

Separating church and state: The case for disestablishment of the Church of England

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For more than a century the National Secular Society has actively campaigned for the disestablishment of the Church of England. This report outlines the central arguments for a separation of church and state and considers the challenges involved in making this a reality. It argues that disestablishment is right both as a basic matter of principle and in order to make the UK more representative of the changing landscape of religion and belief.

ESTABLISHMENT IN THE UNITED KINGDOM The terms ‘establishment’ and ‘disestablishment’ refer to the relationship between church and state. At its simplest, the former denotes a close or official connection between the two, while the latter refers to the process of severing such links. Church-state relations assume a variety of forms. In practice, establishment is less of a binary, black and white distinction and more of a sliding scale of interconnections and overlaps. This means that the links between church and state may be stronger and more deep-rooted at certain points than others.¹ The origins of establishment in the UK date back to the Elizabethan settlement of the late sixteenth century, following the break with Rome under the reign of Henry VIII (albeit with a brief reversion to Papal authority under Edward VI and Mary). The precise form of establishment has changed considerably during the last three centuries, due not least to the shifting political and theological complexion of the United Kingdom itself. The disestablishing of churches in Ireland (in 1871) and Wales (in 1920) led to a significant reduction in the scope of church-state relations, and while there remains some debate over the exact position of the Church of Scotland (which is legally recognised as a ‘national’ church but theologically opposed to close links with civil government) the Church of England stands unique among the UK’s religious bodies in its institutional links to the state.² The establishment of the Church of England extends over a wide range of interconnections. On one side of the equation is the influence of the state over the internal life of the Church. The most visible manifestation of this is the UK’s reigning monarch, being simultaneously head of state as well as head of the Church, holding the titles of Supreme Governor of the Church of England and Defender of the Faith. ³ While key matters of church governance – including theological decisions about the Book of Common Prayer and authorised liturgy – are passed as Measures by the General Synod (the Church of England’s highest governing body), they are subject to formal approval by both Houses of Parliament at Westminster, and require Royal Assent in order to become law.⁴ The influence of the state extends to the filling of key positions within the Church. Bishops and Archbishops are appointed by the ruling monarch (acting on advice from the Prime Minister) and appointments to other church positions, such as deans, deacons and priests, are also shaped by the views of state officials.⁵ Alongside this, the established status of the Church of England requires it to conduct a ‘national mission’ and to minister to the whole of the English population. This involves the provision of pastoral care in every local area, along with a legal duty (with some limited exemptions) to marry, bury and baptize those who reside within a parish.⁶ The Church’s canons (internal rules that are also authorised by Parliament) further require it to conduct communion and evening prayers in every parish (but not church) each Sunday and on other specified days in the Christian calendar. The other side of this relationship involves the influence of the Church of England over the

state. For much of its history the Church was one of the most powerful institutions in the country (second only to the monarchy) and enjoyed extensive privileges. These privileges were significantly reduced by a series of reforms enacted during the course of the nineteenth century

Reform in the Nineteenth Century

- The Sacramental Test Act (1828) removed the requirement for public officials to be members of the Church of England.
- The Roman Catholic Relief Act (1829) codified the emancipation of Catholics, allowing (inter alia) members of the Catholic Church to take seats in the Westminster Parliament for the first time.
- The Tithe Commutation Act (1836) abolished the system of tithes under which the Church had claimed one-tenth of land produce as payment for its services.
- The Marriage Act (1836) and the Births and Deaths Registration Act (1836) introduced civil marriage and the civil registration of births, marriages and deaths.
- The Bishopric of Manchester Act (1847) limited the number of Bishops entitled to sit in the House of Lords to 26 (its current figure).
- The Matrimonial Causes Act (1857) took the issue of divorce away from the jurisdiction of the ecclesiastical courts, making divorce more widely available and accessible (especially for women).
- The Court of Probate Act (1857) passed control of probate administration (including the collection of death duties) from the ecclesiastical courts to a newly established government department (the Court of Probate).
- The Ecclesiastical Courts Jurisdiction Act (1860) further reduced the jurisdiction of church courts to those 'in Holy Orders'.
- The Compulsory Church Rate Abolition Act (1868) made the payment of church rates voluntary instead of compulsory.
- The Oaths Act (1888) permitted a non-religious affirmation, rather than an oath on the Bible, for the requisite oath taken by Parliamentarians. This was instigated by the founder of the National Secular Society, Charles Bradlaugh MP.

Since the mid-nineteenth century this process of reducing the powers of the Church has stalled. The only substantive change in almost one-and-a-half centuries has been the Church of England Assembly (Powers) Act (1919), which granted the Church additional powers over its own governance, enabling it (through the Synod) to bring forth its own legislation, and even to amend Acts of Parliament on matters affecting it. Parliamentary approval for such proposals has usually been a formality and unlike Private Members' Bills is not dependent on the whim of the Government to grant the necessary time for debate. As a result, the Church of England retains considerable influence over the political and legal life of the country. One of the most visible expressions of this involves the institution of the monarchy. The Church has a key role in the coronation of a new monarch, who is crowned and anointed by the Archbishop of Canterbury during an Anglican coronation ceremony held in Westminster Abbey. As part of this process the incoming sovereign must take the Accession Oath, in which they swear to 'maintain and preserve inviolably the settlement of the Church of England, and the doctrine worship, discipline, and government thereof, as by law established in England'.⁷ Until recently (with the Succession to the Crown Act, 2013) this requirement to uphold the Protestant faith of the Church of England included a prohibition on the

new monarch being married to a Roman Catholic.

Another major feature of establishment is the presence of Church of England bishops in the House of Lords. The 26 church bishops (from a total of 108) granted seats in the Upper Chamber give the Church a significant platform within the House. In addition to voting rights over legislation, the presence of Anglican bishops in the Lords gives them direct access to government ministers. Bishops are also granted, by convention, a privileged role in House of Lords debates by being able to speak whenever they wish. The influence of the Church can also be seen in the intertwining of ecclesiastical law with other aspects of the English legal system. Despite reductions in the jurisdiction of the ecclesiastical courts, the absence of a comprehensive recodification has meant that a number of anomalies still remain. These include Chancel Repair Liability (a relic of Norman common law under which modern day property owners can still be required to pay for repairs to an ancient Anglican church), and the sole remaining vestige of the Ecclesiastical Courts Jurisdiction Act, 1860 (under which disturbances in or around a place of worship can result in imprisonment for up to two months). The common law offences of blasphemy and religious libel protecting Church doctrine were only abolished in 2008 after a long campaign in which the National Secular Society played a leading part. Alongside these institutional linkages the establishment of the Church of England also involves a number of more indirect components. Amongst these include the saying of Anglican prayers at the opening of daily business in both Houses of Parliament, the conducting of national civic ceremonies (such as Anglican-led services at the cenotaph on Remembrance Day) and the issue of faith schooling. At the present time a quarter of all publicly funded schools are Anglican, far exceeding the numbers for any other denomination.

Link to full article: <https://www.secularism.org.uk/uploads/nss-disestablishment-report-2017-3.pdf>

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