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COMMENT

The Practice and Politics of Establishment

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INTRODUCTION

The following words were spoken in the House of Commons 23 years ago:

> Many people in this country think that it is wrong to have an established Church and that it would be helpful if England followed the example of Scotland and Wales and disestablished its Church, recognising that we are a multicultural, multi-faith society and that no religion or Church should be given pre-eminence over others. Would it not be prudent for the Church Commissioners to do their sums now so that when that democratic day dawns, it will not be such a shock for them?[1]

Well, what can one say about that other than, 'O, Jeremy Corbyn!'? For it was indeed the then maverick Labour backbencher who made those remarks during Church Commissioners' questions in the House of Commons.

Four things stand out from what Mr Corbyn said. First, he rooted the case for disestablishment in arguments of principle: establishment is wrong in a multi-faith, multicultural society; it involves discrimination; it is undemocratic. Second, he saw disestablishment as a way of relieving the Church of England of part of its assets, just as the two other churches whose links with the State had already been severed had seen a big part of their endowments expropriated.

† This is the lightly edited text of a lecture given at the Ecclesiastical Law Society's conference held in Cumberland Lodge, Windsor in 2019 on the theme, 'Church and State in the Twenty-first Century: Re-imagining establishment for the Post-Elizabethan Age'. Sir William died before the publication of this manuscript after a short illness in March 2022, and this piece is dedicated to his memory.

1 HC Deb 25 January 1999, vol 324, col 17.

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Third, his remarks are striking for taking a line that had been little heard in Parliament for a very long time. Within the Church of England, too, disestablishment had at one time articulate, if minority, advocates. In 1929, just after the Prayer Book crisis, the then Bishop of Durham and former Canon of Westminster, Hensley Henson, had written that 'the Establishment as it now exists is morally discredited beyond recovery. It cannot permanently continue.'[2] Well, few things last permanently, but 90 years on it is still with us, albeit a good deal modified and with the prospect of enduring a while longer yet. And, finally, there is the splendid confusion between Scotland and Ireland, which could have several explanations but probably betrays the fact that Mr Corbyn's intervention was not the most carefully researched and did not reflect much interest or understanding in the history or reality of establishment.

This comment does not seek to explore the arguments for and against establishment. It attempts the more limited task of reflecting on how it seems to me to have operated and evolved in recent times, which I will take as the period since Jeremy Corbyn uttered those words early in the life of the Blair government. The meat of this piece comes in four parts. First, it describes the nature of the engagement between the Church of England and Whitehall – both ministers and officials – with particular reference to the development of parliamentary legislation. Second, it considers relations with Parliament and the Ecclesiastical Committee over the Church's own legislation. It continues with some reflections on the Crown and the House of Lords and then, before glimpsing into the future, considers Church appointments. Two health warnings: I retired at the end of November 2015 and have not been privy to the inside story since then, so some of what I write may be out of date. Second, while what I am going to say includes a good number of facts and a modicum of fresh research, such opinions as I offer are entirely my own.

THE CHURCH AND WHITEHALL

It is perhaps worth starting with the obvious but important reflection that much of the Church of England's engagement with ministers and officials over public policy and legislation has nothing directly to do with the fact that it is by law established. Day-to-day dealings with the Department of Education over schools policy derive from the fact that, like the Roman Catholics, we are significant players in the provision of education. Our engagement with the Department for Culture, Media and Sport over support for heritage buildings arises because we are responsible for around 45 per cent of the Grade I listed

2 H Henson, 'Disestablishment by consent', (1929) 105 *Nineteenth Century and After* 44–58 at 58.

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buildings of England. Our lobbying of the Treasury over how the gift aid scheme works reflects the fact that, despite the size of the charitable sector, we are the single biggest beneficiary of gift aid refunds in the country, probably around 5 per cent of the total. In other words, when ministers and officials take us seriously it is not primarily because we are the established church but because we are engaged in major areas of social, cultural, educational and other activity that are important to them.

In general – and after 27 years in Whitehall I apologise for being disloyal to my tribe – civil servants are warier about religious organisations than ministers. The cool, sceptical and often secular bureaucrat is inclined to see religious groups as a somewhat baffling complication in an otherwise rational world now governed by principles of non-discrimination. The fact that the faith sector is so fragmented, and that even the Church of England is so dispersed and decentralised, can also make it hard for Whitehall to see how the Church can be part of delivering its objectives even if it would like us to be. And we tend in any event to be wary of simply being conscripted to the agenda of any government.

Ministers, by contrast, generally have a feel from their constituencies of just how much community work – be it the foodbank, drop-in centres, winter shelters, lunch clubs for the elderly or debt advice services – is run by churches and other faith groups. So, while nurturing good relations with key officials matters, being able to get in to see ministers, including the most senior members of the Government, is crucial. The ease of doing so varies over time, even in areas like education where the need for close engagement is obvious and the potential synergy between Her Majesty's Government's objectives and ours is often considerable. I would say that during my 13 years in post the frequency of meetings between the three successive chief education officers and four bishops who chaired the National Society and either the Secretary of State or the Schools Minister came and went quite markedly. To some extent it depended on whether government policy development was in a particularly active phase. But it was also heavily influenced by the attitude of individual ministers and, unsurprisingly, by the weight and qualities of the lead bishop and chief education officer of the day.

The fact of establishment does not make a huge day-to-day difference to the way the influencing task is tackled, though the existence of the Second Estates Commissioner and the Prime Minister's Appointments Secretary does help. Although the former's main focus is parliamentary, and the latter's on Church appointments, both can be invaluable conduits into Whitehall on a whole range of issues. Ideally the Second Estates Commissioner is a good networker and is genuinely committed to promoting the Church's welfare. The fact that there are bishops in the House of Lords who can ask questions, take part in debates and move amendments to legislation can also at times be very

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significant, though it is extremely rare for the bishops' votes to make the difference. Given the way that government policy is made, the best way of achieving a particular result, if it can be done, is to persuade officials – and, as necessary, ministers – in private, rather than having to orchestrate opposition in public. Just occasionally, though, the latter is the only option.

A small example occurred just after my arrival in Church House in the autumn of 2002, when a government licensing bill was published. Tucked away in a schedule was a provision repealing the exemption of places of worship from the need for an entertainment licence when putting on concerts or plays. This would have created untold hassle and aggravation, which may be why there had been no mention of the idea in the earlier green paper. Worse still, the bill was introduced in the Lords so we had just a few weeks to get the Government to backtrack, given that, once the Bill was in the Commons, the Government's then three-figure majority meant that it would be unassailable. In the event we did not need to take our chances in the division lobbies because the letter-writing campaign that we got churches to engage in with their constituency MPs was, within a couple of weeks, so prolific that the postbag of the relevant minister became intolerable and he hoisted the white flag without a fight.

But it is often not so simple. Sometimes it is clear that the Government will not be deflected from a particular course and that the key objective is to mitigate the potential damage rather than secure a U-turn. Two very different examples would be the legislation to reform charity regulation in 2006 and the Marriage (Same Sex Couples) Act 2013.

The former was largely driven by the Blair government's wish to be seen to be putting pressure on fee-paying schools while leaving the dirty work to the Charity Commission. The old presumption of charitable benefit for particular categories of activity such as delivering education or promoting religion was to be abolished, all charities were to start producing statements of public benefit, and many exemptions and exceptions from the need to register with the Commission were to go. The amount of additional bureaucracy involved for our 12,000 parishes was potentially enormous, but it was clear that the legislation was unstoppable. So we concentrated successfully on getting Her Majesty's Government to set a much higher financial threshold for registration by parochial church councils (PCCs) and equivalent bodies in other churches than was originally proposed, so that only about 15 per cent of PCCs had to register.

Same-sex marriage was different, not least because of the Church of England's distinct legal status. Our line was always going to be one of opposition, despite some internal dissenting voices, but equally it was obvious that the Prime Minister, David Cameron, had gone so far out in front that there was no turning back and that he would win in the Commons and the Lords.

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So the challenge was to ensure that the Church of England could continue to apply its own doctrine of marriage until and unless it decided through its own processes to change it. At one level this was very simple because ministers were keen to safeguard the freedom of action of all churches and faiths. But at another it was very difficult because until that point Church and State had shared a single underlying concept of marriage.

Officials were initially baffled when we said that, if ministers wished to leave canon law untouched, there was no option but to provide an explicit reference on the face of the Bill to the Submission of the Clergy Act 1533. This ancient statute had not been at the forefront of minds in the Equality Office and I think the first reaction was that we were pulling officials' legs. But they agreed to go away and ponder. The result was subsection 3 of section 1 of the Act, which reads:

> No Canon of the Church of England is contrary to section 3 of the Submission of the Clergy Act 1533 (which provides that no Canons shall be contrary to the Royal Prerogative or the customs, laws or statutes of this realm) by virtue of its making provision about marriage being the union of one man with one woman.

That difficult saga was a case where the fact that ecclesiastical law is part of the public law of the land meant that we were not agitating simply as another interest group among many but because we were in a unique position. While in substance we were seeking the same freedom as other churches to reach our own decision on these contested matters, the means of securing that freedom had to be different.

There is one coda to the story which illustrates another rarely noticed, but to lawyers striking, aspect of establishment. This is that, with the consent of the Church, the Government can and does make consequential amendments to Church legislation in parliamentary bills and regulations. Similarly, General Synod, with the consent of the Government, can amend Westminster legislation in Church measures to the extent that it affects the Church of England. Her Majesty's Government had left a lot of legislative changes consequential to the same-sex marriage legislation to be dealt with by regulations. This included amendments to pensions law. When we realised that these would have to include various amendments to church pensions legislation, we got the Government to make the necessary changes for us in one of their statutory instruments – number 3061 of 2014 to be precise – rather than having to bring amending legislation on church pensions in connection with same-sex marriage to the floor of Synod. The role of the secretary general is sometimes to be a spoilsport!

A more notable and less discreet operation was, with the agreement of the House of Bishops, to persuade the Government to introduce legislation which

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provided that, for ten years, female diocesan bishops would jump the queue over their male colleagues in order to improve the gender balance among the Lords Spiritual. We loosely based this on the Northern Ireland precedent which had provided for 50:50 Protestant–Catholic recruitment for the early years of the new Police Service of Northern Ireland. The common theme was a period of positive discrimination to remedy an historic imbalance.

Because it concerned the issuing of parliamentary writs, the legislation was beyond the scope of the Enabling Act and could not therefore be considered by the Synod. So we had to persuade David Cameron and Nick Clegg to make it a government bill – one which, unusually, went through all Commons stages in a day.

CHURCH BUSINESS: PARLIAMENT AND THE ECCLESIASTICAL COMMITTEE

It is worth noting that, in general we do not have to talk to Whitehall much over proposed Church legislation, though there are exceptions, most notably where a draft Synod measure is going to amend or repeal part of an Act of Parliament or affect the interests of the Crown. The Marriage Measure 2008 and the Women Bishops' Measure of 2014 were two examples of the former, given that they involved modifications to the Marriage Act 1949 and the Equality Act 2010. The two Crown appointment measures of 2010 were examples of the latter.

As the quotation with which I started illustrated, Church Commissioner oral questions provide the opportunity for a regular probing of Church of England affairs on the floor of the House of Commons. Every four weeks the Second Church Estates Commissioner answers questions for a quarter of an hour on anything to do with the Church of England. The day has long passed when questions were confined to Church Commissioner affairs. The Speaker of the House of Commons broke new ground in November 2012 in allowing the first ever emergency question to a Second Church Estates Commissioner, following the failure of the first Women Bishops' Measure to secure final approval in the Synod. A couple of weeks later Sir Tony Baldry also had to respond to an emergency debate on the same subject. Most contributions were variations on the theme that David Cameron had deployed at Prime Minister's Questions the day after the Synod vote: 'The Church needs to get on with it, as it were, and get with the programme, but we must respect individual institutions and how they work, while giving them a sharp prod.' It was a very uncomfortable few weeks and we were extremely fortunate that Parliamentarians in both Houses wanted to give the new Archbishop of Canterbury, whose appointment had just been announced, a bit of space to get things back on track. He handled very effectively an informal meeting of Parliamentarians just before the Christmas recess and managed to buy some time while he moved into post.

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Happily, those were exceptional days. The normal focus for parliamentary engagement with Church legislation is the Ecclesiastical Committee, which consists of 30 members, half of them from each House. They can be of any denomination and faith, or none, though in practice there tend to be a good number of Anglicans with a real interest in the Church. In the 20 years following Mr Corbyn's remarks, 40 measures passed by Synod were scrutinised by the Ecclesiastical Committee, were found expedient and went on to secure Royal Assent following approval in both Houses. In the Lords, approval always follows a debate. The Commons has for more than 15 years now generally handled measures in the Delegated Legislation Committee, though the women bishops' legislation was taken on the floor of the House.

The salient fact is that, over the past 20 years, no measure has been declared inexpedient by the Ecclesiastical Committee or, having been found expedient, been rejected in one or other House. That said, the Churchwardens Measure, which secured Royal Assent in 2001, would probably have been rejected in 1999 had the Synod's Legislative Committee not decided to withdraw it so that the Synod could remove a proposed new suspension power for bishops in relation to churchwardens.

Why this run of success when, in 1993, the women priests' legislation had only got through the committee by 16 votes to 11 and when, between 1975 and 1989, three measures had been defeated in the Commons? Two of those earlier measures had dealt with unusually sensitive topics: one to make it possible for incumbents to be removed in the case of pastoral breakdown and the other to permit divorcees to be ordained at the discretion of the archbishops. And they were in fact both subsequently approved after Synod had modified them. The only one to be terminally dispatched – and it mattered the least – was the Appointment of Bishops Measure in 1984, which had sought to sweep away the ancient ceremonies of capitular election and confirmation of election. Its fate was probably sealed by tendentious reports that the new Bishop of Durham was also suggesting sweeping away certain ancient tenets of the faith. In politics, timing can be everything.

The recent run of success is not, therefore, such a change from what went before, though it is true that there has been a decline in the number of traditionalists on the committee and, as a result, less of a tendency on the part of those who have lost the votes in Synod to have a second bite of the cherry through briefing their allies on the committee. It also does not mean that scrutiny has diminished. With the Clergy Discipline Measure (scrutinised in 2002) and the Terms of Service Measure (scrutinised in 2009), which modified clergy freehold, the Ecclesiastical Committee conducted what can fairly be described as searching interrogations before eventually being persuaded. The same was true of the Legislative Reform Measure, which was conceived in my time and brought to birth after I left. Since it was breaking new constitutional ground

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by giving Synod power to amend some primary legislation without Ecclesiastical Committee scrutiny, that was only to be expected.

The Bishop of Rochester's opening words at the beginning of a debate on four measures in March 2018 are worth noting: 'My Lords, the exodus from your Lordships' House somewhat indicates that ecclesiastical legislation may not be a majority interest.' We have clearly come some way since the Leader of the Commons, Selwyn Lloyd, anxiously went to Lambeth in 1964 to urge Michael Ramsey to delay submitting the Vestures of Ministers Measure to Parliament. The effect of that Measure was to enable the Church to make new, more permissive canons on vesture, in the process overturning a Privy Council judgment of 1877 which had held the chasuble and alb to be unlawful.[3] The much reduced, but still noisy, Protestant Truth Society was agitating, and the Government did not want trouble just before what was likely to be a closely fought general election that autumn.

The archbishop refused, and the Measure was easily carried by 205 votes to 23 in the Commons, with the Prime Minister, Alec Douglas-Hume, as well as his predecessor, Harold Macmillan, and his successor as party leader, Ted Heath, voting aye. In his otherwise admirable biography Charles Moore fails to note that there was another future leader of the Conservative Party numbered among the 23 who opposed this Romanising reform, the then little-known female MP with roots in Methodism, the member for Finchley, Margaret Thatcher.

THE CROWN AND THE HOUSE OF LORDS

The year 1999 marked the end of the most difficult decade for the monarchy in modern times, when predictions about the future seemed particularly hazardous. It was also the decade when the Prince of Wales had said: 'I personally would rather see [my future role] as Defender of Faith, not *the* Faith.' Since then the institution of the monarchy has returned to calmer waters. The admiration in which the Queen is held has further deepened with the years. The controversy that preceded the second marriage of the Prince of Wales has somewhat faded. And the grandchildren's generation has succeeded in capturing the public imagination in a way that could not have been predicted in 1999. In 2015, Prince Charles also rephrased his earlier remarks by saying, 'while at the same time being Defender of the Faith you can also be protector of faiths'.[4]

This is not so different from what Her Majesty, who has continued to exercise her duties as Supreme Governor with great diligence, said at Lambeth in February 2012 in the first event to mark the Golden Jubilee:

3 *Risdale v Clifton and others* (1877) 2 PD 276.
4 'Charles vows to keep "Defender of the Faith" title as king', *National Secular Society*, 9 February 2015, <https://www.secularism.org.uk/news/2015/02/charles-vows-to-keep-defender-of-the-faith-title-as-king>, accessed 29 May 2022.

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> 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.[5]

With the agreement of the other countries of whom the Queen is head of State, our Government took legislation through Parliament in 2013 which abolished not only male primogeniture but also the restrictions on marriage to Roman Catholics, thus removing a notable awkwardness for us in ecumenical relations, while leaving in place the requirement that the monarch should join in communion with the Church of England.

None of us can really know just how different things will seem when we finally move beyond the end of a reign that has lasted for most if not all of our lifetimes. A certain amount will turn on the attitude of the government of the day. But the odds look shorter than 20 years ago that we shall have a relatively seamless transition, with huge but dignified national mourning followed by fascination with the processes that accompany the start of a new reign, culminating in a spectacular coronation in Westminster Abbey, which may well happen some months closer to accession than last time, when there was a gap of 16 months. It will surely have lost the old feudal elements and be a bit shorter, to meet the requirements of a world event in the television age but, for all that, it is likely to preserve the key elements of the historic rite. Indeed, it would be quite surprising if someone who had by then been Prince of Wales for more than half a century would want anything less.

As to the House of Lords, few would have predicted in the autumn of 1831–following the defeat of the first Reform Bill as a result of the votes of the Lords Spiritual–that the bishops would still be members nearly two centuries later. The cry then was for their exclusion and for disestablishment. Similarly, after the Parliament Act got onto the statute book in August 1911, die-hard Tories wanted the bishops excluded from any reformed House, given that, according to George Wyndham, it was the votes of 'the bishops and the rats' that had delivered the curbing of the Lords' powers.[6]

When the first majority Labour government, which came to power in 1945, proposed reform of the Lords, this could again have seen the end of the Lords Spiritual. But the Cabinet notebooks for 6 January 1948 record Clement Attlee explaining that, even though the package was designed to 'get more of our chaps into it', it would leave the bishops in place because 'many are now

5 'Queen says the Church of England is misunderstood', *The Guardian*, 15 February 2012, <https://www.theguardian.com/uk/2012/feb/15/queen-says-church-misunderstood>, accessed 29 May 2022.
6 Quoted in Roy Jenkins, *Mr Balfour's Poodle* (London, 1968), p 267.

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Labour'.[7] The abandoned Crossman reforms of 1968 also proposed retaining a reduced number of bishops in a smaller House and so did the Wakeham Commission's proposals of 2000. Since then, however, the tide has run ever more strongly in favour of a reformed second chamber being largely if not wholly elected. The Clegg Bill that was introduced and then abandoned in 2012, when the timetable motion for debate was defeated in the Commons, would have retained a small appointed element and some Lords Spiritual, though it is anyone's guess whether this element would have survived the parliamentary process. That chapter prompted some serious but incomplete consideration by senior bishops and others of how to cope with an eventual reduction in Lords Spiritual from 26 to 12.

While uncertainty over the future continues, the Lords Spiritual get on with their work. Before the culling of the hereditaries by the Blair government's legislation in 1999 there were 1,330 members of the House of Lords. So the 26 Lords Spiritual constituted 2 per cent of the membership. But many peers rarely if ever attended, so the jump to nearly 4 per cent of the new membership of 669 was less significant than it appeared. And average daily attendance, which before the introduction of life peers in 1958 was below 100, was around 350 after the 1999 cull, and increased to between 400 and 500 as the House had by 2019 grown again to about 800 members. So, if 4 of the 26 Lords Spiritual are present – and that would be a good day – they would be about 1 per cent of the attendance.

And therein lies a difficulty because the increasing expectation that membership of the Lords is, if not a full-time occupation, certainly something requiring frequent attendance, is a real difficulty for archbishops and diocesan bishops, each with a demanding job and many of them based far from London. The truth remains, as it has for years, that some bishops do not manage to attend very often except for their duty week twice a year to say prayers. Others make a real effort to be there a day or two each month in addition to the duty week, and a few organise their lives to be there virtually every week. In the 2017–18 session attendance averaged 27 days per Lord Spiritual, though that disguised a spread from just a few days to 74.

Participation has increased. *Hansard* records 1,633 individual contributions from Lords Spiritual in the 2010–2015 Parliament, a 50 per cent increase on the 1,039 in 2005–10. As to voting, bishops in the 2016–2017 session cast 46 votes for the Government and 34 against, which shows both that bishops vote relatively sparingly and that they are neither government lickspittles nor, as Clement Attlee hoped, simply the Labour Party at prayer.

The occasions when bishops' votes have tipped the balance remain rare and have generally been freakish situations where a couple of votes have made all the

7 Cabinet notebooks, 6 January 1948, as reported by the *Daily Telegraph*, 28 July 2006.

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difference, rather than because there has been a mass mobilisation by the bishops, who are, of course, unwhipped and vote individually according to conscience. So far as I am aware, the last time that 10 or more bishops voted in a division was on Lord Joffe's Assisted Dying Bill in 2006, when 14 bishops contributed to a majority of 48 against. The record votes in modern times were 18 in favour of sanctions against Rhodesia in 1968, 19 against the Shops Bill in 1986 and 19 in favour, and 1 (Bishop Mortimer of Exeter) against the abolition of the death penalty in 1969.

CROWN APPOINTMENTS

Two reforms in the mid-1970s, soon after the creation of the General Synod, effectively put an end to any mainstream support there for disestablishment. These were the Worship and Doctrine Measure 1974, which, with certain safeguards for the *Book of Common Prayer*, effectively gave the Church of England freedom over its liturgy, and the agreement in 1976 to create the Crown Appointments Commission – or Crown Nominations Commission as it subsequently became.

The second of these was particularly important. To many in the Church it no longer seemed tolerable that the names of archbishops and diocesan bishops could emerge from 10 Downing Street without the Church having any formal say in the selection. What was conceded did not quite give it the decisive say that it had sought, since the Prime Minister retained the discretion to choose the second name offered by the Commission or to request further names. But the new system did at least mean that no one would be appointed who had not secured the support of two-thirds of the members of the Commission, which normally included the archbishops, six central members elected by the Synod, and four members from the relevant diocese.

For 25 years the new system worked without major mishap and with only occasional private grumbling, most notably over the Birmingham appointment in 1987 (that the then Prime Minister, Margaret Thatcher, had not taken the first name). Just before I arrived in October 2002, a committee chaired by Baroness Perry and a Synod follow-up group had come up with some modest procedural suggestions but it looked as if things would continue along familiar lines. Then two votes were passed in the Synod against the advice of the powers that be. One was to increase the diocesan representation on the Commission from four to six.[8] Given the requirement for two-thirds' majorities, this gave the diocesan members an effective veto if they worked together. In addition, Synod voted to request the Commission to interview candidates before making

8 In fact Synod initially voted to go to 8 but was prevailed on in July 2003 to agree to 6, giving parity with the centrally elected members and increasing the number of voting members from 12 to 14 rather than 16.

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appointments. The Commission temporised on this eminently sensible request for several years and only eventually acceded to it in 2010, by which time the context had changed radically.

In June 2007 the new Prime Minster, Gordon Brown, had published a White Paper called *The Governance of Britain*, which blew many loud trumpets but proposed what was largely a ragbag of small changes, including such excitements as changes to the selection process for the Poet Laureate and Astronomer Royal.[9] Among these was the proposal that the Prime Minister should no longer play an active role in the selection of candidates for ecclesiastical Crown appointments. The Archbishop of York had had the opportunity to comment on this proposal before it was made public and he had consulted the Archbishop of Canterbury, who was on sabbatical. Neither had seen reason to object, not least given that the Prime Minister was essentially offering the Church the decisive voice in its senior appointments that it had demanded but not quite acquired in the 1970s.

Many diocesan bishops and deans were initially unenthusiastic about all this, partly because they appreciated the work of the Prime Minister's Appointments Secretary and partly because they feared that a more integrated appointments system, effectively controlled by the Church, would reduce diversity and concentrate power. But once some sensible new arrangements were worked out in detail, and once it became clear that the Prime Minister would keep an Appointments Secretary to ensure fair play, general agreement was secured. And the removal of the mystery of the prerogative made it easier for the Commission to start interviewing those it had placed on its shortlist.

THE CRYSTAL BALL

At the risk of gross oversimplification, establishment, at whichever level you view it, has evolved to the point where it is now an almost wholly symbolic issue. By that I mean that the governance of the Church of England, the way its appointments work and even the day-to-day role of clergy at local level would not change dramatically or immediately if the link with the State were to be severed. That would not have been the case 50–never mind 100–years ago. The biggest single change to affect the working life of diocesan bishops would be if they ceased to have a place in Parliament and that could happen even while the Church remains established, if ever the right political circumstances come together for the creation of a wholly elected second chamber with defined powers.

To say that establishment is now a largely symbolic issue is not, however, the same as saying that it does not matter. The continuation of the monarchy is also

9 CM 7170.

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largely a symbolic issue, yet few would argue that we would not become a rather different country if we decided to become a republic.

What then does the future hold? If the past were any guide to the future, you would have to say that a decisive separation of Church and State continues to look unlikely. It has for years been something that the Church is unlikely to initiate, given that it would seem to many like asking for God to be removed from the constitution. For that same reason, other churches and faiths do not seem disposed to agitate on the subject. Successive governments of all parties have shown no interest in addressing disestablishment head on. The perception has been that it is all very complicated, that there are no votes in it and that it connects awkwardly to issues about the monarchy and the identity of society which are best not stirred up lightly. But, as the election of Mr Corbyn as leader of the Labour Party in 2015 and the result of the Brexit referendum in 2016 remind us, surprises do happen.

The greater risk to the status quo seems to me to lie with the possibility that the Church at some point so discredits itself in the eyes of the nation that the link with the State becomes politically embarrassing. Child abuse scandals have that potential, though, so long as the Church is seen to be dealing honestly and humbly with the gross failings of the past and doing the right things now, that storm can probably be weathered. A large and deep internal split with significant defections from the Church over, for example, its teaching and approach to sexual ethics would also raise questions over the Church–State link, though there were significant departures in the 1990s – 441 members of the clergy – over the admission of women priests and that did not prove terminal to establishment, largely because those who left had relatively limited support among politicians.

The more likely cause of the Church becoming discredited is if at some point between now and 2050 a continuing decline in the number of worshippers means that it can no longer maintain an effective presence in significant parts of the country and has to close large numbers of church buildings because it no longer has the people to sustain them. Discussion of the Church's present programme of reform and renewal and its attempt to reverse the long downward trend does not usually make mention of establishment, but its success or failure seems to me highly relevant to whether the present Church–State link still exists in 30 years' time.

This comment began with the words of one committed socialist. It ends with the rather different reflections of another hero of the Labour movement, who, though writing at the end of Queen Victoria's reign, offered insights that are still of interest and might perhaps even give Mr Corbyn pause for thought. Here is what Beatrice Webb, one of the founders of the Fabian Society and future admirer of Joseph Stalin wrote in her journal on 15 January 1901:

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> Any outside demand for disestablishment and disendowment is dead at the present moment. A few political dissenters . . . still hold to the old doctrine of the iniquity of a union between Church and State. But as far as the bulk of the people are concerned, this doctrine is obsolete. . . . I desire that the national life should have its *consciously* religious side. If, as a state, we are purely rationalist and selfish in our motives and aims, we shall degrade the life of the individuals who compose the state. I should desire the Church to become the home of national communal aspirations as well as of the endeavour of the individual towards a better personal life. Meanwhile I prefer the present Church with all its faults to blank materialism . . ..[10]

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The Peculiar Case of a Royal Peculiar: A Problem of Faculty at the Tower of London

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INTRODUCTION

Her Majesty's Royal Palace and Fortress the Tower of London, less formally known as the Tower of London or simply 'the Tower', was the seat of royal power in England for several centuries following its construction by William the Conqueror in 1078. While now a popular tourist attraction, it remains the home of the Crown Jewels, is a working barracks and maintains many ceremonial traditions of state. Two chapels are located within its walls. Foremost of these is the late eleventh-century chapel of St John the Evangelist (St John's), located within the White Tower, noted as a rare surviving example

10 B Webb, *Our Partnership*, ed B Drake and M Cole (London, 1948), pp 208–210 (emphasis in original).

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