing Orders of the House of Lords* (note 24), 262–264. The prayers are always formalised, set prayers. In a personal communication a retired Lord Spiritual stressed that they do not allow for any *ex tempore* prayer: see also E Crewe, *Lords of Parliament: Manners, Rituals and Politics* (Manchester, 2005), 187. Proceedings do not begin until the prayers have been said. In the absence of a Lord Spiritual, an ordained minister of the Church of England may read the prayers and, in their absence, the Lord

take part in all the business of the House.⁶⁴ It sees the presence of its bishops there as:⁶⁵

[A]n extension of their general vocation as bishops to preach God's word and to lead people in prayer. Bishops provide an important independent voice and spiritual insight to the work of the House and, while they make no claims to direct representation, they seek to be a voice for all people of faith, not just Christians. Their presence reflects our enduring constitutional arrangement, with an established Church of England and its Supreme Governor as Monarch and Head of State.

A significant effect of the statutory cap on the size of the Lords Spiritual is that the bishops can only be removed from the House⁶⁶ by primary legislation.⁶⁷ The size of the rest of the House is unrestricted (at the time of

on the Woolsack: *Companion to the Standing Orders of the House of Lords* (note 24), para 3.6. The prayers follow the Christian faith and there is currently no multi-faith element (in either House of Parliament). See also the exchanges in the *Official Report* (HL) vol 820, 31 March 2011, col 1340 in answer to a Question to the Chairman of Committees about consideration which might be given to widening the scope of House of Lords Prayers to devotions covering other Christian traditions and faiths represented in the House, a matter it was said that would have to be considered by the Procedure Committee and approved by the House.

⁶⁴ That is to say: tabling and asking Questions of Ministers; initiating or contributing to debates in the House; scrutinising legislation including tabling and moving amendments; proposing Private Member's legislation; voting; serving on parliamentary committees and all-party groups. To which might be added to introduce ecclesiastical Measures which have been proposed by the General Synod and approved by the Ecclesiastical Committee in Parliament; and to fulfil a pastoral role in relation to members of the House of Lords and their staff.

⁶⁵ See: <<https://churchinparliament.org/about-the-lords-spiritual/>>, accessed 30 December 2023. One might add that the Lords Spiritual are the only members of the Chamber with any kind of geographic constituency, one typically larger than parliamentary constituencies, so they can draw on the issues and experience in their 'constituencies' and take back to them a network of connections into local communities. This point was made in his evidence to the Joint Committee to consider the draft House of Lords Reform Bill in the 2012–13 session, by the former Archbishop of Canterbury, Rowan Williams, who commented that 'the rooted presence of the Church of England in every community of England and the committed membership of nearly 1 million regular attendees gives Bishops personal access to a very wide spread of civil organisation and experience ... Their personal contribution to the work of the House of Lords therefore draws not on partisan policy but on that direct experience. ... They visit and are known by hospitals, care homes, the Armed Forces, factories, prisons, universities and community projects. In prisons, they have a statutory right of visitation. Hundreds of primary and secondary schools are Church of England schools. In other words, diocesan Bishops belong in a web of relationships in the communities that they serve and have direct lines of communication into those societies at every level'. See Oral Evidence given on 28 November 2011: Draft House of Lords Reform Bill – Joint Committee on the Draft House of Lords Reform Bill (available at: <<https://publications.parliament.uk/pa/jt201012/jtselect/jtdraftref/284/284ii26.htm>>, accessed 30 December 2023) and Rowan Williams' contribution to Oliva and Hall (note 8), 273.

⁶⁶ Or reduced in number.

⁶⁷ To which the House of Lords (Removal of Bishops) Bill (HL Bill 68), a Private Member's Bill introduced by the Liberal Democrat peer, Lord Taverne KC on 28 January 2020, was directed. The

writing it was 787).⁶⁸ With a significant increase in the number of appointments in recent years, there have been fresh calls to reduce numbers.⁶⁹

The 26 Lords Spiritual constitute only 3% of the total membership of the House. So it might be thought their role is not very prominent or controversial. However, as at 30 December 2023, with 270 Members, the governing party no longer has a majority. With 175 members, the Official Opposition has slightly fewer members than the Crossbenchers (184). Although numerically small, the Lords Spiritual do not constitute an insignificant group on matters which are taken to a vote. However, the influence of the bishops in practice is more likely to be felt from speaking in debate as well as operating ‘behind the scenes’,⁷⁰ rather than winning votes.

The bishops rarely attend the House in large numbers or as a phalanx. The five most senior Lords Spiritual (that is the *ex officio* bishops) do not usually serve on the ‘duty bishop’ rota, whilst the other 21 bishops are expected to make themselves available for roughly two weeks a year.⁷¹

The Lords Spiritual are independent members of the House. They do not follow a party line or whip. They vote according to conscience, sometimes in different lobbies on the same issue. Nevertheless, their work is subject to a degree of co-ordination by the Convenor of the Lords Spiritual.⁷² The Convenor acts as the main point of contact for the bishops in the Lords and with leaders of other groups in the House through the ‘usual channels’.⁷³

Bill awaits its second reading but no future stage for the Bill has currently been scheduled: <<https://bills.parliament.uk/bills/2591>>, accessed 31 December 2023.

⁶⁸ In 1999 before the Blair reforms, which reduced the number of hereditary peers to 92, there were 1,330 members of the House of Lords.

⁶⁹ Not only by the Labour Party in their report, *A New Britain* (note 6) but also by the Committee set up in 2016 by the Lord Speaker to review the size of the House of Lords, chaired by Lord Burns whose fourth report was published in May 2021. In its first report, *Report of the Lord Speaker’s Committee on the Size of the House* (31 October 2017), it proposed a cap on the size of the House of 600 members which members of the House generally supported, as did Prime Minister Theresa May, but this proposal was not shared by her successor, Boris Johnson: <<https://www.parliament.uk/globalassets/documents/lords-committees/size-of-house/size-of-house-report.pdf>>, accessed 31 December 2023. In evidence to the House of Commons Public Administration and Constitutional Affairs Committee, Lord Burns had said that because his Committee’s proposals were intended to be implemented without legislation, it had to leave to one side the issues of bishops (and hereditary peers). Lord Burns said he thought it was important not to get involved with issues like these, which were ‘extremely difficult and would simply lead to the postponement of any plans’: House of Commons Public Administration and Constitutional Affairs Committee, *A Smaller House of House of Lords: The Report of the Lord Speaker’s Committee on the Size of the House* (2018), HC 662, para 49, available at: <<https://publications.parliament.uk/pa/cm201719/cmselect/cmpubadm/662/662.pdf>>, accessed 31 December 2023.

⁷⁰ As expressed by the Archbishop of Canterbury on the occasion of the retirement of the Bishop of Birmingham, the former Convenor of the Lords Spiritual, in September 2022: <<https://www.churchofengland.org/media-and-news/press-releases/bishop-st-albans-be-convenor-lords-spiritual>>, accessed 31 December 2023.

⁷¹ The number of bishops in attendance may be greater when the General Synod is sitting nearby at Church House in Westminster. Having said that, the Lords Spiritual are not expected to fulfil any attendance requirement.

⁷² Torrance (note 40), 16

⁷³ On his appointment by the Archbishop of Canterbury in September 2022, the current Convenor, the Bishop of St Albans, was keen to stress that ‘Bishops serve in the Lords to be a voice not only for

It was clear from my consultation with them that in pursuit of their individual interests, the bishops take care to consult with colleagues and with other faith groups (although the latter will not be formally represented in the House).

The Lords Spiritual do not receive any financial assistance to meet the cost of their parliamentary business;⁷⁴ but Lords Spiritual (like other peers) are entitled to claim an allowance to cover certain expenses associated with attending the House, and they do benefit from support from the Church of England's Parliamentary Unit. This serves the National Church Institutions (NCIs) by maintaining links with parliamentarians and helping the NCIs to engage more effectively with Parliament and government.

Following the Blair Lords' reforms,⁷⁵ the Parliamentary Unit was established in 2008⁷⁶ on the initiative of the Bishop of London who identified a need for greater professionalism in the Church of England's handling of its relations with government and parliament.⁷⁷ Based in Westminster, the unit supports the Lords Spiritual as well as the Church of England and the Second Church Estates Commissioner in their relations with Whitehall and Westminster.⁷⁸ It provides policy research, advises on parliamentary procedure, drafts speeches, consults colleagues in the NCIs⁷⁹ and liaises with the House authorities as well as the

faith, but for those on the margins in communities we serve up and down the country through our parish networks. We have a constitutional role, and lead the House in prayer every day, but we also play a full and active part as Members of the Lords in holding Government to account and arguing for laws that best serve the common good': <https://www.churchofengland.org/media-and-news/press-releases/bishop-st-albans-be-convenor-lords-spiritual>, accessed 31 December 2023.

⁷⁴ Known as 'Cranborne Money', a scheme for providing financial assistance to the Opposition and second largest opposition party in the House of Lords to assist them in carrying out their parliamentary business; the scheme was introduced in 1996 and extended to cover the Convenor of the Crossbench Peers in October 1999: *Financial Assistance for Opposition Parties - UK Parliament*, <https://www.parliament.uk/mps-lords-and-offices/members-allowances/house-of-lords/financial-assistance-for-opposition-parties/>, accessed 31 December 2023.

⁷⁵ The House of Lords Act 1999 reduced the number of hereditary peers by more than 600 to 92 (to remain members of the Lords for an interim period). The Act reduced the overall membership from 1,330 to 669 mainly life peers. Discussions continue about the next stage of the reform process.

⁷⁶ The publication that year by the then Labour Government of its White Paper, *An Elected Second Chamber: Further Reform of the House of Lords* (2008) Cmnd 7438 was timely. It stated that, 'The relationship between the Church and State is a core part of our constitutional framework that has evolved over the centuries. The presence of Bishops in the House of Lords signals successive Governments' commitment to this *fundamental constitutional principle and to an expression of the relationship between the Crown, Parliament and the Church that underpins the fabric of our nation*', para 6.45 (emphasis added).

⁷⁷ The Unit has a website: <http://churchinparliament.org>, accessed 31 December 2023. The Unit also manages a Twitter (or 'X') account: twitter.com/churchstate.

⁷⁸ Not long after he was appointed in 2010 as Second Church Estates Commissioner, Sir Tony Baldry MP took an interest in improving understanding and communication between the Church of England and central government. He wanted to have lists of bishops with allocated subject matter to identify who in the established church could speak for what and who could be consulted by government departments, the latter not always being joined up when they sought a point of view from the Church of England (information based on correspondence with the author from Sir Tony).

⁷⁹ Such as the Standing Legal Counsel at Church House and members of the Legal Staff about framing amendments to Bills.

offices of other faith leaders. The Unit will also work closely with the Convenor of the Lords Spiritual and the House authorities. It remains in touch with retired bishops in the Lords, although they benefit from support provided to the crossbench peers.⁸⁰

The unit's staff meet with the Lords Spiritual at quarterly meetings with a focus on looking ahead over the coming six months. The practice has evolved of bishops leading on issues of public policy in three different ways. First, there is the nationally designated lead for an issue or policy area (such as health, education, prisons, environment). These may not be bishops sitting in the Lords. Secondly, there is a portfolio lead for a policy area among the Lords Spiritual, as agreed between the bishops. Where a Lord Spiritual is a national lead they will usually take the lead among the Lords Spiritual as well. Thirdly, a bishop may take an *ad hoc* 'lead' on an issue because of a local or emerging interest, rather than a pre-planned or established lead role (for example the Bishop of St Albans on gambling reform).⁸¹

The bishops decide their level of parliamentary activity and support requirements themselves. Most engage with the staff of the Parliamentary Unit, but a growing number also benefit from personal parliamentary advisers to assist them instead of relying, as bishops used to, on their chaplains or personal assistants.⁸²

The Parliamentary Unit may occasionally support Lords Spiritual who sit on select committees of the House of Lords.⁸³

⁸⁰ The two key posts of Head of Parliamentary Affairs and Deputy Head are funded by the Archbishops' Council and the Church Commissioners, respectively. The Unit forms part of the Faith and Public Life Division (formerly Mission and Public Affairs), which is led by a director and supported by a team of advisers covering different policy areas. Its role is concerned with the established Church's engagement with society and with issues of public concern.

⁸¹ As explained in correspondence with the author from the Parliamentary Unit, the practice has been evolving of bishops forming 'clusters' to tackle a particular issue with a lead bishop and another in support. The lead bishop is the main contact with the government and other internal and external stakeholders. The supporting bishop may need to step in, sometimes at very short notice, if the lead is detained in the diocese to which priority will usually be given.

⁸² A fascinating insight (admittedly from a different era) into the role of bishop's chaplain as a parliamentary and government affairs advisor can be gleaned from the diaries of Alan Don, Chaplain to Archbishop Cosmo Lang; R Beaken (ed), *Faithful Witness: The Confidential Diaries of Alan Don, Chaplain to the King, the Archbishop and the Speaker, 1931-1946* (London, 2020). At the time of writing, 11 of the serving Lords Spiritual had a parliamentary researcher (either part-time or shared, or full-time) who were part of the staff complement of the Parliamentary Unit under the supervision of its Head. A further three Lords Spiritual had their own researchers based wholly in the diocese. The remainder had no dedicated support but drew on central resources or diocesan staff with any capacity. A member of the staff of the unit commented (personal communication with the author) that the workload of the unit had increased in recent years because a number of the bishops had become less closely involved with legislation before the House themselves as their diocesan demands had increased. The core funding of the unit has remained more or less unchanged since it was established in 2008 with salaries adjusted for inflation and the addition of new management and core responsibilities.

⁸³ At the time of writing, Lords Spiritual sat on the Adult Social Care Committee, the Communications and Digital Committee, the Environment and Climate Change Committee, the Artificial Intelligence Committee, the Gambling Industry Committee, the Sexual Violence in

Parliamentary scrutiny

Parliamentary scrutiny of the executive is carried out by both Houses of Parliament. The House of Lords discharges its scrutiny role in different ways.⁸⁴ It is often assumed that its role as a 'revising chamber' has been long established but it has not always been so.⁸⁵ In the early part of the 20th century, the House was 'a revising chamber notable for undertaking almost no revision'.⁸⁶ More recently the Lords' constitutional role of revision has come into sharper focus, amid concern about Parliament's ability to meet public expectations about its core functions.⁸⁷ Two key matters the Lords look for in legislative scrutiny are the quality of legislation and the increasing tendency of ministers to reserve power unto themselves, by secondary legislation without proper scrutiny.⁸⁸

The pressures on Parliament have been especially heavy recently.⁸⁹ Legislation has surged from Brexit and the COVID-19 pandemic, and the sheer day-to-day

Conflict Committee and the Youth Unemployment Committee. The former Bishop of London, who sits as a peer in his own right on the crossbenches, is a member of the Joint Statutory Instruments Committee and can draw on support from the resources available to the crossbenchers. Usually, a bishop's personal parliamentary adviser would provide support for committee work of this kind. The current Deputy Head of the Parliamentary Unit assisted the Archbishop of Canterbury when, as Bishop of Durham, he was a member of the Parliamentary Commission on Banking Standards, a joint committee appointed by Parliament in 2012.

⁸⁴ Through Parliamentary Questions (oral and written as well as Private Notice Questions), in response to government Statements, and in the course of debates (general debates, 'short' debates and debates on committee reports) as well as in the course of debates on Bills. As set out below, various techniques are deployed by bishops and other Members of the House to scrutinise legislation, operating within the framework of the procedures, practice and protocols of the House.

⁸⁵ R Walters, 'The House of Lords' in V Bogdanor (ed), *The British Constitution in the Twentieth Century* (Oxford, 2004), at 212.

⁸⁶ A Adonis, *Making Aristocracy Work* (Oxford, 1993), 66.

⁸⁷ See, for example, P Riddell, *Parliament Under Pressure* (London, 1997), who argued that Parliament was inadequate when engaged in its work of scrutiny, legislation and holding the executive to account whilst attempting to deal with pressure from other institutions such as the EU, the courts, media, the quango state and external regulators, such as the Nolan Committee of Inquiry into Standards of Public Life. He argued that the result was not only public concern but also proposals which would have the effect of by-passing Parliament, such as a referendum on Europe and sweeping constitutional reforms and a reduction in scope of its central role in the constitution of the United Kingdom. The Hansard Society *Report of the Commission on Parliamentary Scrutiny* (2001), chaired by Lord Newton, called for a step-change in the rigour and importance attached to Parliament's scrutiny work aimed at putting Parliament at the apex of the system which holds government to account. It recommended amongst other things that the unelected House of Lords should complement the Commons contributing especially on issues which cross-departmental boundaries and on ethical, constitutional issues for which the Commons had insufficient time.

⁸⁸ Two hard-hitting parliamentary reports, published in November 2021, highlighted the significance of these issues: Delegated Powers and Regulatory Reform Committee, *Democracy Denied? The Urgent Need to Rebalance Power Between Parliament and the Executive* (2021) HL Paper 2021 and the Secondary Legislation Scrutiny Committee, *Government by Diktat: A Call to Return Power to Parliament* (2021) HL Paper 105.

⁸⁹ Reflected, for example, by the House of Lords Select Committee on the Constitution in their Report, *The Legislative Process: The Passage of Bills through Parliament* (2019), HL Paper 393. See also

pressure on government to 'deliver'. Concerns focus on the increasing complexity of legislation and a decline in its clarity, coherence and accessibility as well as the substantive content of law, its architecture and language, and the links between these elements.⁹⁰ The pandemic in particular exposed and exacerbated weaknesses in the legislative process. Measures were often introduced to Parliament at breakneck speed, raising scrutiny and rule of law concerns requiring the law-making powers of government to be controlled by Parliament. This required timely, properly prepared, evidence-based information, impact assessment and analysis.⁹¹

The contribution of the Lords Spiritual to parliamentary scrutiny

What contribution do the Lords Spiritual make to the scrutiny of legislation and policy? I examined the activity of the Lords Spiritual who were entitled to sit in August 2022, covering a 12-month period from July 2021 to July 2022. I reviewed the *Official Reports*⁹² of proceedings to which the bishops contributed. This focused mainly on legislation before the House straddling two parliamentary sessions, the first beginning in May 2021, the second in May 2022.⁹³ The House considered a wide range of measures over this period.⁹⁴ The bishops' contributions are recorded in the daily *Official Report* and broadcast on the Parliamentlive channel.⁹⁵ What will not have been visible are the meetings with Government Ministers and officials to whom, like other parliamentarians and organised groups, the Lords Spiritual have access. Four Government Bills featured prominently: Nationality and Borders,⁹⁶

K Lines, *18 Months of COVID-19 Legislation in England: A Rule of Law Analysis* (Bingham Centre for the Rule of Law, 2021), available at: <https://binghamcentre.biicl.org/documents/122_report_on_18_months_of_coronavirus_legislation_-_final.pdf>, accessed 31 December 2023.

⁹⁰ cf. The foreword by the First Parliamentary Counsel to *When Laws Become Too Complex: A Review into the Causes of Complex Legislation* (Cabinet Office, 2013), 1 (the report of a review by the Office of Parliamentary Counsel which formed part of the Government's Good Law initiative).

⁹¹ The absence and poor quality of these inputs was a frequent source of concern to the House of Lords Secondary Legislation Scrutiny Committee, for example. For an excellent overall analysis, see Lines (note 89).

⁹² Otherwise known as 'Hansard'.

⁹³ Background briefing notes provided by 10 Downing Street about the two legislative programmes outlined in The Queen's Speeches in 2021 (with 22 Government Bills and two draft Bills) and 2022 (with 20 Bills and two draft Bills), which cover measures referred to in this paper, are available at: <<https://www.gov.uk/government/publications/queens-speech-2021-background-briefing-notes>> and <<https://www.gov.uk/government/publications/queens-speech-2022-background-briefing-notes>>, both accessed 31 December 2023.

⁹⁴ They included Bills on building safety, dissolution and calling of Parliament, dormant assets, domestic abuse, economic crime, energy, elections, health and care, higher education (freedom of speech), environment, marriage and civil partnership, nationality and borders, police, crime, sentencing and courts, public order, schools, skills and post-16 education, social housing, and a UK Infrastructure Bank.

⁹⁵ <<https://parliamentlive.tv/Lords>>, accessed 31 December 2023.

⁹⁶ The Nationality and Borders Bill was the subject of many heated exchanges and divisions with, unusually, on occasion as many as six bishops voting in some of them. The Bishop of Durham, speaking on behalf of 'we on these benches' said that the Lords Spiritual would work with others

Schools,⁹⁷ Health and Social Care,⁹⁸ and Police, Crime, Sentencing and Courts.⁹⁹

to propose amendments to the Bill, a measure which he said would make the asylum system more complicated and cumbersome, less fair, provide fewer safe routes and be more expensive. The differential treatment of refugees according to their mode of arrival caused very deep concern. The Bishop of Bristol spoke as the Church of England's lead bishop for modern slavery moving (and later withdrawing) her own amendment on report. The Bishop of Durham withdrew or did not move two of his amendments in committee but supported two amendments which were carried in divisions on report, but he withdrew two of his amendments at that stage. The Bishops of Ely and Gloucester did not move or withdrew their amendments during the long committee stage on the Bill. The Bishop of London moved, but subsequently withdrew, her amendment to the Bill on the fourth day in committee. The Bishop of Manchester (working with the Bishop of Durham) divided the House on Consideration of Commons' Amendments in relation to the transfer of refugees and asylum seekers to third countries (an issue which had prompted all the Lords Spiritual to write to *The Times* on 14 June 2022 and the Bishop of Chelmsford to write, from her own personal experience as a refugee from Iran, to the Home Secretary about the Government's plan to send asylum seekers to Rwanda). During 'ping-pong' (the to and fro of amendments to Bills between the House of Commons and the House of Lords) the Bishop of Manchester was defeated on his motions by five votes. He was the only bishop to vote. See *Official Report* (HL) vol 821, 26 April 2022, col 152.

⁹⁷ The Schools Bill prompted the Bishop of Durham to table amendments for the second day of the Bill's committee stage but they were not moved by the Bishop of Bristol who was covering for Durham. The Bishop of St Albans tabled a raft of probing amendments for the fourth day of the committee and for the fifth day of that stage, but these were not moved on that day by the Bishop of Blackburn who was speaking on his behalf. On report the Bishop of Carlisle, speaking for the absent Bishop of St Albans, withdrew the latter's probing amendment on the second day of the report stage having received a suitable reassurance from the Minister. A similar outcome had been achieved by the Bishop of Chichester during the second day of the committee stage when the Minister gave an undertaking to consult on draft regulations.

⁹⁸ The Health and Social Care Bill saw the former Bishop of Carlisle and the Bishop of London (a former Government Chief Nursing Officer) working closely together on this. Speaking in support of amendments which were subsequently withdrawn on the first, second and fifth days in committee, the Bishop of London achieved her desired outcome on the first day of the report stage having obtained a suitable reassurance from the Minister.

⁹⁹ The Police, Crime, Sentencing and Courts Bill enabled the Bishop of Gloucester (the lead Anglican Bishop for Prisons in England and Wales) to signal her interest in the treatment of women offenders during the second reading debate (*Official Report* (HL) vol 814, 14 September 2021, cols 1292–1293). She and the former Bishop of Carlisle and the Bishop of Manchester flagged the need for proper scrutiny of the Bill during its second reading debate: *Official Report* (HL) vol 814, 14 September 2021, cols 1292–1293, 1324–1325 and 1355, taking their cue from former Lord Chief Justice of England and Wales, Lord Judge who expressed concern from the crossbenches about the length of the Bill and the delegation of powers. On the sixth day of the report stage, the Bishop of Bristol registered concerns about the right to protest becoming dangerously limited: *Official Report* (HL) vol 817, 17 January 2022, col 1401. On the same day, the Bishop of Leeds expressed serious concern about the Government's late tabling of amendments which he described as an abuse of parliamentary scrutiny: *Official Report* (HL) vol 817, 17 January 2022, col 1399. The Bishop voted for an amendment in which the government were defeated, the Bishops of Birmingham, Leeds, London, St Albans and Worcester joining him in the division lobby (as well as 51 crossbenchers including retired Lords Chief Justice and 66 Liberal Democrats).

On the evening of the third day of the report stage, the Bishop of Gloucester moved an amendment relating to carers in the criminal justice system which she pressed to a division, but did not vote herself. During a long committee stage the Bishop of Durham spoke to amendments

The bishops also contributed to debates on several Private Member's Bills¹⁰⁰ concerning Age Assurance (Minimum Standards),¹⁰¹ Assisted Dying, Climate and Ecology, Coroners (Determination of Suicide),¹⁰² Education Assemblies,¹⁰³ Front-Loaded Child Benefit, Gambling, Organ Tourism and Cadavers Display, Refugees (Family Reunion), Status of Workers, and Universal Credit (Removal of Two Child Limit).¹⁰⁴

Occasionally the Lords Spiritual contribute to debates on secondary legislation (regulations made under statutory powers granted in primary legislation).¹⁰⁵ However, the powers of the Lords in practice are very limited as they cannot amend the regulations, only express their 'regret'.

Several regulations concerned the bishops during the relevant period including the Abortion (Northern Ireland) Regulations 2022,¹⁰⁶ Burundi (Sanctions

for the Bishop of Gloucester and on behalf of the Bishop of Derby which were withdrawn, on the Minister's assurance that he would consider the proposal, or the amendments were not moved pending further clarification from the department.

The Bishop of Manchester contributed to the report stage on the first, second and fourth days as well as the preceding committee stage on the first and fifth days speaking about his concerns about the impact of the Bill on Gypsy and Romany Travellers. Declaring his interest as the President of the Rural Coalition, the Bishop of St Albans went further, speaking on the fifth day of the committee stage to an amendment to introduce a new clause on game poaching, which was designed to broaden the powers available to the courts to deal with illegal hare coursing. The Government responded, in the time-honoured phrase used to indicate a low priority, that legislation would be introduced when parliamentary time allowed, for which the Bishop expressed himself to be very disappointed and the amendment was withdrawn: *Official Report* (HL) vol 815, 3 November 201, cols 1219–1222.

¹⁰⁰ These are much easier to introduce in the House of Lords than in the Commons, but there is little chance that they will become law.

¹⁰¹ To which the Bishop of Oxford contributed: *Official Report* (HL) vol 816, 19 November 2021, col 527. The Bill was designed to set mandatory standards for age-related technologies, focusing on user privacy and data security.

¹⁰² A measure introduced by the Bishop of St Albans. See *Official Report* (HL) vol 822, 7 June 2022.

¹⁰³ To which the former Bishop of Oxford contributed from the crossbenches on the Bill's second reading, speaking against compulsory worship in school assemblies of schools without a religious character: *Official Report* (HL) vol 814, 10 September 2021, cols 1082–1083.

¹⁰⁴ A measure introduced by the Bishop of Durham. See *Official Report* (HL) vol 823, 8 July 2022 at col 216 *et seq.* The Bishop had worked with others including the SNP MP for Glasgow Central (Alison Thewlis), the Child Poverty Action Group and Joseph Rowntree Foundation, to abolish the two-child limit to universal credit, a policy which he described as 'ineffective, devastating in impact and essentially immoral in character': at col 1219. The Government rejected the Bill. The Minister would not even commit to accepting the bishop's request to conduct an Impact Assessment of the current policy.

¹⁰⁵ A good example was the Gambling (Geographical Distribution of Casino Premises) Order in 2007, which would have allowed a 'super-casino' to have been opened in Manchester, the Archbishop of Canterbury making a strong speech against the government's policy: *Official Report* (HL) vol 690, 28 March 2007. The Liberal Democrats in a whipped vote against the order were joined by three bishops, 27 crossbenchers and 12 Labour rebels, the Conservatives abstaining. The division was lost by three votes.

¹⁰⁶ To which the Bishop of Blackburn contributed: *Official Report* (HL) vol 823, 21 June 2022, cols 147–148.

Regulations),¹⁰⁷ the Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) (No. 2) Regulations 2021,¹⁰⁸ the Health Protection (Coronavirus Restrictions (Self-Isolation) (England) (Amendment) (No. 6) Regulations,¹⁰⁹ and the Immigration and Nationality (Fees) Amendment Regulations 2022 (S.I. 2022/ 581).¹¹⁰

The Lords Spiritual also initiated or contributed to Lords' debates which, like tabling Parliamentary Questions, can elevate the significance of concern and may influence opinion in government and communities beyond Westminster. Debates during the relevant period covered such matters as a Bill of Rights,¹¹¹ standards of behaviour and honesty in public life,¹¹² the Late Queen's Platinum Jubilee,¹¹³ net-zero carbon emissions,¹¹⁴ schools: extremism and intolerance,¹¹⁵ and the need to change behaviour¹¹⁶ and freedom of speech.¹¹⁷

How do the Lords Spiritual exercise their scrutiny powers in practice?

When they do participate in legislative debates,¹¹⁸ particularly during committee and report stages, the bishops sometimes touch on the 'constitutionality' of legislation and rule of law concerns of the kind which Lord Bingham captured in *The Rule of Law*.¹¹⁹ In this context the bishops can also draw on reports of the Lords

¹⁰⁷ To which the Bishop of Durham contributed: *Official Report* (HL) vol 812, 19 January 2022 (Grand Committee).

¹⁰⁸ To which the Bishop of St Albans contributed: *Official Report* (HL) vol 817, 14 December 2021, col 161. This was a particularly egregious example of the executive failing to produce a full impact assessment of the draft regulations. The Secondary Legislation Scrutiny Committee's 21st Report had drawn the House's attention to the regulations of which it was 'excoriating in its criticism' not only of the regulations but also of the accompanying supportive materials produced by the Department of Health.

¹⁰⁹ To which the Bishop of Leeds contributed: *Official Report* (HL) vol 817, 15 December 2021, cols 278–279.

¹¹⁰ See the debate on an Opposition 'motion of regret' to which the Bishop of Manchester contributed in support: *Official Report* (HL) vol 823, 6 July 2022, cols 1060–1061.

¹¹¹ *Official Report* (HL) vol 823, 23 June 2022, col 391.

¹¹² The bishop expressing concern about a growing 'absence of a moral compass': *Official Report* (HL) vol 823, 23 June 2022, cols 349–351.

¹¹³ 26 May 2022.

¹¹⁴ *Official Report* (HL) vol 814, 16 September 2021, cols 1551–1552.

¹¹⁵ *Official Report* (HL) vol 820, 28 March 2022, col 1268.

¹¹⁶ *Official Report* (HL) vol 814, 16 September 2021, cols 1551–1552.

¹¹⁷ The 4-hour debate initiated by the Archbishop of Canterbury on 10 December 2021 attracted an impressive range of speakers to which several bishops of the Church of England contributed: *Official Report* (HL) vol 816, 10 December 2021, col 2101 *et seq.*

¹¹⁸ There may well have been some informal scrutiny before a measure is introduced. A bishop may join others in meeting a Minister to understand the purpose and effects of the Bill shortly before its introduction and raise matters which might arise in the course of debate. The ability of the bishops to access Ministers and their officials for this purpose is no different from that of other members of the House or those lobbying for or against a measure. The Bishops may also have participated in pre-legislative scrutiny of a draft Bill or in the course of public consultation to which the Church of England and other faith communities may have contributed.

¹¹⁹ Of the kind which Lord Bingham described in *The Rule of Law* (London, 2010) where he identified eight conditions which captured its essence. In short, these are: (i) the law must be

Constitution Committee, the Joint Statutory Instruments Scrutiny Committee, the Delegated Powers and Regulatory Reform Committee, and the Joint Committee on Human Rights Committee,¹²⁰ as well as their own professional and personal experience.

A selection of the bishops' interventions during the relevant period concerned such matters as the length and complexity of legislative measures; vagueness of drafting and lack of clarity;¹²¹ insufficient transparency of process;¹²² reassurance that consultation would be undertaken;¹²³ timing and tabling of government amendments or provision of regulatory impact assessments and supporting information;¹²⁴ unforeseen and unintended consequences of legislation;¹²⁵ imposition of unreasonable costs and burdens or burdens having disproportionate effects on certain individuals or groups (invariably vulnerable

accessible, intelligible, clear and predictable, (ii) questions of legal right and liability should be resolved by application of law, not discretion, (iii) laws should apply equally to all, (iv) public officials must exercise powers conferred on them in good faith, for the purpose for which they were conferred, without exceeding the limits of those powers, and no unreasonably, (v) the law must protect fundamental human rights, (vi) means must be provided for resolving *bona fide* civil disputes (which the parties are unable to resolve themselves) without prohibitive cost or delay, (vii) the adjudicative procedures provided by the state should be fair, and (viii) the state must comply with its obligations in international law. The retired Archbishop of York prayed this in aid in his contribution to the Archbishop of Canterbury's debate on freedom of speech: *Official Report* (HL) vol 816, 10 December 2021, cols 2146–2148.

¹²⁰ These were especially useful during the report and committee stages of the Nationality and Borders Bill. The contribution of the committees to scrutiny has been considerable. See further R Hazell, 'Who is the Guardian of Legal Values in the Legislative Process in Parliament or the Executive?' (2004) *Public Law* 494–500.

¹²¹ See, for example, the Bishop of Chichester speaking on five amendments to the Schools Bill: *Official Report* (HL) vol 822, 13 June 2022, col 1455. On the fourth day in committee the Bishop of Durham expressed deep concern about the prescriptive drafting of clause 1 and insufficiently balanced power granted to the Secretary of State: *Official Report* (HL) vol 823, 20 June 2022, cols 1170 and 1184–1185.

¹²² See, for example, the Bishop of Carlisle, calling for greater accountability, transparency and reporting on social care in the second reading debate on the Health and Care Bill: *Official Report* (HL) vol 816, 7 December 2021, cols 1777–1778.

¹²³ See, for example, the Bishop of Chichester in the Schools Bill moving an amendment on behalf of the Bishop of Durham in the committee stage: *Official Report* (HL) vol 822, 13 June 2022, cols 1448–1449.

¹²⁴ See the Bishop of St Albans' support for an amendment tabled by Baroness Noakes to address concerns about the absence of a full Regulatory Impact Assessment (RIA) from the Government about the Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) (No. 2) Regulations 2021: *Official Report* (HL) vol 817, 14 December 2021, col 161. The RIA was published online very shortly before the debate. The 21st Report of the Secondary Legislation Committee had been excoriating in its criticism of the regulations and the quality of accompanying material. Impact assessments, she said, were 'at the heart of effective policy-making and, importantly, effective parliamentary oversight ... [My] plea is for the Department of Health and Social Care to stop taking Parliament for fools. The department must respect the role of Parliament by facilitating rather than evading parliamentary scrutiny. That means full Impact Assessments for all significant interventions, and they must be timely': col 157.

¹²⁵ See, for example, the Bishop of Durham speaking to the Grand Committee: (HL) *Official Report*, 19 January 2022.

people);¹²⁶ use of ‘Henry VIII’ and ouster clauses;¹²⁷ using *ultra vires* powers;¹²⁸ using secondary legislation (with lower scrutiny thresholds) when primary legislation was needed;¹²⁹ ‘constitutionality’ and related rule of law concerns;¹³⁰ inappropriate use of legislative resources;¹³¹ functionally inadequate provision of necessary protections;¹³² low likelihood of getting a process right first time and in a timely manner;¹³³ inappropriate reliance by a Minister on unscrutinised guidance to be issued at a later stage;¹³⁴ and siphoning off funds raised for one purpose and using them for a different purpose.¹³⁵

¹²⁶ See the debate on a motion to regret the Immigration and Nationality (Fees) Amendment Regulations 2022 (S.I. 2022/581) to which the Bishop of Manchester contributed: *Official Report* (HL) vol 823, 6 July 2022, cols 1060–1062. The Bishop joined others in voicing concern about high fee (effectively a regulatory barrier) charged by the Home Office for children to register their entitlement to citizenship.

¹²⁷ A Henry VIII clause would permit the executive to change primary legislation in future by secondary legislation with a lesser form of scrutiny. An ouster clause would remove jurisdiction for a court, tribunal or other authority to determine a matter. The former Archbishop of York, Lord Sentamu spoke in support of an amendment moved by Lord Judge to the Dissolution and Calling of Parliament Bill, to remove an ouster clause, drawing on his experience as a judge in Uganda: *Official Report* (HL) vol 820, 14 March 2022, col 79.

¹²⁸ See the Bishop of St Albans’ support for an amendment on delegated powers to the Judicial Review and Courts Bill: *Official Report* (HL) vol 820, 31 March 2022.

¹²⁹ A capacious ground of concern for scrutiny covering such matters as governance, conflicts of interest, curtailment of fundamental liberties and freedoms, unlimited powers, inadequate scrutiny, inadequate review and inadequate sun-setting. See, for example, the former Archbishop of York, Lord Sentamu speaking on the second day of committee proceedings in the Elections Bill: *Official Report* (HL) vol 820, 15 March 2022, col 195. Also the Bishop of Durham speaking in the second reading debate on the Schools Bill: *Official Report* (HL) vol 822, 23 May 2022, col 677 and the Bishop of Leeds speaking during the second day of the report stage on the Police, Crime, Sentencing and Courts Bill: *Official Report* (HL) vol 817, 13 December 2021, cols 41–42.

¹³⁰ Concerning, for example, the right to demonstrate and peacefully protest: see the Bishop of Bristol’s intervention on the sixth day of the report stage of the Police, Crime, Sentencing and Courts Bill (HL) *Official Report*, vol 817, 17 January 2022, col 1401.

¹³¹ For example, the debate on an amendment to require a minister of the Crown to lay before Parliament a draft Bill to permit assisted dying on which the Bishop of Durham intervened during the fourth day of the report stage of the Health and Care Bill: *Official Report* (HL) vol 822, 16 March 2022, cols 341–342. The former Archbishop of York, Lord Sentamu, regarded the amendment as ‘constitutionally unsafe’: col 347.

¹³² See the Bishop of Durham’s opposition to an amendment to the Health and Care Bill to allow access to abortion services in extraordinary circumstances and need for necessary safeguards during report stage of the Health and Care Bill: *Official Report* (HL) vol 820, 16 March 2022, col 409.

¹³³ With increased risk of backlogs occurring and appeals. See the Bishop of Durham in the Nationality and Borders Bill: *Official Report* (HL) vol 820, 8 March 2022, col 1274.

¹³⁴ Raised by the Bishop of Durham in the Nationality and Borders Bill: *Official Report* (HL) vol 820, 8 March 2022, col 1302.

¹³⁵ The issue arose during the third day of the report stage of the Nationality and Borders Bill concerning the cost of fees to register for British citizenship. The Bishop of Durham supported an amendment to prevent the registration fee becoming disproportionately high to the administrative cost of registration in order to raise money for the immigration system: *Official Report* (HL) vol 819, 8 March 2022, col 1397. The amendment was defeated in a division held

Effectiveness of scrutiny?

During the 12-month period under review, several of the Lords Spiritual played a full and active part in scrutiny,¹³⁶ and a few of them (including the Bishop of St Albans and the Bishop of Durham) were notably active. To what effect?

Assessing the effectiveness of legislative scrutiny is not easy.¹³⁷ From a narrow and politically simple interpretation, effective scrutiny might be achieved by changing the wording of a bill; but testing whether a bill would have the intended policy effect could constitute effective scrutiny without changes being made to the text. Effectiveness of scrutiny is multi-faceted. Some of the dimensions of effectiveness are subtle and hidden, and by their very nature difficult to measure.¹³⁸

In evidence to the Lords Committee on the Constitution, Daniel Gover observed:¹³⁹

[S]crutiny is valuable for its own sake. It means that government rationales are on the public record, and that others are aware of what the Government are arguing and can feed into the process. It delivers accountability. So Parliament is effective, but measuring that is very difficult.

To judge from the evidence submitted to this committee there were more concerns about the nature and quality of scrutiny in the House of Commons than in the Lords.¹⁴⁰ Nevertheless, even among those who gave evidence from the Lords thought the process of scrutiny had room for improvement.¹⁴¹

shortly after 1 o'clock in the morning. The Bishop was one of only 25 Members voting for the amendment in a thinly attended debate in the early hours of the morning.

¹³⁶ For which they can claim a daily attendance allowance of £300.

¹³⁷ See generally the Report of the House of Lords Select Committee on the Constitution on *The Legislative Process: The Passage of Bills through Parliament* (2019), HL Paper 393, paras 12–17, 65–69 and 97–105. See further the written evidence to the committee of Meg Russell and Daniel Gover (LG0061): <<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/constitution-committee/legislative-process/written/82166.html>>, accessed 31 December 2023. For an interesting complementary perspective from a former First Parliamentary Counsel, see S Laws, 'What is the Parliamentary Scrutiny of Legislation for?' in A Horne and A Le Sueur, *Parliament: Legislation and Accountability* (London, 2016), 15–37.

¹³⁸ Russell and Gover (note 137), para 13.

¹³⁹ Daniel Gover in oral evidence given in June 2018 to the House of Lords Select Committee on the Constitution in *The Legislative Process: The Passage of Bills through Parliament* (2019) HL Paper 393. See: <<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/constitution-committee/legislative-process/oral/84797.html>>, accessed 31 December 2023, at Q151.

¹⁴⁰ The former Convenor of the Crossbenchers (and retired Deputy President of the Supreme Court), Lord Hope of Craighead observed in oral evidence given on 5 September 2018: 'Thank goodness we have a second chamber. I really feel if we were left with the House of Commons in the way it organises itself for the present we would be in serious trouble because so much is left untouched'. See: <<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/constitution-committee/legislative-process/oral/89370.html>>, accessed 31 December 2023, at Q183.

¹⁴¹ As one crossbench Peer put it to the author (in a personal communication): 'Frankly parliamentary scrutiny of legislation is a disaster area'. Even parliamentary scrutiny bearing on human rights legislation can be somewhat perfunctory during a period of moral panic. For

From studying the *Official Report* the results of the bishops' scrutiny activity reveal a relatively modest contribution to the work of the revising chamber. A familiar pattern can be discerned. During the second reading debate of a Bill to consider its general principles, a bishop may join others in indicating they will give more detailed attention during 'line by line' scrutiny in committee and possibly thereafter. During committee (which in the Lords is taken on the floor of the House¹⁴² and not limit-timed), a bishop may table his or her own amendment which is designed to probe the Government's intention or possibly to clarify policy. The bishop may lend his name in support of another's amendment to provide an opportunity for debate to elicit a suitable response. Either way the amendment is invariably 'not moved' or 'withdrawn'. However, that need not represent an unsuccessful outcome.

First, it could demonstrate the bishop reserving his or her fire power.¹⁴³ Secondly, the bishop may have been sufficiently reassured by the minister not to proceed¹⁴⁴ or been given a helpful interpretation of the text.¹⁴⁵ Thirdly, the bishop may decide to reflect on the debate and the potential for making headway with a related amendment which could be moved at a later stage. Alternatively, the minister may decide to reconsider the Government's policy. Providing a forum for second thoughts is a classic function of a revising chamber.¹⁴⁶

In these ways, scrutiny does take place, as several of the examples of the bishops' contributions cited above demonstrate.¹⁴⁷ Only occasionally will a bishop decide to test the opinion of the House and move an amendment to a

example, one crossbench peer in private correspondence with the author explained that (in their view) there was no proper second reading scrutiny of the Bill which became the Prevention of Terrorism Act 2005 in the House of Lords (since repealed). This followed the decision of the Appellate Committee of the House of Lords in the Belmarsh case (*A v Secretary of State for the Home Department* [2005] 2 AC 68), concerning the indefinite detention of foreign prisoners.

¹⁴² Or in the Grand Committee, although amendments cannot be debated there.

¹⁴³ It may be prudent to reserve an amendment to report especially on a matter which may be pressed to a vote. There is a convention in the Lords that an amendment which has been moved to a division in committee should not be the subject of a second attempt during the report stage.

¹⁴⁴ The Government may agree to meet with the bishop or consult (for example on a code of practice or statutory guidance). The minister may indicate that he is minded to 'consider' the substance of the amendment and perhaps to bring forward a government amendment on report which addresses the point, and invite the bishop to withdraw their amendment.

¹⁴⁵ Following the decision of the House of Lords Appellate Committee in *Pepper (Inspector of Taxes) v Hart* [1993] AC 593 concerning the admissibility of a record of parliamentary proceedings as an aid to statutory interpretation. Previously, reliance on *Hansard* would have been considered a breach of parliamentary privilege.

¹⁴⁶ Russell (note 8), 189–191. A Government Bill which has been introduced in the Commons may well have progressed through its stages with some clauses having been effectively unscrutinised owing to pressure of time, or last-minute changes of policy or focus on the political 'big picture' at the expense of getting the detail right knowing or believing that this will be addressed at a later stage by the House of Lords.

¹⁴⁷ The scrutiny may also come from the faithful (not necessarily Church of England faithful) among Members of the House, not just the bishops. Roman Catholics as well as other religious networks can be effective in the chamber through their adherents despite having no formal representation, as demonstrated during the debates in 2006 on assisted dying: Russell (note 8), 195.

division. As with Lords' amendments to Government Bills generally, this may well be reversed by the Commons at a later stage.

Legislative change in the Lords is achieved more often than not through negotiation rather than by defeat. While defeats can be high profile, negotiated outcomes are more common but rarely noticed outside the chamber and the Government may table its own amendments as a result. This supports academic commentators' views that the main impact of legislatures comes not through public confrontation but 'anticipated reactions'.¹⁴⁸

Views from the bishops' bench

A number of informal conversations of a semi-structured nature were undertaken¹⁴⁹ to inform my desk research. These took place on the understanding that particular comments would be anonymised. It must be stressed this represented a small sample of the Lords Spiritual, as appears in an Appendix to this article.

The conversations showed that the Lords Spiritual continue to see their role as speaking for people of faith in their dioceses. They do not speak for the Church of England.¹⁵⁰ They participate in debates, with a shared understanding that they do so as independent members in the Burkean sense. They contribute when they think they have something to say based on their local, personal or professional knowledge and experience.

Some see themselves having a 'representative' role,¹⁵¹ 'giving a voice to the voiceless' and the marginalised. They contribute where they think they can offer a moral or faith (not a denominational) perspective. They believe that members of other faiths are, in general, content for the bishops to speak on their behalf on 'common good' and ethical matters. They are not encountering resistance to this from other faiths or their leaders. They believe that among

¹⁴⁸ See the (mainly US) literature cited by Russell (note 8), 225 and for some examples drawn from actors in Westminster and Whitehall, see also Russell and Gover (note 10), 264–265 and generally chapter 3 'Government Drafting and Handling of Legislation'.

¹⁴⁹ With four serving Lords Spiritual (two of whom were women), one retired bishop (a woman) who had been a Lord Spiritual and two former Lords Spiritual who had been appointed peers following their retirement as bishops.

¹⁵⁰ Although they may speak about the Church of England's position on, say, assisted dying or issues of sexuality. By speaking from a faith rather than a denominational perspective, the bishops are being faithful to the late Queen's remarks which she delivered to the bishops on the occasion of her Diamond Jubilee in 2012: 'The concept of our established Church is occasionally misunderstood and, I believe, commonly under-appreciated. Its role is not to defend Anglicanism to the exclusion of other religions. Instead the Church has a duty to protect the free practice of all faiths in this country'. See: <<https://www.royal.uk/queens-speech-lambeth-palace-15-february-2012#:~:text=At%20the%20heart%20of%20our,the%20encouragement%20of%20world%20peace>>, accessed 31 December 2023. In his tribute in the House of Lords to the late Queen, the Archbishop of Canterbury drew on these words which he thought set out a vision for what an established Church should be: 'It was not a vision of comfort and privilege; it was to say, put very politely, "You are here as an umbrella for the whole people of this land". The subtext was, "If you are not that, you are nothing"', *Official Report* (HL) vol 824, 9 September 2022, cols 373–374. Perhaps that is why none of those interviewed spoke about their role as Lords Spiritual with reference to the Fourth Mark of Mission of the Church of England, which is 'to transform unjust structures of society ...'.

¹⁵¹ Perhaps serving as 'connectors' with people and parishes is a better term in this context.

sections of the public there is an expectation that bishops will speak up¹⁵² on faith matters in the legislature.

The bishops have become better organised and more co-ordinated than in the past. Since 2008 the Parliamentary Unit has added good public affairs practice to the bishops' contributions. The bishops are nevertheless reluctant to be seen as more 'professionalised'. They appear reticent about attracting attention in the Lords. They are less concerned about winning votes than in influencing debate. They observe a policy of restraint in a chamber which recognises the primacy of the Commons. They recognise the need for revision and scrutiny to which they are able and do make their own contribution, from a faith perspective.¹⁵³

The bishops see their dioceses having first priority for their attention. Their attendance in the House is sometimes sporadic and colleagues may have to step in at short notice. They have a great many claims on their time and are conscious that time spent at Westminster may be perceived as being at the expense of attending to the diocese, and that their parliamentary role may not always be sufficiently understood.

Fit for the future?

The case for continuing religious representation in Parliament is based on a constitutional tradition that the Christian religion is represented in the legislature¹⁵⁴ and secondly that with the greater plurality of religious life, representation should be broadened.¹⁵⁵ Against that it may be questioned whether there is sufficient clarity or correspondence of view about the nature of religious representation or indeed about whether religious representatives bring unique authority to the consideration of moral issues.¹⁵⁶

Whether there are sufficiently compelling reasons for continued religious representation in a reformed second chamber and, if so, on what terms, is a matter for the state, not the Church. It will be contested and it will turn on the exercise of political judgment.

Labour's proposals follow a long line of previous attempts to approach reform of the House of Lords.¹⁵⁷ These failed to gain support just as the Conservative-

¹⁵² cf. 'I'm there to speak out', the former Bishop of Truro in Oliva and Hall (note 8), 274.

¹⁵³ One particularly active bishop who had promoted his own Bill, commented frankly but realistically that although his measure had cleared its Lords' stages it was very unlikely to become law. If it had raised the level of awareness of the relevant issue, both inside Parliament and beyond, that could be counted a success.

¹⁵⁴ See, for example, M Warner, 'Episcopacy, Law and Government' (2024) 26 Ecc LJ 56, at 57.

¹⁵⁵ R Morris, *Church and State in 21st Century Britain: The Future of Church Establishment* (London, 2009), 213. It might be thought that in a religiously diverse society the fact that one church is established and thereby accorded status over and above other religions itself creates a presumption of bias even without taking account the tangible privileges such a position will confer: S Knights, *Freedom of Religion, Minorities and the Law* (Oxford, 2007), para 1.41.

¹⁵⁶ Morris comments that although the Church of Scotland was active in support of a new Parliament it did not argue for representation in a new assembly. Neither that nor the Welsh Assembly have any institutionalised representation: Morris (ibid), 215.

¹⁵⁷ See the Labour Government's White Paper *House of Lords Reform* Cmnd 3799 (1968) which proposed a reduction of 26 Lords Spiritual to 16 (with limited voting rights). Places for religious

Liberal Democrat Coalition attempt at reform did in 2012; but to maintain a tradition of giving a uniquely privileged position to one Christian denomination in the sovereign democratic legislature, which is restricted to England, and is increasingly unrepresentative of people of other faiths (and increasingly of no faith), appears to be at risk of violating the principle of religious freedom and the belief that all religious faiths and traditions should be equal before the law.¹⁵⁸

The future of the Lords Spiritual depends on the future of the House of Lords. In a bicameral legislature, the constitutional functions of the second chamber should be determined by what best serves Parliament and the nation. That could be by continuing to exercise scrutiny and revising powers, by holding the executive to account within agreed constitutional conventions and by acting as a forum for debate on key issues of the day.

With recent proposals for constitutional change involving potentially radical reform of the House of Lords and significant changes in religious affiliation and practice,¹⁵⁹ the Church of England faces a strategic opportunity.

leaders of other faiths did not feature. The Report of the Archbishops' Commission, *Church and State* (1970, chaired by Owen Chadwick, said there should be 'leaders of the Churches within a reformed House of Lords, not restricted to the Church of England' (para 155), a policy which the Church of England subsequently followed in its evidence to the Royal Commission on Reform of the House of Lords chaired by Lord Wakeham. The Commission's report, *A House for the Future* (2000) Cmnd 4534 concluded, by a majority, that the presence of the Lords Spiritual was a sign that governments were in the end accountable not only to those who elect them but also to a 'higher authority'. The Commission concluded that the Church of England should continue to be explicitly represented in the second chamber. It further recommended that the concept of religious representation should be broadened, to embrace other Christian denominations, in all parts of the United Kingdom, as well as other faith communities: para 15.9. The majority considered that the Church of England bishops were no longer representative of the broad spectrum of religious opinion in the United Kingdom, a position which, it might be thought, has been reinforced by the latest census findings 22 years later. Wakeham was followed by the Labour Government's *The House of Lords: Completing the Reform* (2001) Cmnd 5291; by the Joint Committee on House of Lords Reform First Report (2002–2003 HL 17; HC 171) and Second Report (2002–2003) HL 97; HC 668); then by the Government's *The House of Lords: Reform* (2007) Cm. 7027 which in turn was followed by the report of the House of Commons Public Administration select Committee, *The Second Chamber: Completing the Reform* (HC 494-I) and the Labour Government's *The Governance of Britain: Constitutional Renewal* (2008) Cmnd 7342-I. Lords reform has been described aptly by Lord Hennessy as the 'Bermuda triangle of British politics': Political and Constitutional Reform Committee, *Minutes of Evidence* (2013) HC 251, Evidence Session on 13 June 2013.

¹⁵⁸ See K Korland, 'The Religious Clauses and the Burger Court' (1984) 34 *Catholic UK Review* 1, 3 cited in Harlow et al (note 11), 490. It has been argued that the current arrangements enjoyed by the Church of England in the House of Lords run counter to Article 14 of the European Convention on Human Rights which restricts discrimination in the enjoyment of Convention rights, including religious freedom. See, for example, P Cumper, 'The Protection of Religious Rights Under Section 13 of the Human Rights Act 1998' (2000) *Public Law* 254. On the other hand, Harlow et al (note 11), at 496, point to the case of *Darby v Sweden* (1991) *Publications of the European Court of Human Rights*, vol 187, Opinion of the Commission, 17, para 45, where the European Commission of Human Rights concluded that the existence of a state church '... cannot in itself be considered to violate Article 9 of the Convention' so long as there are also '... specific safeguards for the individual's freedom of religion'.

¹⁵⁹ One of the striking findings of the 2021 Census is that the proportion of the population reporting 'no religion' has increased to 37.2% (22.2 million people) which dwarfs the growth in

Our constitutional settlement, which is founded on the historic and symbolic link between Church and state, assumes that faith *does* have a role to play in our polity. There should continue to be a role for the established Church in Parliament.¹⁶⁰ In public discourse it is important to have voices, including voices of communities of faith that are neither determined by party politics nor endorsing a majoritarian view of democracy, which can contribute to the flourishing of civil society.

A broadening of religious representation in a reformed House of Lords, if necessary accompanied by a reduction in the number of Lords Spiritual to facilitate this, might be beneficial.¹⁶¹ It might provide a suitable opportunity for the established Church to consider whether the current arrangements for representation in the legislature¹⁶² are fit for the future so that the religious dimension of our constitution can contribute even more effectively to the enhancement of the rule of law, parliamentary supremacy and fundamental freedoms, and thereby provide a gateway to greater inclusion, diversity and social cohesion in our society.

British Islam and smaller increases among Muslims, Sikhs, Hindus and other religions. The decline in religious affiliation to Christianity will likely continue confirming earlier findings as each generation is less likely than its predecessor to be born into religious families, the lack of religiosity tending to remain with an individual as they get older. See also L Woodhead who contends that values are the new religion, a development characterised amongst other things by a reversal of moral polarities, the Christian ethic 'give your life' shifting to 'live your life': *Values are the New Religion* (May 2021, Edward Cadbury Lectures), available at: <<https://www.birmingham.ac.uk/schools/ptr/departments/theologyandreligion/events/cadburylectures/2021/index.aspx>>, accessed 4 January 2024.

¹⁶⁰ Which is not to say that if the Lords Spiritual no longer had a place in Parliament the established status of the Church of England would come to an end. Rather its character would be significantly changed and weakened.

¹⁶¹ The Church of England does seem to be disposed to such a change. A number of the practical implications of such change for the Church were considered by the parliamentary Joint Committee on the *Draft House of Lords Reform Bill 2011–2012 – First Report* at paras 271–294. In relation to broadening representation the Joint Committee considered that the problems which some faiths have with no priestly hierarchy would not be insuperable. All the major religious communities (Buddhist, Hindu, Jewish, Muslim and Sikh) have well developed representative bodies. The Committee proposed transitional arrangements for a reduction in the number of Ordinary Lords Spiritual to sit alongside Named Lords Spiritual, the former to be determined by the Church of England in whatever way would be appropriate. They would continue to sit as Lords of Parliament and be entitled to receive allowances set by the Independent Parliamentary Standards Authority.

¹⁶² The General Synod of the Church of England might be invited to give fresh consideration to whether bishops who sit in the Lords should do so for all or part of their term of episcopal office and, if the latter, whether there should be a minimum term of office. Should 'Parliamentary Sees' be identified in advance of appointments being made by the Crown Nominations Commission (whether or not the successful candidate necessarily went straight to the House of Lords)? If the numbers of Lords Spiritual were reduced what actions would need to be taken to cover gaps in the Church's representation? How might the bishops and dioceses best be resourced given that each Lord Spiritual, although not a full-time parliamentarian, would be expected to attend more frequently than is currently the case with an episcopal bench of 26? What would need to be done to ensure the system was sufficiently flexible to ensure particular portfolio holders (such as the lead bishops for education and prisons) are included in the reduced number? These and other points were made in a paper on House of Lords reform for Synod by the late Sir William Fittall in 2012 (GS1856B).

APPENDIX

Views from the Bishops' Bench—a selection

Question 1: What do the Bishops see as their role as Lords Spiritual?

Bishop A

'To nudge things along.'

'We need more focus when and where there needs to be change for the common good.'

'We are the most democratic part of the House of Lords.'

Bishop B

'We are not whipped. I tend to contribute in debate or questions rather than to vote. We can talk locally into a situation. Our contributions reflect different perspectives based on location, position and confessional beliefs. We act as guardians of faith interests.'

'The presence of bishops in the House of Lords demonstrates a very important working of our constitution. You should look at our writ of summons from the Crown Office to Parliament "in the great troubles of these times", which actually refers to all time. We are here to support the vision of our constitution, to support the wider structure of which we are a part.'

Bishop C

'It is not our role to represent the Church of England in the House of Lords or our view of Christianity, but of faith and what it is to be part of humanity. The bishops can speak of the whole life of this country in a way that no other member of the House or group of peers can. They can bring into the arena of legislation a perspective of the most vulnerable in society.'

'The Lords Spiritual are independent. Of course the Archbishops might indicate to you what they are minded to say on an issue or when they are thinking of intervening. It is important for the bishops to exercise some restraint in debate. Not too many bishops should be seen to be "piling in". One can exercise influence outside the voting lobbies.'

'Saying prayers at the start of proceedings is very important. After the House resumed sitting in person following the easing of the Covid restrictions a peer came up to me and said that the prayers had been the first act of public worship that he had attended in two years.'

Bishop D

'We try to speak truth to power. We do try.'

'I hold to the biblical view that government is a tragedy. But it is necessary because the state will be destroyed by philistines. It is right that Christianity stands alongside society which makes laws for itself. It is difficult, if not too obviously indulgent, to say that society does not want it anymore.'

'Speaking in a debate [in the House of Lords] can have a symbolic function, contributing to the mysteries that decorate our constitution.'

Bishop E

‘To draw on the riches of the Christian faith and apply them to current issues before the House of Lords. Secondly, to bring to the attention of the House the wider concerns of the area within which my diocese was situated.’

Bishop F

‘I do think it is significant that there are Bishops in the House of Lords. We do not have a constituency. We have contact with “real people”; our dioceses cover a wider geographical area than parliamentary constituencies.’

‘As a Lord Spiritual I see my function like that of a Lord Temporal, as being around scrutiny. I also contribute what I understand to be the teaching of Jesus Christ and the message of the Gospel. As a Lord Spiritual I also have a pastoral function, in relation to Peers as well as to the staff of the House. It is a privilege to be here.’

‘We don’t enter into the politics of legislation and policy and we don’t want our presence to overpower the benches. So we try not to have too many bishops sitting on the episcopal benches at any one time. We tried not to have too many bishops giving tributes about the late Queen when so many others wanted to speak about her.’

‘We speak from “within a faith framework”. We do talk with other faith group leaders.’

‘We speak with the Lords Temporal about amendments. They often help us with the drafting of amendments. We have access to the resources of the House including the Peers’ Library.’

‘There is no “Church of England line” on any issue to which the Bishops even feel obliged to speak. What we can, and do, say is that the Church of England has said this or stated that; or it has published a report with these recommendations or came to these conclusions.’

Bishop G

‘We bring faith into the public square; we are careful to speak about faith as a whole, not just the position of the Established Church.’

‘I think parliamentary scrutiny is terribly important. To begin with, following my arrival in 2015, we spent so much time on Brexit and related legislation. Now there is more legislative material for us to scrutinise.’

Question 2: What do the public expect of Bishops in the Lords?

Bishop A

‘To articulate to government what they are hearing at grass roots level in their parishes. The trouble with the government is that they don’t know what’s going on. As a bishop I felt it was important to contribute my own experience of what I was hearing – to give a voice to the voiceless.’

Bishop B

‘We act as guardians of faith interests.’

Bishop C

‘Other faiths looked to me to represent them. They saw the Church of England bishop as “their bishop”. The Roman Catholics did not see it quite like that but the Sikhs and Hindus did.’

Bishop D

‘The presence of the bishops [in the House of Lords] affects perceptions of the state. Government is answerable to a higher authority.’

Bishop E

‘It’s nonsense to speak of the bishops providing the moral conscience of the House of Lords. But people here in the Lords and outside do look to the bishops to provide that conscience. Yet all of us should do that.’

‘The Church of England bishops do act as a religious voice for England. The late Queen’s Platinum Jubilee address to the House of Bishops at Lambeth Palace in 2012 spoke eloquently about the role of the Church of England to allow space for other religious faiths to be heard.’

Bishop G

‘I see myself speaking for people of faith, lots of different faiths, and people of no faith. The Humanists are taking an interest in marriage law reform. This is where people of faith and no faith have different point of view and expect the bishops to have something to say.’

‘People want to hear from a bishop. People of other faiths look to the bishops to speak on their behalf. They are happy for them to do so in my experience.’

Question 3: What criteria do you use when evaluating legislative change?

Bishop A

‘We focus on moral questions, we want to ask moral questions, questions about integrity, faith and communities. The public narrative is dominated by *homo economicus*.’

Bishop B

‘When I speak in debate I often draw on the historical background, to give a historical perspective on current issues.’

‘We comment on standards in public life, on the Nolan principles.’

‘On matters of general debate the criterion I used was “Is there something I can personally contribute to this debate?”’

Bishop C

‘It is important not to over-use one’s standing as a bishop in the Lords. We exercise restraint. So generally you would only get one bishop speaking to an issue or question.’

‘With line by line scrutiny of legislation, I would focus on trying to improve the quality of drafting, the intelligibility of legislation. I think this is one of the most important roles.’

Bishop E

‘The application of Christian faith to matters of public policy. I bring a theological understanding, an ethical perspective and consider the rationale for the policy issue. I bring my judgment to bear.’

Bishop F

‘I try to take a broad view to include, where appropriate, issues around health (including mental health), health inequality, domestic abuse, women’s issues, migrants, the living wage, bereavement.’

‘Sometimes we become subject matter experts for example in relation to fire safety following the Grenfell Tower tragedy and the introduction of building safety legislation.’

‘At times there are great moments sitting in the House of Lords when the Bishops can “reach across issues” for example in my case to speak about health issues and to draw on my experience of life in London.’

‘As Bishops we can speak about values, which is not to say that others who sit in the Lords cannot or do not speak about values.’

Bishop G

‘I bring a woman’s perspective to bear, such as on domestic violence and girls’ education.’

Question 4: What impact have the women bishops made in the House of Lords?

Bishop A

‘It must have been very tough for the first woman Lord Spiritual. I had been a diocesan bishop for 12 years before I was introduced here but she became a diocesan bishop straight after being an archdeacon and five weeks later was sitting in the House of Lords.’

‘There have been some mutterings from the Lords Temporal: where are the women bishops? We don’t make a habit of sitting in any great number on the same occasion, usually just a couple of bishops or so.’

‘The women bishops have brought huge richness to the proceedings of the House. They have a different way of talking about things and sharing ideas. They encourage people. Men are different, they don’t comment on each other’s contributions.’

Bishop D

‘Identity and individuality are very different from equality. The women bishops have been no different to the men. They are making as good as any episcopal voices in the Lords in the post-War period. They are very effective.’

Question 5: Is there a theological take to be given by the bishops?

Bishop A

‘I think what we are often trying to do is to identify common ground issues and concerns, and to draw on Catholic social teaching.’

‘I also think that apart from a theological perspective, it is useful to give a historical perspective, to see what we have been through before, how we responded earlier.’

Bishop F

‘I contribute what I understand to be the teaching of Jesus Christ and the message of the Gospel.’

Bishop G

‘I ask myself where does faith engage with this particular policy issue?’

Question 6: What is the future of the bishops in the House of Lords?

Bishop A

‘I think it is going to be more difficult to resist calls for change in the current arrangements in the future.’

‘On the future, we have to be careful. We have to play a careful hand. We cannot be or be seen to be a political party. We are not professional politicians. We do not say, and we should not say, that we are trying to professionalise ourselves.’

‘Our future has to be seen in the context of proposals, over the years, for the reform of the House of Lords, of its future generally. There is a certain amount of unfinished business.’

‘We do have a contribution to make. The House of Lords is a revising chamber. Much of the legislation we have to consider is rushed through the Commons and has not been thought through sufficiently. We are not subject to the same time pressures. Our timetable is not set by the Government’s business managers so we can examine legislation and policy with greater care and attention.’

Bishop B

‘When one looks back on the Supreme Court’s consideration of the Government’s attempt unlawfully to advise the Monarch to prorogue Parliament in the context of Brexit one wonders how long the constitutional stability will hold. But recent events following the death of the Queen have demonstrated the stability of the Monarchy.’

Bishop C

‘Perhaps no change is an option to be considered. Some reduction in the number of bishops might be sought. If there are fewer bishops there they will have to spend more time at Westminster. Sees which are some distance from the House, like

Carlisle, Newcastle or Truro, could be significantly disadvantaged. What about episcopal representation in regional assemblies? But what would they do? Become talking shops?

Bishop D

‘Removal of the bishops from the Lords would damage the functionally atheist state if the mask was ripped off. The presence of the bishops affects perceptions of the state. Government is answerable to a higher authority.’

‘Margaret Thatcher didn’t like the Archbishop of Canterbury’s sermon at the Service of Thanksgiving after the recapture of the Falklands any more than she didn’t like the *Faith in the City* report. The bishops then were visible and un-ignorable. The trouble is if the bishops were taken away from the Lords they would be ignored. They would suffer the same fate as the Methodists.’

‘It depends on the future of the House of Lords. The situation at the moment is unsustainable. There are so many peers, too many. Conservative governments have not helped by putting up so many ex-MPs. I am personally in favour of the recent proposals put forward by the group chaired by Gordon Brown [*A New Britain*]. The reduction or removal of the bishops in the House of Lords would not have an impact on the establishment of the Church of England and it is a mistake to think otherwise. Consider the position in Scotland.’

Bishop E

‘I am in favour of a reduction in the number of Church of England Bishops and broadening of the base of faith representation in principle but I think it will be very difficult to achieve in practice. How would Muslims or Hindus, for example, be able to decide who should represent them in the absence of a hierarchical structure?’

Bishop F

‘I can see that the position about the bishops sitting in the House of Lords will change but it will take time. There is the potential for reform but I don’t see it as a big issue at this time.’

Bishop G

‘The House of Lords does need reforming. I would be happy to see other faiths represented here. Will it happen in the next 10 years? I don’t think so. In the next 20 years? Possibly. The issue is deeply embedded in our constitutional fabric. I don’t see it as a big issue at the moment.’

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