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GOVERNMENT AND PARLIAMENTARY REPORT

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CORONAVIRUS/COVID-19 AND RELIGION

Much of the period under review was dominated by the impact of the Coronavirus (COVID-19) pandemic. Advice both from the Government and from the Churches was at first fairly muted. On 10 February the Government introduced the Health Protection (Coronavirus) Regulations 2020,[1] which applied to England only and which made provision for detention for screening for the virus under certain conditions and imposing restrictions on individuals to limit the risk of those with the infection contaminating others; however, at the same time, the Prime Minister was urging people to remain 'confident and calm'.[2] Similarly, an *Ad Clerum* on hygiene at Holy Communion issued by the Bishop of Peterborough on 20 February deprecated the practices of intinction and of receiving the bread directly on to the tongue but did not recommend the ending of communion in both kinds.[3]

Events moved rapidly, however: on 10 March, the Archbishops of Canterbury and York advised in an *Ad Clerum* that communion should be offered in one kind only[4] and on 16 March the Secretary of State for Health told the House of Commons that, 'with the deepest regret and the heaviest of hearts', the Government was asking faith groups to suspend public worship.[5] The Churches responded in kind and cancelled normal services, while continuing to make provision for funerals. On 19 March the Government introduced

1 SI/2020/129.
2 D Rivers, 'Boris Johnson urges UK to remain "confident and calm" amid coronavirus threat', *ITV News*, 11 February 2020, <https://www.itv.com/news/2020-02-11/coronavirus-uk-boris-johnson-nhs-covid-19/>, accessed 29 June 2020.
3 Available at <https://www.peterborough-diocese.org.uk/downloads/bishops/adclerum29.pdf>, accessed 26 May 2020.
4 'Coronavirus COVID-19', available at <https://www.thinkinganglicans.org.uk/wp-content/uploads/2020/03/Coronavirus-letter-10th-March-2020-Archbishops-guidance-on-common-cup.pdf>, accessed 26 May 2020.
5 HC Deb 16 March 2020, vol 673 col 724.

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emergency legislation which was given Royal Assent on 25 March as the Coronavirus Act 2020.[6]

The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 came into force on 26 March.[7] Regulation 5(5) required that, during the emergency period, a person 'responsible for a place of worship' had to ensure that it was closed except for the purposes permitted in paragraph (6): for funerals; to broadcast an act of worship, whether over the internet or as part of a radio or television broadcast; or to provide 'essential voluntary services or urgent public support services (including the provision of food banks or other support for the homeless or vulnerable people, blood donation sessions or support in an emergency)'. The churches were closed for Holy Week and Easter – for the first time, it is thought, since 1208, when Pope Innocent III laid a local interdict on England suspending all religious services after King John had refused to accept the appointment of Stephen Langton as Archbishop of Canterbury.

On 21 April the Health Protection (Coronavirus, Restrictions) (England) (Amendment) Regulations 2020 were made and came into force on 22 April 2020.[8] Their purpose was, ostensibly, to correct errors in the earlier Regulations but, in doing so, they imposed further restrictions: Regulation 6 (1) of the earlier Regulations was amended to read: 'During the emergency period, no person may leave *or be outside of* the place where they are living without reasonable excuse.' The accompanying Explanatory Note stated that 'Regulation 6 is amended to clarify that under regulation 6(1), the prohibition applies both to leaving the place where a person is living without reasonable excuse, and also to staying outside that place without reasonable excuse.'

On 11 May the Prime Minister announced a slight relaxation of the policy and on 13 May the UK Government announced that, following the publication of its overall strategy, it had set up five sectoral taskforces, each led by a minister, to develop plans for how and when closed sectors could reopen safely in England – one of which, to be led by the Ministry for Housing, Communities and Local Government, was to consider the issues surrounding places of worship, including faith, community and public buildings.[9] Its first meeting was on 15 May and was chaired by the Secretary of State for Housing,

6 Much of the Act extended to Scotland and Northern Ireland as well as to England and Wales. Further provision was made for Scotland by the Coronavirus (Scotland) Act 2020, which received Royal Assent on 6 April.

7 SI/2020/350. Similar provision was made by the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 (SI/2020/353 (W. 80)) and the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (SSI/2020/103).

8 SI/2020/447.

9 Cabinet Office, 'Guidance: COVID-19 roadmap taskforces', available at <https://www.gov.uk/government/publications/covid-19-roadmap-taskforces/covid-19-roadmap-taskforces>, accessed 26 May 2020.

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Communities and Local Government, Robert Jenrick. A subsequent press release said that the members had agreed to work together to consider whether some forms of worship, such as individual prayer, might be permitted in places of worship before they reopened fully, 'where appropriate and safe to do so in line with social distancing guidelines', and had agreed to consult their faith communities on the measures being considered and to support ongoing engagement. The Secretary of State also confirmed a grant of £125,000 to Faith Action to consult community groups and places of worship to ensure that their views were represented at the taskforce's meetings; however, he was clear that 'places of worship will only be opened when the Government is confident that people can use these spaces safely and will not put themselves or others at risk'.[10]

The devolved administrations moved more slowly: for example, on 21 May the Scottish Government published what the First Minister described as 'details of Scotland's route map through and out of the COVID-19 crisis'.[11] The intention was to move to Phase 1 of the easing of restrictions following the 28 May end-of-cycle review of the COVID-19 Regulations, but only if the evidence supported so doing. The first phase would include allowing people to meet outside with people from one other household. Schools were to reopen on 11 August.

CHARITY LAW DURING THE COVID-19 PANDEMIC

The Charity Commission for England and Wales published guidance for the charity sector in relation to the COVID-19 outbreak, including use of reserves and restricted funds; cancellation or postponement of a charity's annual general meeting; the use of video and teleconferencing in place of face-to-face meetings; and what needs to be reported to the Commission.[12] Particularly important is the point that, if a charity's trust deeds or governing document do not include the power to hold a virtual meeting, but trustees decide to meet virtually rather than not meet at all, *the fact that a virtual meeting has taken place should be minuted*. Similar guidance was published by the Office of the Scottish Charity Regulator[13] and the Charity Commission for Northern Ireland.[14]

10 Ministry of Housing, Communities & Local Government, 'New taskforce developing plan to reopen places of worship', available at <https://www.gov.uk/government/news/new-taskforce-developing-plan-to-reopen-places-of-worship>, accessed 26 May 2020.

11 Scottish Government, 'Coronavirus (COVID-19): framework for decision making - Scotland's route map through and out of the crisis', available at <https://www.gov.scot/publications/coronavirus-covid-19-framework-decision-making-scotlands-route-map-through-out-crisis/>, accessed 26 May 2020.

12 Available at <https://www.gov.uk/guidance/coronavirus-covid-19-guidance-for-the-charity-sector>, accessed 26 May 2020.

13 Last updated 14 May: available at <https://www.oscr.org.uk/guidance-and-forms/covid-19-guidance-for-charities/>, accessed 29 June 2020.

14 Last updated 1 April: available at <https://www.charitycommissionni.org.uk/charity-essentials/covid-19-guidance/covid-19-guidance-for-charities/#SUPPORT>, accessed 29 June 2020.

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BREXIT

Meanwhile, there was Brexit. In February, the Government published *The Future Relationship with the EU: the UK's approach to negotiations*, setting out its approach to negotiations with the EU.[15] At paragraph 5, it reiterated that

> Whatever happens, the Government will not negotiate any arrangement in which the UK does not have control of its own laws and political life. That means that we will not agree to any obligations for our laws to be aligned with the EU's, or for the EU's institutions, including the Court of Justice, to have any jurisdiction in the UK.

Further, though the Government asserted at paragraph 7 that it would 'work hard to agree arrangements on these lines', in the absence of a satisfactory outcome, 'the trading relationship with the EU will rest on the 2019 Withdrawal Agreement and will look similar to Australia's'.

In a statement on 24 April, the EU's chief negotiator, Michel Barnier, identified three important points for the EU 'that the UK currently refuses': references to common values such as democracy, the rule of law and human rights, counter-terrorism and the fight against climate change; the UK's continued adherence to the European Convention on Human Rights, 'which should be given effect in domestic law so that individuals can rely on it'; and recognition by the UK of the role of the European Court of Justice 'when we use concepts of Union law – especially for the exchange of personal data'.[16] In a further statement on 15 May, following Round 3 of the negotiations, he again expressed dissatisfaction with the progress of the negotiations and – significantly for readers of this *Journal* – returned to the UK's refusal to commit to guarantees protecting fundamental rights and individual freedoms resulting from the European Convention on Human Rights, 'as agreed in the Political Declaration'.[17]

CHURCH OF ENGLAND (POSTPONEMENT OF ELECTIONS) ORDER 2020

In the course of proceedings on the Coronavirus Bill, the Commons inserted a provision which became section 84 (Postponement of General Synod elections)

15 CP211, available at <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/868874/The_Future_Relationship_with_the_EU.pdf>, accessed 26 May 2020.

16 'Press statement by Michel Barnier following the second round of future relationship negotiations with the United Kingdom', 24 April 2020, available at <https://ec.europa.eu/commission/presscorner/detail/en/statement_20_739>, accessed 26 April 2020.

17 'Remarks by Michel Barnier following Round 3 of negotiations for a new partnership between the European Union and the United Kingdom', available at <https://ec.europa.eu/commission/presscorner/detail/en/speech_20_895>, accessed 26 May 2020.

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of the Act: under it, an Order in Council might be made at the joint request of the archbishops to postpone the date on which the two convocations stood dissolved for the purposes of the Church of England Convocations Act 1966 and to specify a later one.

The General Synod of the Church of England (Postponement of Elections) Order 2020 was made on 20 May and came into force on the following day. In brief, it postponed until 31 July 2021 the date on which the Convocations of Canterbury and York will stand dissolved for the purposes of the Church of England Convocations Act 1966 and provided that a person who, immediately before the scheduled dissolution, was a member of the Convocation of Canterbury or York or a member of the House of Laity of the General Synod is to continue as such until the next dissolution of the General Synod or, if sooner, the vacation of the member's seat or the member's term of office otherwise coming to an end.

CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) MEASURE 2020

The Church of England (Miscellaneous Provisions) Measure 2020 received Royal Assent on 16 March. Sections 12–15 (validity of lease, minor amendments on pensions, updating and minor corrections) came into force on the day on which the Measure was passed; the remaining provisions come into force on such day or days as the archbishops may by order jointly appoint.

Section 1 enables members of religious communities to be ordained and to be licensed to serve in their community. Section 2 makes provision for a national ministry register to include every clerk in holy orders with authority to minister and for the creation of a register of licensed lay people. Bishops will be required to provide regular updates of information to the Archbishops' Council and the Council will publish a form of the register, omitting personal contact information, that will be accessible to the public free of charge. Section 3 enables duly licensed deaconesses, readers and lay workers to provide funeral ministry, at the request of the family or friends of the deceased and with the approval of the deceased's incumbent, on a similar basis as clergy. Section 4 permits ecclesiastical courts dealing with the care of churches to grant waivers of court fees for those who are of limited means. Section 5 gives the Cathedrals Fabric Commission or a fabric advisory committee power to vary an approval for works that it has previously granted. It also allows for proposals to be revoked and provides a right of appeal. Section 6 makes it easier to build on disused burial grounds belonging to cathedrals, provided that there is no objection from a relative of anyone buried in the land in question during the past 50 years and defines 'relative' for this purpose and for the purpose of equivalent legislation relating to churchyards. Section 7 amends the legislation relating

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to the inspection of churches to make it clear that the inspector appointed under the legislation is appointed by, and responsible to, the parochial church council. Sections 8 and 9 deal with parochial registers and records, taking account of registers of church services that are kept in electronic form and clarifying the meaning of 'records'. Section 10 allows the Cathedrals Fabric Commission to delegate its functions to its officers. Section 11 places limits on the length of successive terms of office on diocesan advisory committees. Section 12 removes a technical legal problem where a diocesan board of finance grants a lease to a parochial church council. Section 13 clarifies where responsibility rests for the payment of pensions in respect of service after 1997. Section 14 updates various terms in the constitution of the General Synod; for example, 'chairman' formally becomes 'chair'. Section 15 makes minor drafting amendments to the Mission and Pastoral Measure 2011. Section 16 provides for the short title, commencement and extent.

CARE OF CATHEDRALS (AMENDMENT) RULES 2020

The Care of Cathedrals (Amendment) Rules 2020, SI/2020/408, which were approved by General Synod on 10 February and laid before Parliament on 8 April, come into force on 1 July 2020. They amend the Care of Cathedrals Rules 2006 by substituting a new Rule 28 dealing with the compilation and maintenance by cathedral chapters of inventories of objects that are considered to be of architectural, archaeological, artistic or historic interest. The principal changes include requiring the chapter to keep the cathedral inventory up to date by adding entries, making amendments and recording conservation work, and by recording the sale, other disposal or loss of objects listed in the inventory. They also require the inventory to be kept in electronic form (subject to transitional arrangements for inventories currently on paper) and provide for the chapter to determine which parts of the inventory are to be accessible to the public and which parts are to be accessible only to authorised persons.

CHURCH REPRESENTATION RULES (AMENDMENT) RESOLUTION 2020

The Church Representation Rules (Amendment) Resolution 2020, SI/2020/406, which was made by General Synod on 11 February and laid before Parliament on 8 April, amends the Church Representation Rules as set out in Schedule 3 to the Synodical Government Measure 1969 and makes consequential amendments to the Churchwardens Measure 2001. The amendments in Part 2 introduce a revised system of appeals in relation to elections held under the Rules (for example, elections to a deanery or diocesan synod). They

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are intended to provide consistency with the General Synod's new procedural rules for elections to the House of Laity and to the Upper and Lower Houses of the Convocations. All provisions of the Resolution will have come into force by 15 July 2020.[18]

NO MORE BLASPHEMY IN SCOTLAND

In April, the Hate Crime and Public Order (Scotland) Bill was introduced into the Scottish Parliament. If enacted, section 16 will abolish the common law offence of blasphemy, which was last prosecuted in Scotland in 1842.

AND FINALLY ... *TIME FOR REFLECTION*?

In February, the All-Party Parliamentary Humanist Group published a report, *Time for Reflection*,[19] which – unsurprisingly – calls for a review of how the pastoral needs of members of Parliament and staff are met, the repeal of the Bishoprics Act 1878 and the Lords Spiritual (Women) Act 2015 (thereby removing the automatic right of the various bishops and archbishops to sit in the House of Lords), an end to awarding peerages to individuals 'by virtue of being representatives of any religion or denomination' and a Scottish-style 'inclusive time for reflection' before the start of business instead of prayers.

More generally, it argues for an end to the role of Parliament in the governance of the Church of England and proposes that Church Measures 'should cease to be recognised as part of UK law, instead becoming private rules of the Church of England which it may amend if it so wishes', that the Government and Crown should have no part in appointment of the Church Commissioners and that the management of assets should become a purely internal matter for the Church, 'with no special accountability to Parliament'.

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18 The full text of the Rules, as amended, is available on the Church of England website at <https://www.churchofengland.org/more/policy-and-thinking/church-representation-rules/church-representation-rules-online-contents>, accessed 26 May 2020.

19 Available at <https://humanism.org.uk/wp-content/uploads/APPG-report_religion-in-parliament_Jan2020_print.pdf>, accessed 26 May 2020.

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