IN PARLIAMENT
HOUSE OF LORDS
SESSION 2023-24
ROYAL ALBERT HALL BILL
Exhibits to Witness Statement of Ian McCulloch for Opposed Bill Committee, 22 April 2024

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ROYAL ALBERT HALL BILL

Witness Statement of Ian McCulloch

EXHIBIT 1

Opinion of Paul Bowen KC on compatibility of Bill provisions with the European Convention on Human Rights, dated 17 November 2022

RE. THE CORPORATION OF THE ARTS AND SCIENCES (THE ROYAL ALBERT HALL)
AND RE. THE ROYAL ALBERT HALL CORPORATION BILL

COUNSEL'S OPINION - 17 NOVEMBER 2022

I. INTRODUCTION AND SUMMARY OPINION

1. I am instructed to advise the Corporation of the Arts and Sciences (the Royal Albert Hall (**'the Hall'**)) (hereafter, **'the Corporation'**) in relation to a proposed Private Bill in Parliament (the Royal Albert Hall Bill 202[ ]) (**'the Bill'**)) which will effect certain changes in the Corporation's constitution. In particular I am asked whether the promoters of the Bill may make a statement, as required by Parliamentary Standing Orders, that the proposed changes are compatible with the Convention Rights set out in the Schedule to the Human Rights Act 1998 (**'HRA'**), specifically the right to peaceful enjoyment of possessions protected by Article 1 of the First Protocol to the Convention (**'A1P1'**). The specific changes that are proposed would empower the Corporation, when certain conditions are met, to raise additional funds by any of the following:

   (1) Annual contribution: To remove the existing six year cap on the annual contribution payable by members of the Corporation who are registered holders of permanent seats in the Hall (**'Seatholders'**) and change the voting threshold for agreeing the annual contribution from 66% to 75%;

   (2) Exclusives: To set the number of days per year when, and change the terms upon which, Seatholders, who are otherwise entitled to attend

performances, may be excluded for the purpose of hiring out the Hall as a source of additional revenue (**'Exclusives'**);

(3) Additional seats in Grand Tier boxes: To sell or let up to two further seats in Grand Tier boxes, with the consent of existing Seatholders in those boxes, subject to the same rights and obligations as existing Seatholders, including voting rights; and to confer rights on existing Seatholders in Grand Tier boxes who do not hold them.

2. For the reasons that follow, I am satisfied that all the proposed changes in the Bill are compatible with A1P1.

II. BACKGROUND

A. The Great Exhibition of 1851

3. The Great Exhibition of 1851 made a surplus of £186,000 which the Royal Commission for the 1851 Exhibition, under the guidance of Prince Albert, used to purchase an estate in South Kensington. This estate has developed to become a centre of scientific, cultural and educational excellence which now houses the Natural History, Science and V&A museums; Imperial College London; the Royal Colleges of Art and Music; and the Royal Albert Hall.

B. The Hall and its Constitution

4. The Corporation was incorporated by Royal Charter dated the 8th April 1867 ('the original charter') for the purpose of building and maintaining a hall and buildings connected therewith on the estate of the Commissioners for the Exhibition of 1851 for purposes connected with science and art. The Corporation built the Hall which was opened on the 29th March 1871. Its constitution has been amended by two supplemental Charters of 1887 and 1928 and four Acts of Parliament, namely the Royal Albert Hall Acts 1876,

1927, 1951 and 1966. The current constitution is set out in Schedule 2 of the 1966 Act. The Hall was registered as a charity in 1967.

C. Seatholders and Members

5. Funding for the building of the Hall in the 1860s was contributed by a group of private individuals and by the Commissioners of the 1851 Exhibition, on land leased from the Commissioners at a peppercorn rent for 999 years. A £100 subscription entitled these original founders and their successors ('Seatholders') to the 'permanent' use of a seat at the Hall throughout the 999 term of the lease; £500 secured the right to a private box of five seats; and £1000 a box of ten seats. Seatholders enjoy those rights subject to the terms of the constitution, under which they also owe certain obligations to govern the Hall. The right to a seat or box is very valuable; each Seatholder can sell some or all of the tickets to which they are entitled on the open market; and seats may be transferred or sold, with individual stall seats selling for about £130,000 – 150,000 and a Grand Tier ten seat box for £1-2,000,000.[1] The nature of the property right conferred upon Seatholders is explained in the Corporation's Annual Report 2021, p. 29:

> By acquiring the right to use permanent seats at the Hall, the Seatholders have private property rights (personal estate, not real estate) which can be given or sold by one party to another and which are distinct from the charity. The charity exists subject to these permanent private property rights. In other words, the Corporation was only ever entitled to its 999 year leasehold interest 'shorn of' the property rights of the Seatholders and pursues its charitable objectives only with the assets it has at its disposal.
>
> Understanding the correct legal basis underpinning the Hall is vital to understanding the true nature of the relationship between the charity and the Seatholders. The implications of this legal basis include:
>
> - When the Corporation hires the Hall as an 'Ordinary letting' (explained below) to a promoter, it is not hiring out the entire Hall. It is instead

[1] https://www.harrodsestates.com/property/KNI220023/kensington/

letting the Hall less the 1,268 Seatholders' seats. The Seatholders can use or sell their tickets for such performances.

- Seatholders do not pay for their tickets. There is no transaction between the charity and Seatholders when they receive their tickets and no money changes hands. The Hall is meeting the pre-existing obligations and enabling Seatholders to take up their personal rights.

- Given that the charity has never had a right to the Seatholders' tickets, Seatholders are not depriving the charity by exercising their rights to use their tickets. Therefore, the Hall and the promoters of events have not forgone any income by virtue of the Seatholders' attendance at certain performances.

- Neither the Hall nor the promoter can determine a face value price for Seatholders' tickets, nor restrict their use, given that Seatholders' seats are not a subset of the Hall's or the promoter's.

- By virtue of their private legal rights over their assets (i.e. their seats), the Seatholders have the right to use their tickets (their own private property) as they choose for Ordinary performances subject to the Hall's constitution. These rights include the right to attend the performance, give the ticket to someone else to attend the show (whether a friend, relative, charity etc.), sell the ticket through the Hall's box office via the Ticket Return Scheme (see below) or sell the ticket through any other channel (whether open market or not) at any price they wish.

- The sale of the tickets by a Seatholder is not a 'secondary sale' but in fact the disposal of primary rights (even if that sale is made via a website which is better known for enabling secondary ticket sales).

6. With one small exception, considered below, Seatholders are automatically Members of the Corporation with the rights and liabilities set out in the Hall's constitution (**'Members'**), which include: voting annually (usually at the AGM) to elect a President; the Treasurer; and individual Council Members; considering the Annual Report and Accounts; the appointment of the Hall's auditors; the approval of the Annual Contribution (the 'seat rate'); and voting (as and when) to alter the constitution.

7. There are currently 329 Seatholders/ Members holding 1268 seats out of a total of 5272 seats in the Hall. The Hall can accommodate up to 5,900 taking into account designated standing areas.

D. Governance

8. The Hall's Council, which is its governing body, is made up of a maximum of 24 Members which include 18 Seatholders and the President (who is also a Seatholder) elected by the Members annually at the Corporation's AGM. The other five Council members are appointed by the Secretary of State for Culture, Media and Sport, the Royal Commission for the Exhibition of 1851, Imperial College, the Natural History Museum and the Royal College of Music. As a charity, the Hall is regulated by the Charity Commission.

E. Funding

9. The Hall receives no regular annual grant funding; it is financed entirely by the sale of tickets for events, commercial sponsorship, merchandise, philanthropic giving and financial support by its Members. All of the Hall's financial surplus is retained by the Hall - there are no provisions for payment of this surplus to the Seatholders - and is re-invested by the charity into delivering its charitable objectives. However, the costs of running the Hall have often exceeded its income and over the years the Corporation has found it necessary to change its constitution in order to raise further funds from its Members.

III. THE CORPORATION'S PROPOSALS

10. The Corporation continues to seek additional funding to enable it to fulfil its charitable objectives.

11. The Corporation proposes to introduce the Bill to give it the necessary powers to raise additional funds in the three ways outlined at ¶1 above, which I now consider in more detail.

A. Annual contribution

12. At present, by virtue of s 3 of the 1966 Act the annual contribution is set as a *minimum* of £10 p.a. In addition, s 3 provides that, every six years, the Members must decide on a maximum contribution for the ensuing six years by a three-quarters majority and, every year, must decide on the seat rate for the following year by a two-thirds majority.

13. In 2015 the six year cap was set at £1,796 + VAT; in 2021, it was raised to £2,367 + VAT. At the 2021 AGM, the Seatholders voted for a seat rate of £1,335 per seat plus VAT (£1,452 in 2020), plus a supplementary seat rate of £415 per seat plus VAT. This comprised the £10 compulsory element plus an additional £1,740 towards the Hall's annual costs. In total the Seat Rate generated an annual contribution to the Hall of £2.2m in 2021.[2]

14. The Corporation's proposal (Clause 3 of the Bill) is to amend s 3 so as to remove the six-year cap on increases in the seat rate but to increase the voting threshold for the annual approval of the seat rate from two-thirds to three-quarters.

15. The justification for this proposed change is explained in the Consultation document provided to Members:

> In practice, the six-year cap serves little purpose. Owing to the uncertainty about Hall's future maintenance costs, the cap tends to be set high and the process is formulaic. It does not provide much of a safeguard for Members against a steeply rising seat rate except in the last year or so of the six-year period (as it did to a modest degree in 2020). Any safeguard that the six-year cap does provide can be provided by applying the voting threshold

[2] Corporation's Annual Report 2021, at p. 30

for the cap annually. It is also felt that provisions that impinge upon Members' private rights should require a three-quarters' majority. This will align the voting threshold for the seat rate with other provisions affecting Members' private property.

16. I am asked to consider whether the Annual Contribution scheme as proposed in Clause 3 of the Bill would comply with A1P1.

B. Exclusives

17. Seatholders have a permanent right to use their seats for performances at the Hall subject to the terms of the constitution. The constitution provides for a certain number of events each year from which Seatholders are excluded, which permits the Corporation to let the entire Hall for potentially lucrative events and allows them to charge a higher rental fee. The difference in the rental fee is then paid to the Seatholders by means of a reduction in their seat rate, known as the 'rebate', defined in the 1966 Act as '*any additional rent received in respect of the letting of the hall on any occasion on which the Seatholders are excluded from the hall*'. In 2021 the rebate paid to Seatholders was £0.2m, the effect of which was to reduce the annual contribution by £153 per seat. In 2019 the rebate was £522;[3] in 2020 it was £550.[4] I am instructed this amount is probably less than the Seatholder would be able to earn by selling their tickets on the open market on the days of the Exclusives, although it is not possible to give an accurate estimate of how much less as this depends upon a number of factors: the performer, promoter ticket prices, availability/scarcity, market conditions, among others.

18. The performances that the Seatholders have access to are known as **'Ordinary'** lets. In 2021 Ordinary lets accounted for 96 of the 187 lettings. In total, the 329 Seatholders received over 121,000 tickets, although 60% of

[3] The seat rate for 2019 was £1384, less the rebate of £522, so a Member's contribution to the Hall was £862 in 2019.

[4] Corporation's Annual Report 2021, at p. 30

these were not used but sold on by Seatholders through the Hall's ticket return scheme (**'TRS'**).[5] I am instructed that a Seatholder who sold all their tickets in 2021 through the TRS for events they were entitled to attend would have received approximately £8,000.

19. Exclusives were first introduced by the Charter of 1887, art. 11, which permitted Seatholders to be excluded for up to 10 days a year. Further provision was made in s 18 of the 1927 Act and s 9 of the 1951 Act for the Council, with the authorisation of the members, to exclude Seatholders for a certain number of days a year. Section 14 of the 1966 Act then gave the Council power, for the first time, to exclude Seatholders without the need for authorisation or confirmation from the Members (a) for up to seventy-five days per annum for events other than a concert or recital or boxing or wrestling; and (b) (i) for up to twelve days per annum for any type of event; and (ii) for up to one-third of the functions in a series of six or more of substantially the same event.

20. However, by 2008 it became apparent that this limit was being regularly exceeded, without the Council or the Members' authorisation. Since 2008, at each AGM the Members have authorised, by a majority vote, a number of days of Exclusives that exceeds the limitations stipulated in section 14. This process was formally adopted in a 2012 Memorandum titled 'Amendment of Section 14(1) of the Royal Albert Hall Act 1966 and Revised Policy applying to Exclusive Lettings'. However, the Corporation is concerned that this procedure is *ultra vires* and would not withstand legal challenge.

21. The Corporation's proposal (Clause 4 of the Bill) is to supplement s 14 to allow the Council by resolution to prescribe in respect of a calendar year 'when and upon what terms members may be excluded from the hall', subject

[5] Corporation's Annual Report 2021, at p. 31-32

to the approval each year by the Members by a three-quarters majority. This amendment would not affect the Council's existing power of exclusion but would allow them to exclude Seatholders for an additional (or different) number of days and without the other restrictions contained in s 14 of the 1966 Act. This proposal, if adopted, will replace the procedure in the 2012 Memorandum and address the concern that in adopting that procedure the Corporation is acting *ultra vires*.

22. The quid pro quo for this development is to give the power to the Members – by a three quarters majority - to decide how many additional days of the year, and on what terms, they can be excluded beyond those authorised by s 14 of the 1966 Act.

23. The Corporation has justified this change in its consultation document in these terms:

> The proposal is therefore designed to (a) enable the Hall to put to the Members an arrangement that differs from the terms of section 14; and (b) ensure that any approval by the Members is legally valid. The safeguard for the Hall is that (i) any alternative arrangement must be proposed by the Hall and (ii) if Members do not agree to what is proposed, the terms of section 14 will apply. The safeguard for Members is the voting threshold required to approve any alternative arrangement. Codifying the process in this way should remove the risk of legal challenge that the current process is unlawful.

24. Following the consultation the Bill has introduced a further amendment allowing a group of at least 20 Members to put forward an alternative to the Council's proposal. Any such proposal would also require a three-quarters majority to be passed.

25. I am asked to consider whether the Exclusives scheme as proposed in Clause 4 of the Bill would be compatible with A1P1.

C. Power to sell additional seats in Grand Tier boxes and to confer voting rights on Additional Seatholders

26. There are currently 41 Grand Tier boxes, 37 of which are owned by Members. 31 of these have ten seats, while six have twelve seats. According to Hazel Williamson QC, in an advice authored in 1998, under the terms of the constitution ownership of a 'box' constitutes ownership of the seats within the box, not the box itself. I return to this, below.

27. The six boxes with twelve seats originally had ten seats in each, but in 1999 and 2008 two further seats were offered for sale by the Corporation in each of the Grand Tier boxes. The offer was taken up by the Seatholders in six Grand Tier boxes, so twelve Additional Seats were created. Those Additional Seats were sold applying the constitution then in force and, on advice from Hazel Williamson QC, on condition that seats could not be sold without the express permission of the existing Seatholders in the relevant box and that the new seats did not bring commensurate voting rights. The owners of those twelve additional seats (the **'Additional Seatholders'**) therefore enjoy the same rights as other Seatholders *except* they do not have voting rights as Members. The Corporation wishes to address the anomaly that Additional Seatholders do not enjoy voting rights.

28. There remain 31 Grand Tier boxes with only ten seats and the Corporation may wish to raise revenue by again offering two additional seats for sale in each box.

29. The Corporation's proposal in relation to Additional Seatholders (Clause 5 of the Bill) is, then, to confer power on the Council: (a) to offer for sale two more seats, with voting rights, in each of the 31 Grand Tier boxes where there are still only 10 seats, provided there is unanimous written consent of the Seatholders in the relevant box; and (b) to provide for the owners of 12

existing seats in Grand Tier boxes currently enjoying 'quasi-Membership' with no voting rights to be accorded full Membership with voting rights on such terms as the Council reasonably considers appropriate.

30. The justification for this change set out in the Consultation document is that it (a) would remove the anomaly of non-Member Seatholders where the existing quasi-Members opt to become full Members; (b) would provide a means of raising additional funds for the Corporation; and (c) could enable a small increase in the number of Members (if any new seats are bought by non-Members).

31. I am asked to consider whether the Additional Seatholders' scheme as proposed in Clause 5 of the Bill would be compatible with A1P1.

IV. LEGAL FRAMEWORK

A. The right to quiet enjoyment of possessions in A1P1

(1). A1P1

32. A1P1 provides:

> 1. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> 2. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

(2). Three rules

33. A1P1 contains three distinct rules (*JA Pye (Oxford) Ltd v United Kingdom* [GC] (2008) 46 E.H.R.R. 45, [52]; *R (Aviva Insurance Ltd) v Work and*

Pensions Secretary (CA) [2022] 1 W.L.R. 2753, [77] (which contains the most up to date, authoritative analysis of the relevant A1P1 principles under the HRA):

(1) '[T]he first rule, set out in the first sentence of the first paragraph, is of a general nature and enunciates the principle of the peaceful enjoyment of property';

(2) 'the second rule, contained in the second sentence of the first paragraph, covers **deprivation of possessions** and subjects it to certain conditions';

(3) 'the third rule, stated in the second paragraph, recognises that the Contracting States are entitled, amongst other things, to **control the use** of property in accordance with the general interest . . .

(4) 'The three rules are not, however, 'distinct' in the sense of being unconnected. The second and third rules are concerned with particular instances of interference with the right to peaceful enjoyment of property and should therefore be construed in the light of the general principle enunciated in the first rule.'

34. In determining whether an impugned measure breaches A1P1, a number of questions fall to be considered.

(3). Q1: Is there a 'possession'?

35. The first question is whether the right or asset claimed is a 'possession'. The concept of 'possessions' in the first paragraph of A1P1 is an autonomous one which is for the Courts to determine, and it covers both 'existing possessions' and assets, including legal claims: *JA Pye*, [61].

36. As I will explain in more detail, under 'Opinion', in my view a 'seat' owned by a Seatholder is clearly a 'possession' for A1P1 purposes. There is a more difficult question as to whether a Seatholder within a Grand tier 'box' may also claim the box itself is a possession, to which I will come.

(4). Q2: Has there been an 'interference'?

37. Second, it must be determined whether there has been an 'interference' with possessions. Not every state action which has a negative effect on the value of an asset will constitute an 'interference'. Of particular relevance to the present case, an obligation that arises as a necessary incidence of the ownership of property as a matter of private law may not constitute an 'interference', however badly its value is affected. For example, in *Aston Cantlow PCC v Wallbank* [2004] 1 AC 546, the owners of a property on former rectorial land were liable at common law, as lay rectors, to repair the chancel of their parish church. They were served a notice by the local parish council under the Chancel Repairs Act 1932 requiring them to pay the sum of £95,260.84, the estimated cost of repairing the chancel. The House of Lords dismissed the owners' claim that the demand was an unlawful breach of their rights under A1P1. Among other things, it did not constitute an 'interference' with their possessions. The obligation to repair was, and always had been, an incidence of the ownership of the property as a matter of private law of which the owners had been aware since they came into possession. It was not an 'outside intervention by way of a form of taxation': [71], Lord Hope.

38. The operation of private law to commercial interests can, nevertheless, constitute an interference with possessions. For example, in the *JA Pye (Oxford) Ltd* case, the applicant landowner had permitted a third party to farm a parcel of land. The third party successfully claimed that, after twelve years without any request for payment by the applicant, title to the land had passed

to them under the law of 'adverse possession' under the Land Registration Act 1925 and the Limitation Act 1980. The Grand Chamber of the ECtHR held that the complete extinction of the applicant's right to the land (which on one valuation was worth over £10 million), although an incidence of the private law of property of which the owner should have been aware, nevertheless did constitute an interference with their rights under A1P1 [63], although went on to hold that the interference was justified.

39. For reasons I will come to, although they undoubtedly are affected, in my view none of the proposals in the Bill constitute an 'interference' with the A1P1 rights of Seatholders. However, if they do then I am satisfied any such interference is lawful, as I will also explain.

(5). Q3: Is the interference a 'deprivation' or 'control of use' of property?

40. Third, if there has been an interference, the next question is whether that amounts to a 'deprivation' of possessions, which would usually require compensation for value to be lawful (the second rule) or a 'control of use' of possessions, which is relatively easy to justify on public interest grounds (the third rule). A 'deprivation' of possessions occurs when, for example, property is seized or compulsorily purchased. A 'control of use' of possessions is different in nature from a deprivation. Express examples in A1P1(2) include the payment of 'taxes or other contributions' and 'penalties' (whether criminal or regulatory), while other 'controls of use' have been held to fall within that paragraph, such as criminal forfeiture and compensation orders, the imposition of conditions on and revocations of business licences, rent controls, planning controls and similar measures. Materially for present purposes, the regulation of commercial relationships between private individuals will generally constitute a 'control of use' rather than a 'deprivation' of possessions. In *JA Pye (Oxford) Ltd.*, for example, the

operation of the private law of adverse possession was held to constitute a 'control of use' on the applicant's possession, not a deprivation. That was because the relevant legislation was:

> 'not intended to deprive paper owners of their ownership, but rather to regulate questions of title in a system in which, historically, 12 years' adverse possession was sufficient to extinguish the former owner's right to re-enter or to recover possession, and the new title depended on the principle that unchallenged lengthy possession gave a title

41. As I will explain, if (contrary to my opinion) any of the proposals in the Bill do constitute an 'interference' with possessions, they are a 'control of use' rather than a 'deprivation' of possessions, and therefore easier to justify.

(6). Q4: Is the interference 'provided for by law'?

42. Fourth, whatever the nature of the interference, it must be justified or will otherwise be unlawful. To be 'justified' the interference must, first, be 'provided for by law', also known as the principle of legality. This means the interference must have a basis in domestic law and that law must meet certain quality standards required in a democracy based on the rule of law. These include that: the law must be accessible, its effects must be reasonably foreseeable and it must contain minimum standards against arbitrary interference. This requirement will be met by the safeguards contained in the Bill.

(7). Q5: Is the interference 'proportionate'?

43. Fifth, the interference must also satisfy the test of proportionality, namely: (i) its objective must be sufficiently important to justify the limitation of a fundamental right; (ii) it must be rationally connected to that objective; (iii) a less intrusive measure could not have achieved the same objective (although if such measures do exist this is not decisive of the proportionality issue; it is only a relevant factor (*James v United Kingdom* (1986) 8 E.H.R.R. 123, [51]);

and (iv) having regard to these matters and to the severity of the consequences, a fair balance has been struck between the rights of the individual and the interests of the community: *Bank Mellat v Her Majesty's Treasury (No 2)* [2014] A.C. 700, [20]; *Beyeler v. Italy* [GC], [107]; *JA Pye*, ibid, [53]; *Aviva*, [78].

44. In determining proportionality, the following principles are relevant:

(1) As a general rule, an interference with possessions constituting a *deprivation of possessions* within the meaning of the second rule will not be proportionate and justified if compensation of equal value has not been made, although full compensation will not be necessary if that is justified for legitimate public interest reasons: *Holy Monasteries v Greece*, (1995) 20 E.H.R.R. 1, [71]; *Former King of Greece and Others v Greece* [GC] (2001) 33 E.H.R.R. 21, [89]; *Jahn v Germany*, (2006) 42 E.H.R.R. 49, [94]; *JA Pye*, [54].

(2) On the other hand, where the interference amounts to no more than a *control of use* (the third rule), in determining proportionality the Courts will accord a wider 'margin of appreciation' to the authorities and will generally respect the policy choice unless it is 'manifestly without reasonable foundation' (see e.g. *JA Pye,* [55]; *Silverfunghi*, [101-108]). In particular, compensation is generally not necessary for a 'control of use' to be justified under A1P1.

(3) The margin of appreciation is 'particularly essential in commercial matters' as it is generally not for the Courts under A1P1 to 'settle disputes of a private nature' (*JA Pye*, [75]).

(4) 'Special justification' is required for measures that retrospectively remove property rights (*Bäck v Finland* (2005) 40 E.H.R.R. 48),

although that factor will not, of itself, make the interference disproportionate (*Silverfunghi*, [104]);

(5) A fair balance is not struck if the interference requires the individual to bear a 'disproportionate and excessive burden' (*Beyeler*, [122])).

(6) A fair balance is not struck if there are inadequate safeguards against the arbitrary exercise of the power, a factor which is relevant both to the 'provided for by law' requirement (above) and the question of proportionality.

45. As I will explain, in my opinion all of the Bill's proposals would be justified and proportionate if the Bill is passed and the Corporation exercises those powers.

B. The 'statement of compatibility'

46. Section 19 HRA imposes a statutory on a Government Minister to make a statement that a Public Bill's provisions are compatible with the Convention rights. Section 19 provides:

> (1) A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill— (a) make a statement to the effect that in his view the provisions of the Bill are compatible with the Convention rights ('a statement of compatibility'); or (b) make a statement to the effect that although he is unable to make a statement of compatibility the government nevertheless wishes the House to proceed with the Bill.

47. There is no statutory obligation on the promoters of a private Bill to make such a statement, but such a statement must still be made by virtue of Parliamentary standing orders: see Erskine May, 'Treatise on the Law, Privileges, Proceedings and Usage of Parliament' (Online), Chapter 7, 43.4; Cabinet Office Guide to Making Legislation 2022, 11.27.

48. The statement in the case of a private Bill, like the statement that must be made under s 19 HRA in the case of a Public Bill, is made as to its compatibility 'with the Convention rights'. The Convention rights are those that arise as a matter of domestic law and to which effect is given by the HRA, s 1 and the Schedule. A1P1 is one of the Convention rights. A statement is therefore necessary in this case.

C. The procedure for passing a private Bill: the 'Wharncliffe meeting' procedure

49. Under what are known as the 'Wharncliffe' Standing Orders (SO 62–67), bills conferring particular powers upon companies constituted by Act of Parliament or otherwise have to be referred, in both Houses, to the Examiners for proof that the bills have been duly approved by the proprietors or members of the companies concerned, in the manner prescribed in the orders: Erskine May, ibid, 45.3. In particular:

(1) Before the Bill may be presented into the House of Commons (or the House of Lords) it must be consented to by 75% in number and (where applicable) in value, of the proprietors or members of the company at a meeting (called a 'Wharncliffe meeting') called for that purpose.

(2) Furthermore, parties who are 'specially and directly affected' by the Bill's provisions have the ability to petition against (ie object to) the Bill after it is introduced into the relevant House, provided they have voted against the Bill at the Wharncliffe meeting. There is a process whereby the promoter can challenge the objector's *locus standi* to object. The petitioner may be heard by a Select Committee at Committee stage of the Bill (in each House if they petition in each House). The proceedings are quasi-judicial. Evidence may be presented by the Promoter and the petitioner and is subject to cross examination.

The Committee (which is made up of MPs or Peers which have no 'interest' in the Bill) can decide for or against the Bill as a whole or with amendments.

50. Accordingly, none of the proposals that I am asked to consider may pass into law as an Act without (a) the approval of three-quarters of the Members and (b) the minority having an opportunity for their objections to be heard by either House. I am instructed that the Wharncliffe meeting took place on 20 October and the Bill was approved.[6] This has particular relevance when considering the proportionality of the proposals for A1P1 purposes, for reasons I will come to shortly.

V. OPINION

51. Against that background I can state my conclusions relatively shortly.

A. Q1. Is the right of a Seatholder a 'possession' under A1P1?

52. Yes. It is the view of counsel who have previously advised in this matter that a seat is a private property right as a matter of domestic law, and that will usually be determinative for the purposes of A1P1. As I have noted, the rights conferred are 'permanent', so long as the underlying lease persists, and extremely valuable and considered by the Corporation to be property rights: see above, ¶5. I consider at ¶55, below, whether Seatholders in a box may also claim that they have 'possession' of the box as well as the seat.

B. Q2: Would any of the proposals constitute an interference?

53. In my view, although they undoubtedly affect the property rights of Members, it is unlikely that any of the proposals in the Bill as drafted which permit the Corporation to set the Annual Contribution or to set the number of

[6] Per Member/Seatholding: 139 voted, 137 for, 2 against. Per seat: 533 total, 521 for, 12 against

'Exclusives' constitute an interference with property rights within the meaning of A1P1. The Corporation's current constitution already permits it to set an Annual Contribution and to exclude Seatholders for up to 75 days for any purpose and for additional days subject to certain restrictions. These are 'obligations', like the obligation on the lay rector in *Aston Cantlow* to fund the repair of the church chancel (above, ¶37), that arise from and are necessary incidences to the Seatholder's private ownership of a seat or seats. They are not obligations imposed from outside the private relationship between Seatholder and Corporation. The proposals do not require the Corporation to set an increased Annual Contribution or number of days of Exclusives per annum – the figures could be set lower than at present. That they empower the Corporation to increase either or both these amounts does not, of itself, constitute an interference.

54. There is a counter-argument, however. The present case can be distinguished from *Aston Cantlow* as, in that case, the terms of the private law contract were not altered by any intervening change in the law; here, they are being changed by legislation, namely the Bill. It is arguable that the change in law, which permits a greater 'interference' than that which is already authorised by the private law contract, is an interference for A1P1 purposes. In that case, I consider any interference to be justified, for reasons I will shortly explain.

55. As to the proposal to sell additional seats in the remaining 31 Grand Tier boxes, I note the view expressed in Hazel Williamson QC's advice that the Seatholders who own the seats in a box obtain rights to the seats, but not to the box. However, that conclusion is expressed tentatively. Moreover, even if that is correct as a matter of domestic law, it is not conclusive for A1P1 purposes. The Seatholders in a box may justifiably claim that they have exclusive possession of the box, as well as the seats in it, so that the box is also a 'possession'. That said, in my opinion the sale of additional seats

within the box is not an 'interference' with that 'possession' as it can only be done with the express written permission of existing Seatholders.

56. So far as the Corporation's proposal to grant voting rights to any Additional Seatholders is concerned, it is highly doubtful that this constitutes an interference with the 'possessions' of existing Seatholders. While I accept that voting rights as a Member are an integral part of existing Seatholders' 'possession', the proposal does not remove or alter those voting rights. While it empowers the Corporation to create new voting Members, who may exercise their votes in a way that an existing Seatholder might object to, that possibility is already envisaged in the current constitutional arrangements by the fact that Seatholders can sell their seats, and their voting rights, to third parties. In my view this proposal falls squarely within the private law relationship between the Corporation and the Seatholders and is not an 'interference' for A1P1 purposes.

C. Q3: Would the proposals lead to a 'deprivation' or a 'control of use' of that possession?

57. If any of the proposals do constitute an 'interference' with property rights, I am satisfied that they are a 'control of use' and not a 'deprivation' of possessions. Accordingly, they are easier to justify: see above, ¶44.

D. Q4: Are the proposals 'provided for by law'?

58. All of the proposals in the Bill, if given effect as an Act, will meet the requirements of legality. In particular, the safeguards of (a) a three quarters majority of Members to support any increase in the Annual Contribution or number of Exclusives each year, and (b) the consent of the Seatholders before the sale of additional Grand Tier box seats confer adequate protection against arbitrary interferences with Seatholders' possessions.

E. Q5: Are the proposals proportionate?

59. In my opinion, all the proposals clearly have a legitimate objective (assuring long term financial viability of the Hall by increasing flexibility) and are rationally connected to that objective. The key question, as is often the case, is whether the proposals strike a 'fair balance' between those affected and the general interest.

(1). Annual Contribution

60. In my opinion, both the proposal in Cl. 3 of the Bill to remove the six year cap and to allow the Council to set the Annual Contribution with a 75% majority of the Members strikes a fair balance between the interests of the Seatholders who are affected by these proposals and the general interest, having regard to the following factors:

(1) A majority of 75% of the Members in a 'Wharncliffe meeting' has approved the proposals in a Bill and any objectors have the opportunity to raise those during the Bill's passage.

(2) All the Seatholders, including the 'minority' that might object to an increase, have an interest in the legitimate objectives of maintaining the ongoing financial viability of the Hall.

(3) The proposal falls equally on all Seatholders. It cannot be said that any Seatholder will bear a 'disproportionate and excessive burden' compared to others.

(4) There will be no power for the Council to raise the Annual Contribution retrospectively.

(5) The proposed statutory safeguards for Seatholders are sufficient to protect against any arbitrary or disproportionate increase. Under Cl 3.

the Members would have to approve the Annual Contribution by a majority of 75% rather than the current 66%. In my view, this is a sufficient safeguard equal, at least in practice (given the 6 yearly ceiling is rarely reached), to the existing safeguard.

(6) In any event, the state has a very wide margin of appreciation in determining whether a measure is necessary and proportionate in the public interest, which is particularly wide in private law matters engaging commercial interests. The Courts will only intervene if the balance struck is 'manifestly without reasonable foundation': see above, ¶43. I am confident that no Court would reach that conclusion in relation to the Annual Contribution proposals in Cl. 3.

(2). Exclusives

61. In my opinion the proposals in Cl. 4 (supplementing s 14 by giving the Council power to set the annual number and purposes of Exclusives with a 75% majority of the Members) are justified and proportionate.

(1) ¶¶60(1)-60(2) above are repeated.

(2) Seatholders are entitled to be compensated for Exclusives by means of the 'rebate', which in 2021 entitled them to a £153 reduction in the Annual Contribution. This was in any event an atypical year, affected as it was by COVID-19; in a normal year the figure is more likely to be closer to that in 2019 (£522) and 2020 (£550).

(3) The replacement safeguards for Seatholders are sufficient to protect against any arbitrary or disproportionate increase in Exclusives. The current constitution empowers the Council to exclude Members for what may be up to 100 days a year without approval by the Members, subject to certain restrictions (above, ¶19). The proposal in Cl. 4 allows

the Council to authorise additional 'Exclusives' without restriction on the number of days and purposes for which Members may be excluded, so the Council *could* exclude Members for more days than they do at present. However, there are two safeguards for Members. First, a majority of 75% must approve any additional restriction. Second, a group of at least 20 members can put forward an alternative proposal.

(4) In any event, the state has a very wide margin of appreciation and I am confident that no Court would conclude that the Exclusives proposal in Cl. 4 is 'manifestly without reasonable foundation'.

(3). Sale of additional seats in Grand Tier boxes

62. I have already explained that the seat in a Grand Tier box constitutes a 'possession', as may the box itself. The current proposal in Cl. 5 to sell additional seats with the express consent of the existing Seatholders in the box probably does not constitute an *interference* with those possessions: above, ¶55. Moreover, in any event, such a proposal would clearly be justified and proportionate. This proposal has no downside for those existing Seatholders; it only has an upside, namely the opportunity to increase the value of their possession by purchasing two further Seats. Even if the seat was sold to a third party, there can be no stronger safeguard against the arbitrary reduction in the value of the box than the requirement of the existing Seatholders' express consent for that sale.

(4). Awarding voting rights to Additional Seatholders

63. This proposal is unlikely to constitute an 'interference' with possessions (¶56 above). In any event, any such interference is only minor and is outweighed by the practical benefits of granting voting rights, namely (a) to rectify the anomaly that existing Additional Seatholders have no voting rights; (b) to

make additional seats more attractive to potential Additional Seatholders by conferring the same voting rights as other Seatholders; and (c) potentially increasing the pool of voting Members. This proposal does not infringe A1P1.

VI. CONCLUSION

64. Drawing together the strands, in my opinion, the proposals to: alter the Corporation's powers to set the Additional Contribution in Cl. 3; alter the Corporation's powers to exclude Seatholders from Exclusives in Cl. 4; offer for sale additional seats in Grand Tier boxes and confer voting rights on Additional Seatholders in Cl. 5, of the Bill are compatible with the Convention rights, specifically A1P1.

65. Please do not hesitate to contact me if I can be of further assistance.

PAUL BOWEN KC (Counsel)

BRICK COURT CHAMBERS, LONDON

17 NOVEMBER 2022

IN PARLIAMENT

HOUSE OF LORDS

SESSION 2023-24

ROYAL ALBERT HALL BILL

Witness Statement of Ian McCulloch

EXHIBIT 2

Bill as deposited, 28 November 2022

Royal Albert Hall Bill

EXPLANATORY MEMORANDUM

This Bill is promoted by The Corporation of the Hall of Arts and Sciences (the Royal Albert Hall) ("the Corporation").

The purpose of this Bill is to amend certain existing provisions relating to the annual contribution payable by Members of the Corporation ("the Members") towards the general purposes of the Royal Albert Hall ("the hall"); to make further provision regarding the exclusion of the Members from the hall; and to make provision for the sale of further seats and the exercise of certain rights in respect of Grand Tier boxes located on the first tier of the hall.

Clause 1 gives the short title of the Bill and provides that it shall come into force when it is passed.

Clause 2 defines certain expressions used in the Bill.

Clause 3 amends certain existing provisions relating to the annual contribution payable by the Members.

Clause 4 makes further provision for the exclusion of the Members from the hall.

Clause 5 makes provision for the sale of further seats and the exercise of rights in respect of certain Grand Tier boxes located on the first tier of the hall.

EUROPEAN CONVENTION ON HUMAN RIGHTS

In the view of The Corporation of the Hall of Arts and Sciences (the Royal Albert Hall) the provisions of the Royal Albert Hall Bill are compatible with the Convention Rights.

Royal Albert Hall Bill

CONTENTS

A

B I L L

To amend certain provisions of the Royal Albert Hall Act 1966 relating to the annual contribution payable by the Members of the Corporation towards the general purposes of the Royal Albert Hall; to make further provision regarding the exclusion of the Members from the hall; and to make provision for the sale of further seats and the exercise of certain rights in respect of Grand Tier boxes located on the first tier of the hall.

WHEREAS—

(1) The Corporation of the Hall of Arts and Sciences ("the Corporation") was incorporated by Royal Charter dated the 8th April 1867 ("the original charter") for the purpose of building and maintaining a hall and buildings connected therewith on the estate of the Commissioners for the Exhibition of 1851 ("the exhibition commissioners") at South Kensington and appropriating the hall to purposes connected with science and art as therein mentioned; and the Corporation accordingly built the Royal Albert Hall ("the hall") which was opened on the 29th March 1871:

(2) The membership of the Corporation consists of the registered holders of permanent seats in the amphitheatre of the hall or of private boxes containing a certain number of seats or of seats in such boxes such seats having been allotted to them in proportion to the amount of subscriptions paid by them towards the building of the hall or having been subsequently purchased by them. The seatholders now number 329 holding 1,268 seats:

(3) The exhibition commissioners subscribed large sums towards the building of the hall in respect of which they held rights to seats which they have since surrendered. They also made a free grant to the Corporation of a lease of the

site of the hall for a term of 999 years from the 25th March 1867, at a nominal rent:

(4) The said lease included covenants by the Corporation to keep the hall in good repair and not to use it or permit its use for any ends, intents or purposes except such as were authorised by the original charter without the consent in writing of the commissioners and a right of entry for the exhibition commissioners in the event of breach of any of the covenants on the part of the Corporation contained in the lease:

(5) The original charter provided for the drawing up and sanctioning of a constitution for the Corporation and under such constitution the management of the hall was vested in an elective council consisting of a president and eighteen ordinary members. A supplemental charter dated the 7th December 1928, provided for the addition to the council of five appointed members appointed respectively by the parties therein mentioned. The members of the council all serve in an honorary capacity:

(6) The original charter provided that no dividend should be payable to any member of the Corporation and all profits which the Corporation might make by the use of the hall or by the sale or letting of any seats belonging to the Corporation for the time being after completion of the hall should be applied in carrying into effect the purposes of the Corporation. The constitution provided that the boxes or seats in the hall remaining at the disposal of the Corporation might be sold or let by the council either for the remainder of the term of the said lease or for any less period on such terms as the council might think fit:

(7) The purposes for which the hall was authorised by the original charter to be used were the following:—

(a) congresses both national and international for purposes of science and art;

(b) performances of music including performances on the organ;

(c) the distribution of prizes by public bodies and societies;

(d) conversaziones of societies established for the promotion of science and art;

(e) agricultural, horticultural and the like exhibitions;

(f) national and international exhibitions of works of art and industry including industrial exhibitions by the artisan classes;

(g) exhibitions of pictures, sculpture and other objects of artistic or scientific interest;

(h) generally any other purposes connected with science and art:

(8) The original charter empowered the Corporation subject to the rights reserved to the members of the Corporation to let the use of the hall "for a limited period" for any purposes for which the Corporation might themselves use the hall:

(9) By a supplemental charter dated the 25th October 1887 ("the charter of 1887"), the said purposes were supplemented under article 9 by the following purposes:—

(a) public or private meetings of any body of persons;

(b) operettas, concerts, balls or any "other than theatrical" entertainments for the amusement and recreation of the people;

and the council of the Corporation was authorised under article 10 to let the hall for any of those purposes and also to arrange with individual members of the Corporation for the exchange purchase renting or temporary user of their boxes or seats:

(10) The charter of 1887 provided under article 11 that the Corporation in general meeting might by resolution after notice and with the support of a majority of not less than two-thirds of the votes of those voting empower the council to exclude the members of the Corporation from the hall on a certain number of days not exceeding ten in any one year on any occasion on which the hall should be used for private meetings or entertainments to which the general public should be unable to obtain admission by payment of money only:

(11) The Royal Albert Hall Act 1876 ("the 1876 Act"), after reciting that the funds at the disposal of the council for maintaining, repairing and furnishing the hall and supporting an adequate staff of officers and servants were wholly insufficient for those purposes and that a majority of the members were willing that the seats should be charged at a rate not exceeding two pounds per annum for providing a fund for those purposes empowered the Corporation to rate the members in every year at such sum (in the said Act called "the seat rate") not exceeding two pounds for every seat as the members present at a general meeting called for that purpose some time in the month of February in each year should determine:

(12) The Royal Albert Hall Act 1927 ("the 1927 Act") after reciting that the funds at the disposal of the council for the purposes recited in the 1876 Act were again insufficient by reason of increased cost of those purposes and that the expenditure of large sums of money on the hall had become necessary in order to comply with the requirements of the London County Council relating to means of escape in case of fire and safety of persons resorting to the hall and that the Corporation had no funds to enable them to comply with such requirements included (inter alia) provisions to the following effect:—

(a) imposing on every member for the time being of the Corporation a compulsory seat rate in place of the seat rate under the 1876 Act for a period of six years from the 1st January 1927; and as from the expiration of that period increasing to three pounds the maximum sum of two pounds chargeable in any year for seat rate under the 1876 Act;

(b) providing that notwithstanding anything in the original charter or in article 9 of the charter of 1887 the hall may be used for theatrical entertainments and operatic performances but without affecting the operation of the Theatres Act 1843;

(c) providing under sections 17 and 18 as follows:—

(i) that the occasions on which the Corporation in general meeting may under article 11 of the charter of 1887 by resolution empower the council to exclude the members of the Corporation from the hall shall be extended so as to include firstly occasions on which the hall is used for balls for the purposes of which a floor is erected over the amphitheatre stalls and secondly occasions when it is used for other entertainments (not being (a) balls for the purposes of which a floor is not so erected or (b) boxing entertainments) whether or not the general public can obtain admission thereto by payment of money;

(ii) that on occasions (other than those to which, the said extension applies) on which the hall is used for any purpose for which it is necessary or convenient to erect a floor over the amphitheatre stalls a floor may be erected thereover and the holders of such amphitheatre stalls shall be disentitled to use such stalls but entitled to free admission to the hall and to all rights and privileges as such holders other than the use of their stalls. The floor may not remain over the amphitheatre stalls longer than six weeks unless with the consent in writing of the holders of a majority of such stalls;

(d) prohibiting the Corporation from letting the main hall for any continuous period exceeding one year:

(13) The Royal Albert Hall Act 1951 ("the 1951 Act") after reciting that after eighty years of existence and constant use the hall was urgently in need of large structural and other repairs and improvements to render it safe and commodious for those who resorted to it and properly equipped for the many uses to which it was and might be put, and that heavy expenditure mainly of a capital nature was involved for which the funds and resources of the Corporation and possibilities of revenue from use or letting of the hall were insufficient to provide, included (inter alia) provisions to the following effect:—

(a) imposing a capital contribution charged upon and in respect of every seat of two hundred and eighty pounds payable by yearly instalments of seven pounds for a period of forty years, the sums so charged when received by the Corporation being applicable solely to capital purposes; and

(b) providing that the occasions on which the council might be empowered to exclude members from the hall pursuant to the provisions of article 11 of the charter of 1887 should comprise all occasions on which the hall was let for any purposes for which the Corporation was empowered to let the hall and that in addition the council might exclude the members from the hall on certain further occasions not exceeding eight in number:

(14) The Royal Albert Hall Act 1966 ("the 1966 Act") in order to enable the funds of the Corporation to be used to the best advantage and the financial resources of the Corporation to be augmented to the necessary extent and to give the Corporation increased means of earning revenue, conferred further powers upon the Corporation and the council with respect to the use and letting of the hall and the rights of seatholders therein as set out in that Act, in particular:—

(a) making provision as to the annual contribution that could be charged for each seat; and

(b) providing that the occasions on which the council might be empowered to exclude members from the hall pursuant to the provisions of article 11 of the charter of 1887 be further amended.

(15) On 18th December 1967, the Corporation was registered as a charity under the provisions of the Charities Act 1960:

(16) In order to assist the administration and management of the affairs of the Corporation in the pursuit of its purposes, it is expedient that further provision is made for the members to benefit the Corporation by the conferring of further powers upon the Corporation and the council with respect to the use and letting of the hall and the rights of seatholders therein:

(17) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please your Majesty that it may be enacted, and be it enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Citation and commencement

(1) This Act may be cited as the Royal Albert Hall Act 202[ ] and comes into force on the day on which this Act is passed.

(2) The Royal Albert Hall Acts 1876 to 1966 and this Act may be cited together as the Royal Albert Hall Acts 1876 to 202[ ].

2 Interpretation

(1) In this Act, unless the subject or context otherwise requires—

"the 1966 Act" means the Royal Albert Hall Act 1966;

"the annual contribution" has the meaning assigned to that expression by section 3 (annual contribution) of the 1966 Act;

"the constitution" means the constitution of the Corporation contained in Schedule 2 to the 1966 Act;

"the Corporation" means the Corporation of the Hall of Arts and Sciences;

"the council" means the council of the Corporation;

"the existing enactments" means the Royal Albert Hall Acts 1876 to 1966;

"the hall" means the Royal Albert Hall of Arts and Sciences at South Kensington (constructed in accordance with the provisions of the original charter and commonly known as "the Royal Albert Hall") as for the time being existing;

"member" means a person who is for the time being a member of the Corporation whether a body corporate or an individual and in the case of several persons jointly entitled to the same seat means all such persons collectively;

"the original charter" means the Royal Charter dated the 8th April 1867, by which the Corporation was incorporated;

"seat" means a permanent seat in the hall with a registered holder whether such seat be in the amphitheatre stalls or forms one of several seats in a private box; and

"the supplemental charters" means the supplemental charters of the Corporation dated 25th October 1887 and 7th December 1928.

(2) Except where the context otherwise requires, any reference in this Act to any enactment is to be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Act.

3 Annual contribution

(1) Section 3 (annual contribution) of the 1966 Act is amended as follows.

(2) In subsection (1)(a), after the words "the annual contribution", omit the colon and the following paragraph except the full stop.

(3) In subsection (1)(b), for the words "two-thirds" substitute "three-quarters".

4 Further power to exclude members from the hall

(1) Notwithstanding anything in the original charter, the supplemental charters and the existing enactments, the following provisions have effect.

(2) The Corporation may, by resolution in general meeting, determine when and upon what terms the council may, in respect of a calendar year, exclude members from the hall.

(3) A resolution under subsection (2) may be proposed by—
(a) the council; or
(b) not less than twenty members.

(4) A resolution proposed under subsection (3) shall not be carried unless approved by a majority of not less than three-quarters of members voting in person or by proxy and voting on a show of hands (or by a poll if demanded) or in a poll taken by means of postal voting papers.

(5) If more than one resolution is proposed under subsection (3), the method of voting shall be the same for each one.

(6) If more than one resolution proposed under subsection (3) is carried, only the resolution with the highest number of votes in favour of it shall be valid.

(7) A resolution under subsection (2) may specify whether, and if so the terms upon which, any additional rent received in respect of the letting of the hall on any occasion on which the members are excluded from the hall in accordance with the terms of the resolution, which is attributable to such exclusion, shall be applied by the council in or towards the reduction of the annual contribution.

(8) Subject to the provisions of subsection (9), the provisions of clauses 21 to 26 of the constitution shall apply to any general meeting held pursuant to this section.

(9) The council may make, revoke and alter byelaws under clause 11 of the constitution for regulating matters relating to the operation of this section including—
(a) the manner in which the resolution may be proposed;
(b) how the identity of a member proposing the resolution may be authenticated;
(c) the giving and timing of notices; and
(d) the variation of a resolution for it to be made efficacious.

(10) In subsection (2), "calendar year" means any one or more calendar years within the period of five consecutive calendar years following the year in which the resolution is approved by the Corporation under that subsection.

(11) For any calendar year in respect of which a resolution under subsection (2) has not been passed, the council may exercise the power conferred upon it by section 14 of the 1966 Act to exclude members from the hall.

(12) For any calendar year in respect of which a resolution proposed under subsection (3)(b) has been passed, the council may elect instead to exercise the power conferred upon it by section 14 of the 1966 Act to exclude members from the hall.

5 As to seats in Grand Tier boxes

(1) Subject to subsection (3), the Corporation may sell or let to any persons up to two further seats in Grand Tier boxes, either for the full remainder of the period of nine hundred and ninety-nine years for which the hall is held by the Corporation, or for any lesser period, on such terms as it reasonably considers appropriate after taking professional advice.

(2) The subscribers to any further seats in Grand Tier boxes sold or let under subsection (1) shall be entitled to exercise all of the rights and privileges of membership set out in the original charter, the supplemental charters and the existing enactments, but shall also be subject to the obligations contained therein, and all rights, privileges and obligations will from the date which is agreed apply to those seats.

(3) The Corporation may not exercise the power in subsection (1) without the prior consent in writing of each of the existing members who hold seats in the relevant Grand Tier box.

(4) Where, prior to the passing of this Act, a person has subscribed for a seat in the Grand Tier boxes but does not in respect of that seat enjoy all of the rights and privileges of membership set out in the original charter, the supplemental charters and the existing enactments, the Corporation may, on such terms as it reasonably considers appropriate after taking professional advice, agree with that person that they shall from such date as may be agreed exercise all such rights and privileges of membership (together with the obligations of membership) as attach to the seat and such rights and privileges (and obligations) will from that date apply to that seat.

(5) In this section, "Grand Tier boxes" mean—

(a) in the case of subsections (1) to (3), such boxes as are located on the first tier of the hall containing no more than ten seats; and

(b) in the case of subsection (4), such boxes as are located on the first tier of the hall containing twelve seats.

Royal Albert Hall Bill

A

B I L L

To amend certain provisions of the Royal Albert Hall Act 1966 relating to the annual contribution payable by the Members of the Corporation towards the general purposes of the Royal Albert Hall; to make further provision regarding the exclusion of the members from the hall; and to make provision for the sale of further seats and the exercise of certain rights in respect of Grand Tier boxes located on the first tier of the hall.

SESSION 2022–23

IAN McCULLOCH
The Corporation of the Hall of Arts and Sciences (Royal Albert Hall)
Kensington Gore
London SW7 2AP
President of the Corporation

BDB PITMANS LLP
One Bartholomew Close
London EC1A 7BL
Solicitors and Parliamentary Agents

28.11.22

58/3

IN PARLIAMENT

HOUSE OF LORDS

SESSION 2023-24

ROYAL ALBERT HALL BILL

Witness Statement of Ian McCulloch

EXHIBIT 3

The report by a Minister of the Crown on the statement of opinion on Convention Rights dated 31 January 2023

Rt Hon Stuart Andrew MP
Parliamentary Under Secretary of
State for Sport, Tourism
and Civil Society
1st Floor
100 Parliament Street
London SW1A 2BQ

E: enquiries@dcms.gov.uk

www.gov.uk/dcms

Department for Digital, Culture, Media & Sport

Lord Gardiner of Kimble
Senior Deputy Speaker
House of Lords
London
SW1A 0PW

31 January 2023

Dear Lord Gardiner,

Royal Albert Hall Bill

I write concerning the Royal Albert Hall Bill.

Standing Order 98A (Reports concerning human rights) requires that, in the case of a private bill originating in either House, a report from a Minister of the Crown on the statement of opinion required by Standing Order 38(3) shall be presented to the House (by being deposited in the Office of the Clerk of the Parliaments) not later than the second sitting day after that on which the Bill was read a first time. I apologise for the delay in providing this report.

I consider that the Bill's promoters have undertaken a full assessment of the compatibility of their proposals with the European Convention on Human Rights (the "Convention") and I see no need to dispute their conclusions.

Yours sincerely,

Rt Hon Stuart Andrew MP
Minister for Sport, Tourism and Civil Society

IN PARLIAMENT

HOUSE OF LORDS

SESSION 2023-24

ROYAL ALBERT HALL BILL

Witness Statement of Ian McCulloch

EXHIBIT 4

Petition of the Hon. Richard Lyttleton, the FanFair Alliance and the Court of the Worshipful Company of Musicians, dated 30 January 2023

Petition

House of Lords
Session 2022-23
Royal Albert Hall Bill

Please do not include any images or graphics in your petition. There will be an opportunity to present these later if you give evidence to the committee.
Your bill petition does not need to be signed.

Expand the size of the text boxes as you need.

1. Petitioner information

In the box below, give the name and address of each individual, business or organisation(s) submitting the petition.

(1) The Hon. Richard Lyttelton; 5 Queens Gate Place Mews, London, SW7 5BG.

(2) The FanFair Alliance; 7 Bell Yard, London, WC2A 2JR.

(3) The Court of the Worshipful Company of Musicians; 1 Speed Highwalk, Barbican, London, EC2Y 8DX.

In the box below, give a description of the petitioners. For example, “we are the owners/tenants of the addresses above”; “my company has offices at the address above”; “our organisation represents the interests of…”; “we are the parish council of…”.

Please see the information set out in the petition dated 30 January 2023 **attached** to this document.

2. Objections to the Bill

In the box below, write your objections to the Bill and why your property or other interests are directly and specially affected. Please number each paragraph.

Only objections outlined in this petition can be presented when giving evidence to the Committee. You will not be entitled to be heard on new matters.

Please see the information set out in the petition dated 30 January 2023 **attached** to this document.

3. What do you want to be done in response?

In the box below, tell us what you think should be done in response to your objections. You do not have to complete this box if you do not want to.

You can include this information in your response to section 2 'Objections to the Bill' if you prefer. Please number each paragraph.

Please see the information set out in the petition dated 30 January 2023 **attached** to this document.

Next steps

Once you have completed your petition template, save it and either email it to hlprivatebills@parliament.uk, post to the Private Bill Office, House of Lords, London, SW1A 0PW, or call 020 7219 3231 to arrange a time to deliver it in person.

Petitioner's details

Organisation/group name (if relevant)

(1) The Hon. Richard Lyttelton.
(2) The FanFair Alliance.
(3) The Court of the Worshipful Company of Musicians.

First name(s)

(1) The Hon. Richard Lyttelton,
(2) For the FanFair Alliance: Mr Adam Webb,
(3) For the Court of the Worshipful Company of Musicians: Mr Hugh Lloyd,

Last name

As above.

Address line 1

As above.

Address line 2

As above.

Post code

As above.

County

As above.

Email

As above.

Phone

As above.

Who should be contacted about this petition?
Individual above ☐
Another contact (for example, Roll A Agent or other representative) ☒
If another contact, complete the 'main contact's details' section.

Main contact's details

First name(s)

The Hon. Richard Lyttelton,
5 Queens Gate Place Mews, London, SW7 5BG

Last name

As above.

Address line 1

As above.

Address line 2

As above.

Post Code

As above.

County

As above.

Email

As above.

Phone

As above.

Terms and conditions

Personal information

A copy of this petition and information provided in the online form will be:

- kept in the Private Bill Office and as a record in the Parliamentary Archives.
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PAYNE HICKS BEACH

Petition in Opposition to the Royal Albert Hall Bill

(1) The Hon. Richard Lyttelton; (2) The FanFair Alliance; (3) The Court of the Worshipful Company of Musicians

Dated 30 January 2023

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Introduction

1. We act for the Hon. Richard Lyttelton. Mr Lyttelton has a long-standing commitment to the arts and to music related charities including the Royal Albert Hall.

2. Mr Lyttelton is joined in this petition by the FanFair Alliance and the Court of the Worshipful Company of Musicians. The purpose of this petition is to set out their shared objections to the Royal Albert Hall Bill in its present form and to propose certain amendments.

Summary

3. It is the clear view of Mr Lyttelton that the Bill is flawed and should be amended to (i) remove the ability of seat-owners ("**Members**") to sell tickets on the open market for a profit; and (ii) ensure that the interests of the charity take precedence over those of Members in any sale of new Grand Tier box seats.

4. As presently framed, the Bill is misdirected. While the Corporation of the Hall of Arts and Sciences (the "**Corporation**" or the "**Hall**") will benefit from the Bill to the extent it will enable it to secure more commercially attractive performances[1], it leaves long-standing weaknesses in the Hall's governance entirely unresolved. In Mr Lyttelton's view, those weaknesses have:-

   (a) Caused the Hall to act for many years in excess of its powers and in contravention of section 14 of the Royal Albert Hall Act 1966 first by letting the Hall for performances in excess of the relevant statutory restrictions and subsequently by illegitimately purporting to vary those restrictions; and

   (b) Enabled certain Members to re-sell their tickets on the open market for significant profits by failing to update byelaws (introduced in 1967 and unaltered since) that were intended to severely restrict the practice.

[1] See specifically clause 4(2) which provides the Hall with greater flexibility to exclude Members from the Hall, thereby enhancing its commercial appeal to promoters who naturally prefer to sell tickets to the entire Hall rather than part of it.

5. The Bill should be amended to restore the reputation and advance the purposes and charitable objectives of the Corporation, the maintenance of which in recent years has been the subject of sustained public criticism:-

   (a) *"Warning as members 'tout' tickets"*, *The Times*, 13 January 2012.

   (b) *"Trustees sell charity tickets for profit"*, *The Times,* 27 March 2012.

   (c) *"The Albert Hall is being exploited by trustees, at the nation's expense"*, *The Times*, 28 March 2012;

   (d) *"Royal Albert Hall called a 'national disgrace' over members' ticket resales"*, *The Guardian*, 18 January 2017.

6. Narrow amendments to the Bill to remove the ability of Members to sell their tickets on the open market for a profit (save for through the Hall's Ticket Return Scheme) and ensuring new Grand Tier box seats are sold at prevailing market rates would achieve this aim.

7. Such amendments would not only be simple to introduce and manage, they would also be consistent with the Hall's charitable objectives and enhance public confidence in the governance of the Corporation, whilst not derogating from the need to ensure the Corporation remains on a sure financial footing fit for the practical realities of the 21st century.

Structure

8. In the paragraphs which follow this petition sets out:-

   (a) **Section A**: Standing to object.

   (b) **Section B**: Mr Lyttelton's objections to the Bill, understood by reference to:-

      i. **Section B1**: The present governance arrangements for the Corporation.

ii. **Section B2**: The weaknesses of those governance arrangements, and in particular, their unsuitability in light of the tension between:-

i. the commercial self-interest of a narrow class of Members on the one hand, (and in particular those on the Council who own significant numbers of seats and therefore exercise disproportionate voting rights); and

ii. the original purpose and charitable objectives of the Corporation on the other.

(c) **Section C**: Mr Lyttelton's proposals to address his objections. These are that amendments be made to the Bill to remove the ability of Members to sell tickets for performances in the Hall on the open market for a profit (unless done through the Hall's Ticket Return Scheme) and ensuring new Grand Tier box seats are sold at prevailing market rates.

9. Each is addressed in turn below.

Section A: Standing

10. Mr Lyttelton has a long-standing respect for the Albert Hall and its founding principles. In short Mr Lyttelton is:-

(a) An honorary member of the Royal College of Music, having served on its council and audit committee for 10 years; trustee of Queen Alexandra's House (another Albertopolis institution); trustee of the EMI Archive Trust; former Chairman of the English touring Opera and Musician's Benevolent Fund; and former President of Classics and Jazz Worldwide at EMI for some 18 years.

(b) A Member of the Corporation and the owner of two seats in the Hall. He was President of the Council (the role and functions of the Council are described further at paragraphs 21 to 22 below) of the Corporation from 2010 to 2011.

11. Mr Lyttelton resigned from the presidency because he had serious concerns about the way the Hall was being run. In particular, Mr Lyttelton believed:-

    (a) That the Corporation was acting in breach of the Royal Albert Hall Act 1966; and, more damagingly

    (b) That trustees were enhancing the personal benefit they derived from the commercial sale of tickets in breach of the private benefit restrictions on them under the Charities Act.

12. In this petition Mr Lyttelton enjoys the support of the FanFair Alliance and the Court of the Worshipful Company of Musicians of which he is a member. The FanFair Alliance is a music industry body set up by representatives of major international artists (Arctic Monkeys, Mumford and Sons, Keane, Travis, Little Mix, Alison Moyet and many others of similar standing) to prevent their fans being exploited on secondary ticketing sites. The Worshipful Company of Musicians is the only City of London Livery Company dedicated to the performing arts, it aims to nurture talent and share music through its concerns, outreach, awards and young artists' programme.

13. Mr Lyttelton submits that the Bill will, if enacted in its present form, allow the circumstances which gave rise to his resignation to continue to the detriment of the Hall and most of its ordinary members, the creative community (including the FanFair Alliance and the Court of the Worshipful Company of Musicians) and the public more generally for whose benefit the Hall was originally conceived. Further, by failing to specify that new Grand Tier box seats must be sold in the best interests of the charity and at prevailing market rates the Bill also risks the further agglomeration of seats by major investors.

14. It is submitted that Mr Lyttelton's membership of the Corporation and the impact of the Bill on him in that capacity as outlined above, together with his position as past President of the Corporation, and his current and previous positions within the music industry, are such that he has a unique understanding of the governance issues facing the Corporation and is directly and specially affected by the Bill and therefore has, together with the FanFair Alliance and the Court of the Worshipful Company of Musicians, sufficient standing to deliver this petition in opposition.

Section B: Mr Lyttelton's Objections to the Bill

Section B1: The Governance Framework

15. To understand the flaws inherent in the Bill it is essential to describe the Corporation's governance framework and its inherent weaknesses.

16. The governance framework is described in this Section B1, which summarises the purposes and powers of the Corporation, followed by the rights and restrictions on Members. The weaknesses of this framework are described in Section B2.

The Corporation

Legal framework and origins

17. The Corporation was incorporated by Royal Charter dated 8 April 1866 (the "**Original Charter**"). In addition to the Original Charter, the Corporation is regulated by:-

    (a) Supplemental charters dated 25 October 1887 (the "**1887 Charter**") and 7 December 1928 (the "**1928 Charter**").

    (b) The Royal Albert Hall Acts 1876 to 1966, Schedule 2 of the latter contains the Constitution for the Corporation.

    (c) The British Museum (Transitional Provisions) Order 1965.

    (d) The Charities (Corporation of the Hall of Arts and Sciences) Order 2000 (SI. 2000 No. 891).

18. Much of the aims and historical context in which these instruments were introduced are described in the report prepared by the Hon. Sir Robert Owen dated 25 March 2014 (the "**Owen Review**"). A copy of the Owen Review, referred to throughout this petition, can be made available in evidence.

Purposes of the Corporation

19. The Original Charter set out the purposes of the Corporation, together with the rights of Members (the latter are described further at paragraphs 27 to 31 below). The purposes and powers of the Corporation are set out in Articles 3 to 6 of the Original Charter:-

(a) Article 3 provides that the purposes of the Corporation were the construction and maintenance of the Hall and its use to further the objectives of the arts and sciences identified in Article 3.

(b) Article 3 then goes onto provide:

> *"power for the Corporation to furnish the Hall in such manner, and with such works and objects of scientific and artistic interest as they think fit, and generally to do all such acts and things, whether such acts and things are or are not of the same character or nature as the acts and things before enumerated, as they think conducive to the purposes of the Corporation, or for the benefit of the Members thereof, having regard to the purposes aforesaid."*
>
> [Underlined emphasis added].

20. The Original Charter is supplemented[2] by the Constitution of the Corporation, which may be altered in accordance with Article 24 of the Original Charter by passing a special resolution in general meeting. The power to alter the Constitution was made *"Subject to such provisions of this Our Charter as define the purposes of the Corporation and the rights of Members"* (underlined emphasis added). As such, the power to change the Constitution cannot be used to change either the Corporation's purposes or Members' rights. The Original Charter and the Constitution therefore form the foundations of the Corporation's governance framework, with the purposes of the Corporation and the rights of Members at its heart.

[2] Paragraph 35 of the Constitution provides that it is "*supplemental to, and not in derogation of, the Charter of the Corporation; and such Charter shall remain in full force, and this Constitution may be altered in manner provided by the said Charter".*

Management of the Corporation: the Council

21. Management of the Corporation is vested in the Council. This arises under paragraph 11 of the Constitution, which sets out the general powers of the Council and provides that the Council's ability to let the Hall is subject to the rights reserved to Members:

> *"11. The Council may exercise all such powers of the Corporation as are not by the said Charter or by this Constitution required to be exercised by the Corporation in General Meeting, subject nevertheless to the provisions of the said Charter and of this Constitution, and to such regulations (not being inconsistent with the said Charter and Constitution) as may be prescribed by the Corporation in General Meeting; but no regulation made by the Corporation in General Meeting shall invalidate any prior act of the Council which would have been valid if such regulation had not been passed.*
>
> *In particular the Council shall have power to do all or any of the following things, that is to say:-*
>
> *…*
>
> *(2) They may, subject to the rights reserved to the Members of the Corporation, let the use of the Hall for a limited period, either wholly or partially, exclusively, or reserving certain rights of entry to any persons for any purposes for which the Corporation might themselves use the Hall…".*
>
> [Underlined emphasis added].

22. The Council originally consisted of a President and 18 ordinary Members elected by the Members. Those 18 Members were later supplemented by five Appointed Council Members (who are not required to be Members of the Corporation) appointed by external bodies under the 1928 Charter, namely:-

(a) One by the Trustees of the British Museum (Natural History);

(b) One by the President of the Board of Education (since delegated to a representative of DCMS);

(c) One by the Governors of the Imperial College of Science and Technology;

(d) One by the Council of the Royal College of Music; and

(e) One by the Royal Commissioners of the Exhibition of 1851.

Charitable status

23. In addition to acting in accordance with its own governance framework, the Corporation is also a charity and subject to charities law in the usual way, having applied for and been granted registration as a charity in 1967. As a charitable institution the Corporation has as its objects:

> *"to maintain the Royal Albert Hall, a Grade 1 listed building of historical and cultural significance and, through its use, to promote the understanding, appreciation and enjoyment of the Arts and Sciences."* [3]

24. As observed at paragraph 15 of the Owen Review, as a consequence of the Corporation's charitable status, and in addition to the Council's role under the Constitution (as to which, more below):

> *"the Council assumed the responsibilities of the governing body of Trustees of the Corporation as a charity, and became subject to charity law and to the requirements and guidance of the Charities Commission"*.

25. The 18 Member-elected Councillors therefore have several (potentially competing) layers of rights and responsibilities, being at the same time:-

(a) **Trustees of the charity:** with all of the attendant responsibilities of that position under charities law to act in the interests of the charity to enable it to carry out its purposes;

(b) **Members of the Council:** with responsibilities to direct the affairs of the Corporation in accordance with its governance framework by doing: *"all such acts*

[3] Charity Commission for England and Wales, Register of Charities, the Hall, Charity Overview.

and things…as they think conducive to the purposes of the Corporation, or for the benefit of the Members thereof, having regard to the purposes aforesaid"[4]; and

(c) **Private property owners:** in respect of their seat(s), with all of the usual rights and incentives created by such a position.

26. The rights of Members are discussed in the next section of this petition.

The rights of Members

Origins and legal nature of Members' rights

27. The origin of the rights of Members is explained in the recital to the Original Charter which provides, amongst other things, that:

> *"And whereas the persons hereinafter named, with many others, have subscribed towards the funds for the erection of the Hall, in consideration of having granted to them in return for their subscriptions, permanent seats in the Hall in manner appearing in the Schedule annexed hereto; And whereas provision is made in the said Schedule for registering as Members of the Corporation established by this Our Charter,"*

28. Consistent with the position under paragraph 11(2) of the Constitution (see paragraph 21 above), Article 5 of the Original Charter provides that the Council's power to let the Hall is subject to the proprietary rights of Members:

> *"Subject to the rights reserved to the Members of the Corporation, the Corporation may let the use of the Hall, for a limited period, either wholly or partially, exclusively, or reserving certain rights of entry to any persons for any purposes for which the Corporation might themselves use the Hall"*
>
> [Underlined emphasis added].

[4] Article 3 of the Original Charter.

29. While Members' proprietary rights are protected by the governance framework for the Corporation, Members have no interest in any profits generated by the Corporation from the use of the Hall.

30. That is consistent with the charitable status of the Corporation and reflected in the text of Article 6 of the Original Charter, which states that no dividend is payable to a Member of the Corporation and that all profits made by the Corporation from the use of the Hall:

> *"shall be applied in carrying into effect the purposes of the Corporation in such manner as the Corporation think fit".*

31. Further detail on the rights of Members is provided in the Schedule[5] to the Original Charter, which provides that:-

    (a) Members' rights to occupy their seats in the Hall continue for the whole term for which the site of the Hall is granted (paragraph 7);

    (b) Members' interests in the Hall shall be personal estate and not in the nature of real estate (paragraph 8); and

    (c) Every Member shall have one vote for every seat for which s/he is a registered holder (paragraph 31).

Alteration of Members' rights

32. The rights of Members can be changed in three ways:-

[5] Deemed to be part of the Original Charter by Article 2 of the Original Charter.

(a) First, under the Corporation's Constitution by the Council applying for a new charter, or for any modification of the Original Charter in accordance with Article 26[6].

(b) Second, by Act of Parliament. This was the procedure adopted to exclude Members from the Hall so that their seats could be used by the Council for the purposes for which the Corporation was established through:-

i. Sections 17 and 18 of the Royal Albert Hall Act 1927;

ii. Section 9 of the Royal Albert Hall Act 1951; and

iii. Section 14 of the Royal Albert Hall Act 1966

(c) Third, by a scheme pursuant section 73(1) of the Charities Act 2011, formerly section 17(1) of the Charities Act 1993. The Charity Commission, on the application of the Council, can use the powers contained in section 73(1) to settle a scheme altering the statutory provisions of the Corporation, provided it does not alter any statutory provision contained in or having effect under any public general Act of Parliament. The 1927, 1951, and 1966 Acts referred to above are private rather than public general Acts of Parliament.[7]

33. It is not possible therefore for Members by either simple majority in a general meeting or by unanimous agreement amongst themselves to change their proprietary rights to occupy their permanent seats in the Hall. Members can of course sell (or elect not to use) tickets for performances they do not wish to attend (as to which, see paragraphs 35 to 39 below), and there can be no issue with Members selling their seats to others or their passing on the death or insolvency of a Member. No such power exists

[6] Article 26 provides as follows: *"The governing body, for the time being, of the Corporation, may apply for a new Charter, or for any modification of this Charter, but such application shall not be made after the opening of the Hall, without the consent of the Corporation, testified by a Special Resolution.* The requirements of a Special Resolution are set out in Article 25 of the Original Charter. In accordance with that power the Original Charter was modified by supplemental charters dated 25 October 1887 and 7 December 1928.

[7] It is possible to tell that the 1927, 1951, and 1966 Acts are private Acts because they are numbered in a separate series using lower case roman figures and they contain a preamble, which is always present in a private Act.

however which would permit Members at a general meeting to agree to modify the rights of Members to occupy their seats.

34. We observe that the Owen Review considered at paragraph 93 that it *"would appear to be valid"* for Members to agree to modify the rights of Members to occupy their seats at a general meeting. The general power relied on by the Owen Review to justify this (admittedly tentatively drawn[8]) conclusion is the power under the Original Charter for the Corporation to *"…do all such acts and things as they think conducive to the purposes of the Corporation".* It is difficult to accept this conclusion. To do so would render those sections of the 1927, 1951, and 1966 Acts that exclude Members from the Hall entirely redundant, which runs contrary to the text of the final recital to each of those Acts which records that *"the purposes of this Act cannot be effected without the authority of Parliament"*.

Members' right to sell unused tickets

35. In addition to Members' right to occupy their seats in the Hall in accordance with the governance framework outlined above, Members also have a right to sell unused tickets.

36. They can do so either by returning them to the box office for sale at face value (the Corporation's Ticket Return Scheme or TRS) or on the open market. Members' rights of sale are regulated by section 15(1) of the 1966 Act which provides as follows:

> "*(1) Byelaws made by the council…may include byelaws prohibiting the sale by or on behalf of members in the hall or in the vicinity thereof of tickets for seats.*
>
> *(2) Byelaws made pursuant to this section may provide for imposing upon any member a fine not exceeding twenty-five pounds for the breach or non-observance of such byelaws.*

[8] Paragraph 93 of the Owen Review went on to observe that while the conclusion that it *"would appear to be valid"* for Members to agree to modify the rights of Members to occupy their seats at a general meeting, *"I would simply add that it will be for the Council and Members to decide whether it is desirable, for the avoidance of doubt, to seek a definitive opinion from Chancery counsel on the point, alternatively to seek an amending Act of Parliament…"*.

…

(4) If any member refuses, or for one month after demand made by the council for payment thereof neglects, to pay a fine imposed by the council under any byelaw made pursuant to this section such member shall not be entitled to use any seat of which he is the registered holder or to vote at any general meeting of the Corporation or in any poll of the members until the full amount of such fine for which he is liable to be paid."

37. The Byelaws passed by the Council in February 1967 reflect the text of section 15(1) above and provide in relevant part that:-

"No person being a member or acting on behalf of a member shall sell or attempt to sell in the hall or in the vicinity thereof any ticket for a seat (or seats).

Breach or non-observance of this Bye-Law shall render the member liable to pay to the council a fine of £25."

[Underlined emphasis added].

38. As discussed further at paragraph 44(c) below and noted at paragraph 5 above, the underlined text above has been a source of sustained public criticism of the administration of the Hall.

39. As noted at paragraph 16 of the Owen Review, the Council published guidelines which we subsequently adopted by Members at an Annual General Meeting on 25 May 2006 on ticket re-sales:

"(i) In addition to their proprietary rights as seat-holders, the Members have a key role within the Hall's constitution. In broad terms, that role might be described as seeking to achieve, through the Council, the purposes of the Corporation as a charity.

…

(iii) In all matters relating to the use of their seats the Members should take full account of the overriding requirement to maintain and uphold the good standing of the Hall as a charitable institution. For example, Members should be discouraged from disposing of their tickets in ways that could attract understandable criticism by Hall promoters and performers and the public more generally".

40. Despite the existence of these guidelines, the media headlines from 2012-2017 referred to at paragraph 5 above (the substance of which can be expanded upon in evidence) suggest their adoption remains far from universal. The next section of this petition describes the weaknesses in the Corporation's governance framework and why Mr Lyttelton's amendments are required to ensure the Corporation's original purposes are upheld, rather than diminished, by the Bill.

Section B2: Weaknesses in the Governance Framework

41. Properly understood, the guiding principle of the Corporation's governance framework is that the rights of Members must remain entirely incidental to the charitable purposes of the Corporation.

42. Weighed against this principle is the modern reality and practices of the Corporation and the commercial interests of Members and indeed the needs of the Corporation itself.

43. For the reasons given below the Corporation's governance framework has proven insufficiently robust to meet these challenges and has given rise to sustained public criticism. The Bill does not improve on the status quo. It should. The paragraphs below describe how.

Structural weaknesses

44. It is apparent from the survey of the Corporation's governance framework described earlier in this petition that there are a number of significant weaknesses in the Corporation's governance framework:-

(a) **Voting Rights:** Members' voting rights are set according to the number of seats owned, rather than by the traditional democratic basis of one-Member-one-vote. There is an argument that this undermines appropriate checks and balances on the influence of those Members who own large numbers of seats, thereby arguably distorting the proper governance of the Council and ultimately the Corporation.

(b) **Council Control:** Control of the Council, which directs the affairs of the Corporation, is dominated by Member-elected Councillors as opposed to non-Member appointments (18 Member elected Councillors to 5 non-Member appointees). The 18 Member-elected Councillors are either appointed by other Councillors or elected by other Members which, for the reasons noted above, places disproportionate power in the hands of those who own the most seats, and who have in turn the greatest personal financial interest in the way the Corporation is run. There is an argument that this arrangement distorts and dilutes the objectivity of the Council and inhibits its freedom to act in accordance with the Corporation's governance framework.

(c) **Ticket selling:** Restrictions applicable to the sale of unused tickets by Members on the open market are minimal and out-of-step with 21st century commercial practices:-

i. The restrictions only apply, in accordance with the language used in the 1967 Byelaws, to sales taking place *"in the hall or in the vicinity therefore"*. We are instructed that in practice this has been interpreted to exclude any sales which occur on the internet, and that some Members have established their own website through which tickets are sold sometimes at significantly inflated prices.

ii. The maximum fine for breach of the restrictions where they do apply is £25. While that may have been an appropriate figure when the restriction was

introduced in 1967, it could hardly be described as adequate deterrent in 2023.

(d) **Exclusion of Members from the Hall:** The limited means by which the Council can revise arrangements to exclude Members from the Hall to facilitate commercially more attractive events, the promoters of which prefer (understandably) to let the whole Hall (see paragraphs 62 to 71 of the Owen Review). A better balance needs to be struck on how this can be achieved given the Hall's unique history and ongoing funding requirements. We observe that the Bill goes some way towards addressing this issue (specifically through clause 4(2)) and to that extent it is to be welcomed.

45. These weaknesses when combined with pressures exerted on performance venues by 21st century commercial practices arguably gave rise to both the very public criticism of the management of the Hall referred to elsewhere in this petition, and the so-called 'interim arrangements' which we are instructed continue today. The latter are discussed below.

The "Interim Arrangements"

46. It is evident from the Owen Review that the Corporation has acted at variance with the requirements of its governance framework for some time, specifically, section 14 of the Royal Albert Hall Act 1966. It continues to do so. To explain:-

(a) As noted at paragraph 32(b)(iii) above, section 14 of the 1966 Act is one of the few items of legislation which empowers the Corporation through the Council to exclude Members from the Hall in specific and limited circumstances.

(b) As described at paragraphs 37 to 47 of the Owen Review, the Corporation has let the Hall on an exclusive basis in excess of the limits set out in section 14 on various occasions from around 2008. We are instructed that the Corporation continues to act in excess of the powers conferred upon it by section 14.

(c) The Council and Members through the processes described at paragraphs 37-47 of the Owen Review have sought to validate the Council's approach to exclusive

lettings (the "**Interim Arrangements**"). In so doing the Interim Arrangements illegitimately purport to vary the text of section 14 of the 1966 Act.

(d) For the reasons given at paragraph 32 above it is Mr Lyttelton's clear view that the Members and the Corporation are and were not permitted to amend the text of the 1966 Act and Members' rights in this way. Although not mentioned in the preamble, the purpose of the Bill is at least in part to correct this anomaly.

47. While a complete assessment of the commercial or charitable benefits derived by the Corporation from the Interim Arrangements are beyond the scope of this petition, we observe that:-

(a) The existence of the Interim Arrangements is indicative of a serious weakness in the present governance framework.

(b) Had the governance framework been effective, the Interim Arrangements would not have been introduced and an alternative path would have been followed that was consistent with the governance framework outlined at paragraph 32 above.

(c) While other commercial benefits to the Corporation no doubt arise from the Interim Arrangements as a result of the increased commercial attractiveness of exclusive lets to promoters, the incidental benefits to Members cannot be ignored (as noted at paragraph 87 of the Owen Review) namely:-

i. Reduced prospects of the Corporation calling for greater contributions from Members;

ii. Rebates payable to Members for each exclusive let; and

iii. Enhanced capital value of the seats owned by Members and the sale value of tickets to performances.

48. None of the weaknesses in the governance framework identified earlier in this petition which gave rise to Mr Lyttelton's criticism of its direction and ultimate resignation will

be mitigated by the Bill. It is submitted therefore that the Bill should be amended as described in the next section of this petition.

Section C: Proposed Amendments to the Bill

49. Rather than resolving the lacuna at the centre of the Corporation's governance arrangements, namely the potential conflict between the commercial interests of Members who vote for and control the Council on the one hand, and the charitable objectives and original purposes of the Corporation on the other, the Bill instead prioritises:-

(a) The reinforcement of the Interim Arrangements introduced in contravention of section 14 of the 1966 Act (i.e. clause 4 of the Bill); and

(b) Enhancing the commercial interests of certain Members including parties related to trustees by enabling them to acquire all of the rights and privileges of ownership of additional seats in Grand Tier boxes (i.e. clause 5 of the Bill).

50. The founding Members of the Hall may find those legislative priorities difficult to reconcile with the original ambitions for the Corporation and out of step with public expectations. It is worth recalling that Members:-

(a) Include according to the Owen Review (at paragraphs 50-52) those perceived to be "*a new wave of aggressively commercial Members looking for a precise return on their investment*".

(b) Have significant influence over the strategic direction of the Corporation through both:-

i. The division of the Council between those 18 Council Members elected by Members or appointed by Councillors against the 5 Council Members appointed by non-Member third party institutions; and

ii. In some instances, as a result of the weighting and allocation of votes to Members on the basis of seats owned as opposed to a more conventional

one-Member-one-vote system, a disproportionate and arguably inappropriate ability to influence the direction of the Council;

(c) Have received increasingly significant financial benefits in recent years[9], both in terms of the returns received through the Corporation's Ticket Return Scheme and the capital value of the seats themselves.

51. In Mr Lyttelton's view, unless appropriately balanced, the influence and commercial interests of Members (and in particular those who are also on the Council and/or own large numbers of seats and therefore exercise disproportionate voting rights) risk overwhelming the original purpose and charitable objectives of the Corporation and may be taken as legitimising the Council's modification of section 14.

52. In its present form, the Bill does nothing to mitigate that risk. It should. If the Bill becomes law in its present form it risks causing further reputational damage to the Hall and Members by enabling the Corporation to drift away from its guiding principles, to the detriment of the interests of audiences, the charity, the creative community and the public interest more generally.

53. For these reasons it is submitted that the Bill should be amended to include the following changes to clause 5 and a new clause 6:

"5 As to seats in Grand Tier Boxes

(1) In subsection 1, after the words "sell or let to any persons" add the words "other than existing Members" and after the words "any lesser period," add the words "for a sale price set by reference to current market prices and"."

…

"6 Restriction of ticket sales by members otherwise than through the hall or its agents

[9] See the analysis set out at paragraph 90 of the Owen Review.

(2) Section 15 (power for council to prohibit sale of tickets in hall or in vicinity thereof) of the 1966 Act is amended as follows.

(3) In subsection 1, after the words "on or behalf of members", omit the words "in the hall or in the vicinity thereof", and after the words "of tickets for seats" add the words ", save where such sales are made through a ticket return scheme operated or approved by those members of the council appointed in accordance with clause 2 of the Supplemental Charter of 7 December 1928".

(4) *In subsection 2, after the words "upon any member", omit the words "a fine not exceeding twenty-five pounds", and add the words "a suspension of their rights to their seat(s) in the hall for a period of up to 6 months for breach or non-observance of such byelaws"."*

54. There can be no reasonable objection to the sale of Grand Tier box seats at prevailing market prices set by reference to appropriate professional advice. Nor can there be any credible objection to the new clause 6 which would correct the anomalous and outdated limitation on the re-sale of tickets by Members under clause 15 of the 1966 Act to only those sales that take place *"in the hall or in the vicinity thereof".* Clause 6 would also update and enhance the penalty for breach, moving away from the fine set at £25 in 1967 to provide for a temporary restriction on Members' rights to their seats for a period of up to 6 months. Such amendments would be easy to implement and operate; the Hall manages and distributes tickets already through its Ticket Return Scheme.

55. The rights of Members and the sale of tickets are within the scope of the Bill as presently framed. This much is clear from the text of the preamble and clauses 4 and 5. Such rights must remain entirely incidental to the charitable purposes of the Corporation. The limits on Members' rights inherent in the new clause 6 are proportionate and consistent with this principle, which is central to the Corporation's governance framework. The Corporation is not a limited liability company, and Members on the Council are not majority shareholder-appointed directors, set in their position to advance the interests of those who appoint them or their own. The Corporation is a charity and the Council may only act:-

(a) To further the purposes of the Corporation; or

(b) To the benefit of Members while having regard to the Corporation's purposes.

56. The proposed amendments to the Bill return the Council to these guiding principles. It is respectfully submitted that the Bill should be amended accordingly.

PAYNE HICKS BEACH

Petition in Opposition to the Royal Albert Hall Bill

(1) The Hon. Richard Lyttelton; (2) The FanFair Alliance; (3) The Court of the Worshipful Company of Musicians

Dated 30 January 2023

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IN PARLIAMENT

HOUSE OF LORDS

SESSION 2023-24

ROYAL ALBERT HALL BILL

Witness Statement of Ian McCulloch

EXHIBIT 5

The Charity Commission's Briefing Note before the Bill's Second Reading in the House of Lords, 19 October 2023

CHARITY COMMISSION
FOR ENGLAND AND WALES

Parliamentary Briefing – The Royal Albert Hall Bill

About the Charity Commission

- The Charity Commission is the independent regulator of charities in England and Wales. We register and regulate charities to ensure that the public can support them with confidence. More information about our work is available on our website.

Background

- The Corporation of the Hall of Arts and Sciences is a registered charity which runs and maintains the Royal Albert Hall, the historic concert venue in Kensington, London.

- The Corporation was incorporated by Royal Charter in 1866 and registered as a charity in 1967. It is governed by its Charter and subsequent Acts of Parliament. As such, it requires parliamentary approval to make certain changes to its governance.

- The charity is managed by a board of trustees (known as the Council), the majority of whom are Royal Albert Hall seat-holders.

- The charity owns a long lease of the Royal Albert Hall, originally granted for a token rent by the individuals who funded the original cost of building it. Under the governing charter and statutes, rights to the use of the Hall's seats were granted to those same individuals. These investors were granted 999 year leases of individual seats and today around 1,200 seats, out of the Hall's total possible capacity of 5,272, remain in private ownership.[1]

Conflicts of interest

- The charity is unique in its constitution. The majority of the charity's board of trustees are Royal Albert Hall seat-holders, meaning they enjoy private seat-holding rights whilst also occupying the position of trustee. This is a clear conflict of interest.

- Because the trustees who are also seat-holders are in the majority, they have the opportunity to influence decisions on matters related to seat-holders – for example, the amount that the seat-holders pay annually for their seats. It is also possible for seat-holders to sell their seat tickets on the open market, which creates a private benefit to these trustees.

- These conflicts of interest are allowed under the charity's governing documents. However, the situation has regularly attracted criticism and threatens to undermine public confidence in the charity.

Charity Commission involvement

- The Charity Commission has longstanding concerns about these inherent conflicts of interest. The charity's constitution is an historical anomaly – no other charity has been set up on this basis.

- The Commission is clear that the constitution of the charity does not reflect modern standards of charity governance. It is the Commission's view that the board of trustees should significantly reduce the scale of influence that seat-holders have on decision-making relating to their own private interests in the seats.

- The Commission suggests that the board of trustees should have enough independent members to enable it to be quorate without the participation of seat-holders or those appointed by seat-holders. The Private Bill does not make provision for these improvements – however, these matters could be addressed by the trustees of the charity under the powers in the existing constitution. The trustees have so far failed to effect those changes.

[1] Governance | Royal Albert Hall — Royal Albert Hall

- The Commission has sought to address this matter through engagement with the trustees over several years. So far the trustees have resisted changes that would lessen the influence of seat-holding trustees on the board.

- The Commission previously sought to clarify the law around these issues by seeking a reference to the Charity Tribunal, for which consent is needed from the Attorney General. This consent was eventually refused by the then Attorney General.

- Although the charity's position is that the conflict issues will be addressed in due course by future resolutions of the board of trustees, the Commission does not have great confidence in this assurance, given that no progress has been made on this issue after many years of engagement. Given the Attorney General's decision referred to above, the Commission feels unable to use the Courts to help resolve this issue.

The Royal Albert Hall Bill

- The Royal Albert Hall Bill is a private bill promoted by the Corporation. The Bill seeks to confer further powers upon the charity and the board of trustees related to the use and letting of the Royal Albert Hall and the rights of seat-holders. The Bill does not directly address the conflicts of interest concerns described above.

- The Bill would amend certain provisions of the Royal Albert Hall Act 1966 in order to:

    - Allow for up to two additional seats to be sold in each Grand Tier box in the Hall, and give 'backdated' permission in cases where a box has already been expanded, so that those additional seat-holders are granted equivalent rights to existing seat-holders;

    - Remove a cap on increases in the annual rate seat-holders pay to the Corporation and increase the threshold for the percentage of seat-holders who need to agree the seat rate;

    - Formalise how the limits on exclusives (those events which the seat-holders are excluded from) are agreed;

    - Provide a power to relocate members from their own seats subject to suitable and reasonable safeguards;

    - Widen the byelaw making power to deal with inappropriate conduct of seat-holders;

    - Introduce a cap on the number of seats held by any member and their connected persons (subject to grandfathering provisions).

- Any charity wishing to prepare or promote private legislation to amend its constitution is required, under the Charities Act 2011, to secure the Commission's permission to use charitable funds for that purpose. The charity sought permission to introduce this Bill, which was granted on the basis that whilst the amendments did not address the conflict issues, they did raise matters which required a private bill, and so consent could not be refused.

Our view of the Bill

- The Bill seeks to confer further powers upon the charity and the board of trustees related to the use and letting of the Royal Albert Hall and the rights of seat-holders. The Commission does not oppose these changes.

- However, the Bill does not deal with the core issues of concern regarding conflicts of interest in the charity's constitution. It makes no changes to the make-up of the board of trustees and does nothing to reduce the influence of seat-holding trustees. As such, it is a missed opportunity to address concerns about the charity's governance.

CHARITY COMMISSION
FOR ENGLAND AND WALES

- We remain hopeful that the trustees will recognise their responsibilities and make the necessary amendments to the charity's constitution – either via this Bill or through the powers the charity already has. This would serve the interests of the Hall, and wider public trust in charities – and be welcomed by its many stakeholders.

For more information on any of the issues in this briefing, or the wider work of the Commission, please contact: parliamentaryenquiries@charitycommission.gov.uk

IN PARLIAMENT

HOUSE OF LORDS

SESSION 2023-24

ROYAL ALBERT HALL BILL

Witness Statement of Ian McCulloch

EXHIBIT 6

Hansard Extract on the Second Reading debate on the Bill in the House of Lords on 19 October 2023

Vol. 833
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Thursday
19 October 2023

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

of humanitarian support around the world—a proud tradition irrespective of political leadership that continues today for the Palestinians in the West Bank and Gaza. As I have said, the Prime Minister has announced additional funding and support. We are focused on that vital humanitarian support, but I am sure that the noble Lord recognises that Hamas does not represent the Palestinian people. This is a very fluid situation. It is time for calm heads. Everyone was shocked to their core by the devastation we saw at the Al-Ahli Hospital—I pay particular tribute to the Lords spiritual for the strong Anglican tradition associated with that hospital—but we cannot jump to conclusions. At a time of conflict, we must ensure that there is patience, resolve and calm before we look at attribution. I assure noble Lords that the United Kingdom Government, as my right honourable friends the Prime Minister and Foreign Secretary have said, are looking at this very carefully.

Lord Turnberg (Lab): My Lords, does the noble Lord agree that a Hamas-free Gaza, if we can ever get to that point, will provide an enormous opportunity for the case to be made strongly for a possible Palestinian state in the West Bank and Gaza? Does he agree that, with Hamas there, that is impossible?

Lord Ahmad of Wimbledon (Con): My Lords, I reflected the noble Lord's sentiments in my earlier responses. We are engaging with all key partners, including the Palestinian Authority. Earlier this morning I had a meeting with Hussein al-Sheikh, a senior member of the Executive of Mr Abbas. The Prime Minister has engaged directly with President Abbas, I have spoken to Foreign Minister al-Maliki, and the Foreign Secretary has been fully engaged. We have done so because the PA represents those who represent the interests of the Palestinians. In the future of that region, the rights and protection of all citizens, irrespective of faith or community, must be upheld. For the long-term horizon, that means a sustainable, two-state solution with Israel and Palestine living side by side in peace. However, at this moment we must ensure the return of the hostages, that this threat from Hamas is put to bed and, ultimately, that sustainable peace can be achieved. We all wish and pray for a future in that region without Hamas.

Lord Purvis of Tweed (LD): My Lords, on Tuesday, just hours before the terrible incident at the hospital to which the Minister referred—I agree with his remarks about that—an UNRWA school was hit. Fourteen UNRWA staff have been killed since 7 October and half a million Palestinians are currently sheltering in UNRWA facilities. I welcome the extra £10 million to the OPT, but this March I raised concerns that UK support to UNRWA has been more than halved since 2018, from over £70 million to £28 million. Does the Minister agree that there is now an urgent need for the UK fully to replenish our support for UNRWA, which will save lives?

Lord Ahmad of Wimbledon (Con): I was at the UN in September. Two countries often come in for criticism around the protection and defence of Israel—the United Kingdom and the United States. The biggest new pledge to UNRWA, of $73 million, came from the United States and the second-biggest came from the United Kingdom, doubling our support of £10 million. This new money is in addition to that. I accept that we have had to make reductions to ODA programmes around the world, but I am sure the noble Lord accepts that, when it really matters, it is countries such as the United Kingdom and the United States that stand up for those people who need the greatest level of support.

Lord Collins of Highbury (Lab): My Lords, the Minister is absolutely right that it has been the United Kingdom and United States standing up for UNRWA, although we have had severe cuts there, but the Question is about the future and how we are working. James Cleverly said yesterday that the Palestinians are victims of Hamas as well. We must remember that. How do we ensure that we do not just rely on the United States but work with countries such as Saudi Arabia so that the proper funds are put back into Palestine?

Lord Ahmad of Wimbledon (Con): I agree with the noble Lord, and put on record His Majesty's Government's recognition of the strong support from His Majesty's Official Opposition, and indeed all other parties represented here, in the united voice on this issue. All of us care about people suffering around the world and the issue of the Palestinians is no exception. I recognised that engagement in the meetings I had this morning. Prior to this, as the noble Lord, Lord Brooke, said in his Question, we were working with key partners. I was extensively engaged on new memorandums of understanding that we have signed with Gulf partners on issues of development. This needs not just the US and the UK. We should get away from "the East", "the western world" and the "Islamic world". I am a Muslim of the West. Am I conflicted? No, I am not. I am proud of the traditions of this country—my country—because we stand up for the people when they need us the most. We are working with Israel; of course we are a steadfast partner, but we are also working to ensure that the Palestinians see a future horizon which is bright and in which they recognise that they can live their lives in peace, in a sustainable way with their neighbours.

Royal Albert Hall Bill [HL]

Second Reading

11.52 am

Moved by ***Lord Harrington of Watford***

That the Bill be now read a second time.

Lord Harrington of Watford (Con): My Lords, I felt I was reasonably experienced at doing Bills from my career in the Commons and my experience here. I have taken through quite a few Government Bills, usually with consensus, and I have done a Private Member's Bill, which became law. I was not aware of the existence of a Private Bill, so this a new procedure for me. I beg to move that this Bill now be read a second time.

[Lord Harrington of Watford]

I declare my interest as a trustee of the Royal Albert Hall. I was appointed by the DCMS which, under the constitution, is entitled to a trustee. Without a doubt, most people—even the detractors of the Bill—would say that the Corporation of the Hall of Arts and Sciences, which everyone calls the Royal Albert Hall, is one of the nation's great cultural institutions. Under the constitution, there a number of appointed trustees from other institutions such as the Royal College of Music—usually those geographically surrounding the hall. This stems from the original constitution of the hall and how it was built. Most people know and see the hall as part of the UK's social and cultural fabric. Everybody knows the big, televised things like the Last Night of the Proms, the Royal Variety Performance and the Festival of Remembrance. However, not everybody knows—I did not know myself before I became a trustee—of its unique contribution to this country. As with many things in the United Kingdom, there are institutions that exist which perhaps would not be designed in the same way if they started now, but they do exist and do a very good job. It is fair to say that our parliamentary system is the classic example of that.

The hall itself was the brainchild of Prince Albert, who died quite shortly afterwards, and the corporation was established to enact his vision. The hall was opened in 1871 and became a charity in 1967. It has about 450 employees, and there are 400 events a year which attract close to 2 million visitors a year. It has an engagement programme that reaches out to more than 180,000 people of all ages and backgrounds. It was Prince Albert's vision that the hall should serve all people in promoting the arts and sciences. From the beginning, the hall was part-owned by people who funded it by a form of public subscription where people paid to become seat-holders. In return for their purchase, seat-holders where able to attend and enjoy the performances and were given the full responsibility of running the hall, and they are an integral part of it. It is a unique model called a "hybrid model" and has been the core of the hall's constitution and governance since its origin. I reiterate my view that it is a system that actually works because, after all these years—one and a half centuries—the hall exists and does a pretty good job representing this country with all the people who are involved in it.

The hall is governed by a council of 23 trustees and an elected president. Unlike myself, the majority of trustees are elected seat-holders, and are elected from the seat-holders. There are 319 seat-holders who together hold 1,268 of the hall's 5,272 seats. Under the constitution, the seat-holders are members of the corporation, and they range from big companies to charities to individuals, some of whom have family ownership going back to the beginning. It is the long-term nature of their ownership that has created this unusual tie; it is the bond between the hall and its members that is its cornerstone today.

There are two ways in which all members support the hall financially, on an equal basis. First, they pay an annual levy, or "seat rate", and, secondly, by forgoing their tickets for a certain number of days so there are more that the hall can sell commercially to non-seat-holders, and these are known as "exclusions" or "exclusivities". The average seat rate is £1,900 plus VAT and the exclusion is for about 100 days per year of performances, which obviously brings significant revenue to the hall and increases accessibility to all.

This leads me to the substance of the debate which, following a periodic review of the constitution, seeks to amend the terms of the seat rate and exclusions. The Bill itself contains three substantive clauses. Clause 3 seeks to remove the provision of the cap to the seat rate which, under the constitution, is set by the members every six years. As a quid pro quo, the voting threshold for agreeing the annual seat rate is being changed in the Bill from 66% to 75%, which is the threshold now for the six-year cap. Members were restricted by the six-year cap in how much they could contribute, and recent unexpected inflation has demonstrated the artificiality and the difficulty in forecasting a six-year cap. The restriction on how much the members may agree to contribute will no longer apply. Clause 4 provides a mechanism for members to agree to exclusions over and above, and of a different form from, those permitted by the Act of 1966. The current process by which members do this is of doubtful validity, but it is well intentioned. It leaves the hall exposed to the risk of challenge of acting unlawfully, and the clause will put this on a proper legal footing. It has been a long-running problem for the hall, which we hope can be resolved through the Bill. Administratively and legally, there is a pressing need for this clause.

Clause 5 enables the hall to sell, with membership, two extra seats in the grand tier boxes with the consent of the existing seat-holders in those boxes, and to sell membership to a few existing seat-holders in grand tier boxes who do not have membership. Doing so will enable the hall to raise substantial new capital for the hall's charitable purposes.

We are debating this Bill in Parliament as a private Act is needed, as I explained before, because the intended changes affect the private rights of members. There is no other way to achieve these means; I promise that, if there were, I would not be standing here today.

When I took on the trusteeship, I was not aware of the acknowledged conflict of interest between seat-holders legally profiting from their seats and the charitable purpose of the hall. I am very well versed in these matters, and they have been there for 150 years without any harm to the hall. In nearly all instances, the conflict of interest is in fact a shared interest, because in so many cases the interests of the hall and the interests of members are aligned. On the few occasions they are not fully aligned, there is a system of managing this. It has processes in place, including an independent conflicts of interest committee that scrutinises at close quarters the decisions of the trustees. We have to remember that in UK law it is the private property of seat-holders and it always has been. Their ownership is separate and legally stands apart from the hall; they do not form part of the charity, and their use within the rules does not deprive the charity of anything. Indeed, neither the charity nor the hall could exist without seat-holders.

When this Bill came up, I was asked to put my name to it on the basis that these were small changes that were legally necessary to ensure that the hall could continue operating in a legal manner. It was not my intention or my expectation that the Bill's opponents would use this process as an opportunity to put forward their well-known objections to these conflicts in the governance of the hall. I pay tribute to all the people I have met, in particular my noble friend Lord Hodgson for his continued and good-natured engagement. I must confess that before my first conversation with him I was quite naive about these other issues, which I am now fully briefed on and aware of.

I have discussed this with nearly everybody who has put their name down to speak in this debate, and the Charity Commission has also contacted me. I will listen to all contributions to the debate with interest and an open ear, to inform my role as a trustee. I believe that in its intent and extent the Bill is a relatively modest measure and can only benefit the hall. I also believe it would be wrong to allow the critics of the hall—on significant wider constitutional matters—to stand in the way of this small piece of legislation. Whatever the merits of what they say, this small piece of legislation is needed.

At the Bill's future stages there will be plenty of opportunity for its opponents to say exactly what they think, because it is the custom and practice of the House in relation to private Bills to give the promoter the opportunity in Committee to prove the need for it. I hope that those points are without the scope of the Bill and can be discussed on another occasion, because I believe in the Bill. Nevertheless, the onus of proof is on the promoter, and when it comes to Committee they will no doubt put the hall to proof in the usual way. I beg to move.

Lord Winston (Lab): Before the noble Lord sits down, might I ask him, because I do not know, what income a seat-holder might make from a year's lease of his seat to people who want to sit in it? As a person who has tried to book seats for a charity, I have the impression that it has been very difficult to do that in the Albert Hall. I would be grateful to know what profit margin a member might have.

Lord Harrington of Watford (Con): I thank the noble Lord for his question. I am embarrassed to say that I do not know the answer, because these are their seats and they are entitled to sell them as they think fit. I am afraid I cannot answer that question. I have also been involved in a number of charities, which have used and booked the hall. There are lots of seats available that do not belong to the seat-holders, and I know that many seat-holders give some of their seats to charities to help them.

12.04 pm

Viscount Chandos (Lab): My Lords, I am very pleased to be the first speaker able to thank the noble Lord, Lord Harrington, for his clear introduction to the Second Reading of the Bill, and for the work he has done as the DCMS-nominated independent trustee of the hall. If I raise in my remarks today any concerns about the governance of the Royal Albert Hall and issues around its operations, I make it clear from the outset that these are not criticisms of the noble Lord, who has the unenviable position as one of the minority independent trustees who do not have the conflicts to which I will refer.

When I look at the next business in the House, to take note of the long-term strategic challenge posed by China, I feel momentarily that we are focused in this debate on something of relative insignificance. But, as the noble Lord, Lord Harrington, set out so well, the Royal Albert Hall plays an iconic part in our national life, not least as the central venue for the annual BBC Proms, the largest music festival in the world. The hall, as he explained, transcends this headline association by hosting events ranging from top-level sport to film and television premières and awards ceremonies, from Cirque du Soleil to Eric Clapton—200 performances since 1964.

I think back nostalgically to attending, 40 years ago, an evening with that great figure in public life, the Australian cultural attaché, Sir Les Patterson, created by the much-missed and brilliant Barry Humphries. Most recently, I attended the concert of the National Youth Choirs, with nearly 1,000 young people performing to an audience crammed with their families and friends. Each of your Lordships will have their own memories and connections with the hall—evidence of the huge importance it has in our lives. With that importance goes a responsibility on the part of the trustees who oversee the hall's operations; that is the focus of my remarks.

I have no direct interest to declare but flag two things. First, I am a trustee of a number of charities, both operating and grant-making, and I will comment on the Albert Hall's position within the wider charitable context. Secondly, I have followed the relentless attempts to address the governance issues by the former chair, Richard Lyttelton, who is a friend and distant relative. I always follow the principle of the writer Hugh Kingsmill, who said that friends are God's apology for relations—I think of him more as the former than the latter.

The Corporation of the Hall of Arts and Sciences, the formal name of the Royal Albert Hall, as explained by the noble Lord, Lord Harrington, is a uniquely constituted organisation. Long-term seat-holders comprise a clear majority of trustees. The rights and values of the seat-holder's position are not unlike those of a debenture holder for Wimbledon, but the All England Lawn Tennis and Croquet Club is not a charity, whereas the Royal Albert Hall is. Not only do seat-holders benefit from the use of seats at events they attend but they are able to sell tickets on the open market for the most popular events, at very high prices in many cases. In doing this they are behaving perfectly legally but, as the Charity Commission has said, this is a clear conflict of interest. The conflict of interest and the trustees' reluctance to address the resulting governance issues, such as by requiring a majority of their council to comprise independent trustees who do not own seats, not only harm the reputation of the Royal Albert Hall but damage the charitable sector as a whole, providing an uncomfortable example of private benefit being embedded in the position of seat-holding trustees.

[Viscount Chandos]

I have never been a great fan of the explanation of somebody's charitable commitments as "giving something back" as, from my own experience, involvement with a charity as a trustee is hugely rewarding in every sense, except—critically—financial. But, to break my habit of avoiding the phrase, the constitution of the Royal Albert Hall and its unaddressed conflict of interests risks giving the appearance of trustees not so much giving something back as taking something out.

The clear concern of the Charity Commission over many years has not prompted any changes by the trustees of the Royal Albert Hall on a voluntary basis—the majority of those whose conflict is self-evident. The commission's attempt to refer the issue to the charity tribunal was inexplicably refused by the Attorney-General at that time. Can the Minister explain why the Attorney-General concluded that such an obvious conflict did not justify referral? Will he undertake to raise the issue again with his right honourable friend the current Attorney-General?

Although the Bill, as currently drafted, is disappointing in not providing for the governance changes that the Charity Commission and so many independent parties desire, it provides the opportunity for the issues of conflict and poor governance to be raised and, within the constraints of a private Bill's procedures, debated in detail and prospectively amended at the later stages of its passage.

In conclusion, at a time when the performing arts, not least music, are under huge funding pressure from the severe cuts to Arts Council England's budget and the freezing of the BBC licence fee, it is unedifying that trustees of such an important venue who are seat owners can make almost unlimited financial gain. It is deeply disappointing that this Private Member's Bill makes no attempt to address the conflicts inherent in this unique hybrid constitution. However, I welcome the opportunity it presents for this issue to be addressed by Members of your Lordships' House and the other place during the passage of the Bill.

12.11 pm

Baroness Stowell of Beeston (Con): My Lords, it is a great pleasure to follow the noble Viscount, Lord Chandos, and I echo his remarks about my noble friend Lord Harrington and the way he introduced this Second Reading debate. Like the noble Viscount and my noble friend, I too am a great admirer of the Royal Albert Hall in terms of its importance as a cultural and national institution. It has formed part of my own past too; in fact, only the second time I visited London was to go to the Royal Albert Hall as a teenager, so it is something of which I too have fond memories.

I also recognise, as my noble friend made clear, that he is one of the minority group of five appointed trustees and not one of the 18 majority seat-holders. So I reassure him that my criticisms are not directed at him—but I will have a question or two for him as a member of the hall's trustee board.

I am grateful to my noble friend Lord Hodgson for ensuring that the debate is happening today and for his tireless pursuit of addressing the current shortcomings of governance at the Royal Albert Hall. I look forward to his and other speeches today, and any proposed remedies that they may wish to suggest that we look at during later stages.

I am not an opponent of the Bill, as I think my noble friend is categorising those of us speaking today, but it takes some audacity for the trustees of the Royal Albert Hall to submit a Bill requesting more decision-making powers without addressing their unacceptable conflicts of interest policy. To be clear, as the noble Viscount said, the fundamental problem with the Royal Albert Hall's governance regime is that, contrary to standard charity law, its trustees can benefit privately from the decisions that they make about how the hall is run. Noble Lords familiar with charity law will spot immediately that this flies in the face of standard legal practice, which prevents private benefit for trustees. While the Royal Albert Hall's set-up is perfectly legal, it is none the less unique.

To be fair, a combination of previous Acts of Parliament and the hall's historic constitution does not render the situation illegal. But in today's modern world—where public trust in institutions is low and expectations of accountability high; boxes and seats at the Royal Albert Hall are bought and sold for hundreds of thousands, if not millions, of pounds; and trustees of a charity can sell their tickets for concerts at prices at least 10 times their face value—the situation at the Royal Albert Hall seems, to me at least, to be completely unacceptable.

I remind your Lordships that I chaired the Charity Commission from March 2018 to February 2021, but I have no interest to declare and no ongoing involvement in this case, so I speak today in a purely personal capacity. I will come back later to the general practice of private seat-holders and ticket sales at the hall, as there is some connection to some of the general points I want to make, but I must emphasise that what private seat-holders at the Royal Albert Hall do with their own private property is their business and not mine—I well understand that. My concern and focus are on the trustees of a charity, not those who are not responsible for the charity itself, and my concern is that the board of trustees has failed to modernise the hall's governance to protect its interests and reputation as a charity.

The Charity Commission was engaged in this matter long before I was appointed its chair. At the time of my arrival in post, the then Attorney-General had recently given permission for the regulator to refer the matter to the charity tribunal to clarify some legal questions about its charitable status. That was necessary because the hall had resisted dealing with the trustees' conflicts of interest. As my noble friend said, they have an existing policy; it would be unfair to say that there is no policy. There is a policy—it exists and is there for anybody to read on its website—but it is a policy, in the minds of the Charity Commission, that is inadequate for the conflicts that exist by virtue of their dual interest. Unfortunately, it seems that, threatened with a judicial review, the Attorney-General withdrew permission and requested that the Charity Commission revise the questions and resubmit its application for the Attorney-General's approval again.

While that was ongoing, I held several meetings with the then president and his successor to see whether we could resolve the matter without referral to the courts. Originally, the Charity Commission proposed changing the composition of the board so that the majority of trustees were not seat-holders and to introduce a regime so that decisions that might benefit trustees could be made by a quorum of non-seat-holders. Unfortunately, that was rejected. Failing to get the hall's agreement to that, the Charity Commission proposed a new formulation of members—but that too was rejected. The board of trustees has even, as I understand it, resisted making any internal changes to guarantee that seat-holding trustees cannot sell seat tickets for anything other than face value or via the hall's ticket office during their time sitting on the board. These are simple, straightforward measures that, I think, most people would expect as reasonable of trustees responsible for a charity.

When it comes to the benefits that private seat-holders who are trustees gain during their time on the board, the annual report of the Royal Albert Hall does not even declare how many seats the trustees or their close family members own or the income that they have derived from them. Ultimately, referring the case to the tribunal seemed to be the only way to find a resolution; but, as noble Lords have already heard, successive Attorney-Generals dodged the decision until, eventually, one of them rejected the Charity Commission's request.

The hall has always maintained that what it wanted was a new Act of Parliament to modernise its governance and that there were outstanding issues that needed to be addressed. That is clear, as my noble friend has laid out, in the Bill that it has put forward, but the Bill fails to address the fundamental flaw in its model and any of the issues that have been of concern to the Charity Commission for the last 13 years.

As I said, it is important not to conflate the private property rights of seat-holders with the responsibility of the charity's trustees, but that is what the trustees' failure to act is doing. Increasingly, artists are objecting to the sale of tickets to their concerts at inflated prices. The hall argues that there is a difference between sale and resale because of their private property rights, but that kind of argument does not wash with fans when the effect on their pockets between resale and sale is the same. It is also worth reminding ourselves that the BBC Proms, the world's largest classical music festival, is funded by licence fee payers. Yet that does not deter the sale of seats at massively inflated prices and for all we know—we do not know—some of those inflated tickets may be being sold by seat-holding trustees. We just do not know.

Retaining charitable status is clearly important to the hall's trustees. Losing it was a big concern if the matter of this conflict got as far as a tribunal. It is also worth reminding ourselves, as my noble friend said at the start, that the Royal Albert Hall has not always been a charity, but if that is what it wants to remain, the hall's trustees need to make some choices. Now is the time for them to modernise their governance and bring it in line with the rest of those charities on the register. I think it is as simple as that.

Just before I close, I have two questions. I ask my noble friend the Minister whether the Government set out any expectations of the hall in terms of modernising its governance at the time of its £20 million recovery loan during Covid. If they did not take that opportunity then, could he explain why not? Could my noble friend Lord Harrington tell us when the board last discussed how to deal with the conflict of interests of its seat-holding trustees and why it chose not to put that in the Bill? Also, has there been any recent discussion about what internal changes trustees could make to their own policies to bring them in line—something as straightforward as saying that for the period that somebody sits on the board, they must resist, or be refused the option of, selling their tickets for anything other than at face value via the ticket office? Clearly, the procedure for this private Bill makes amendments difficult, but I very much hope that as it proceeds to its later stages, that is something we are able to secure.

12.23 pm

Lord Hodgson of Astley Abbotts (Con): My Lords, I begin by adding my thanks to my noble friend Lord Harrington. He has been infinitely patient in dealing with us gadflies, and I am grateful to him for that. I also share his view that the hall itself is one of the great cultural institutions, and nothing I say in the next few minutes should be seen as in any way criticising the hall as a structure or as a business or an activity—it is a wonderful activity; nor would I wish to be seen to be criticising my noble friend, who is in an unenviable position, as several noble Lords have pointed out, as one of the nominated trustees, nominated by no less than the DCMS, so no doubt my noble friend the Minister, from whom we shall have the pleasure of hearing in a few minutes, had some part in the decision on that appointment.

The noble Viscount, Lord Chandos, referred to Mr Richard Lyttelton. I want to put it on record that in my youth, in my teens and 20s, I was a friend of Mr Lyttelton's elder brother, sadly no longer with us. I think that should go on the record. Do I agree with everything he says? I do not. Do I agree with some of what he says? I do. Am I his mouthpiece? I most certainly am not. Having cleared those points out of the way, I share the view that as regards the governance of the hall, there is at its heart a major, in my view irreconcilable, conflict of interest. This is an issue that has been of interest to many people: journalists, sector publications and, indeed, as my noble friend Lady Stowell said, the Charity Commission itself. Today, we have before us this Bill promoted by the governing body of the hall that does nothing to address this inherent conflict. Indeed, in some respects, it makes it worse.

I apologise for diving into the detail but we have no Committee stage so I have to take this opportunity to make one or two quite detailed points about the nature of the Bill. Just to summarise the history—not to go over the ground that has been well ploughed already—the Royal Albert Hall was established in Victorian times by public subscription, and in return for your dosh, you got seats in perpetuity. Because not every seat-holder is going to want to go to every concert on every occasion, the hall set up the TRS, the

[Lord Hodgson of Astley Abbotts]
ticket return scheme, which, as many noble Lords have pointed out, enables you to hand your tickets back for the face value, less 10%—for a £100 ticket, you get £90 back.

However, a few years ago a group of trustees decided there was a much more profitable way of doing this by reselling them not through the Albert Hall box office but through third-party websites. Here I address some of the questions asked by the noble Lord, Lord Winston, of my noble friend. If you wish to go to hear Ed Sheeran on Sunday 19 November, you have a ticket with a face value of £200. I have here a screenshot from viagogo offering that ticket for £5,899—£6,000 for a £200 ticket. I also have a screenshot of a letter that Mr Sheeran and his promoters have asked to be circulated, saying that they deplore this practice. Mr Sheeran's fans are being squeezed out of the hall because they cannot afford to pay £6,000 a pop. This is an extreme example, but a £100 ticket for the last night of the Proms was selling for £1,218, so this has clearly become a very profitable enterprise. The rumour was—and here I address the noble Lord, Lord Winston, again—that before the pandemic, seats were earning between £10,000 and £20,000 a year and were selling for £150,000. That was the rumour. Today, we have had a rush and the market in seats has been very good. I have here a flyer from Harrods Estates offering five seats in the second tier at the Royal Albert Hall for £1.5 million—£300,000 each.

My noble friend Lady Stowell made the point that there is a distinction to be made between those who are trustees who sit on the governing body and those who have private property. The right to enjoy your private property is of course an important cornerstone of our civil society. But the operation of the hall as a commercial business, as it was originally seen, changed when in 1967 it decided to become a registered charity, which has, as many noble Lords have pointed out, a public benefit objective, tax advantages and the regulation of the Charity Commission. I am not going to repeat the point that of the 25 members of the governing body, 19—75%—of them have to be elected from other seat-holders by the seat-holders themselves. There must be a concern, or at least the possibility, that the idea of selling Ed Sheeran seats is more important than an equally worthy but less prestigious concert, such as a school choir competition.

If we summarise the situation now and go to the detail of the Bill, my noble friend Lord Harrington said that it was a hybrid model. My goodness me, he is right. Within the shell of a registered charity, the trustees are running what appears to be a personally highly profitable operation and, by the way, along the way they have managed to get a £20 million loan from the culture recovery fund, which is apparently going to be paid back at £1 million a year over 20 years.

How do these issues play through into the Bill? There are four points. First, the Bill empowers the corporation to create and sell or let two further seats in grand tier boxes. There will be 72 of these. That in itself is a good proposal, because more seats means that there are more seats to be sold, making it more attractive to promoters, who are therefore more interested in hiring the hall. But on what terms are these seats to be sold or let? Clause 5(1) says that they are to be sold or let on such terms—including as to their price—as the hall thinks fit. As I said, the hall is controlled by the council, 75% of whose members are seat-holders, some of whom will be looking to buy seats. They will therefore be deciding the terms on which they award themselves the new seats. As I also said, some seats are on offer at £300,000, so the amounts at stake are far from trivial. This surely cannot be right. At the very least, the terms on which the seats are to be sold or let need to be set by an external valuer approved by the Charity Commission. After all, the hall is a charity.

Secondly, there is a concern, or at least a possibility, that some of those seats have already been allocated and so are already being used profitably by seat-holders. If true, this would mean that the trustees are now trying to give statutory protection through Clause 5(4) to an action they have already taken. Can my noble friend explain whether this is true? If it is, when were these seats allocated and what price was paid for them?

Thirdly, as I have explained, the hall has an outstanding loan of £20 million from the culture recovery fund—that is, effectively, the taxpayer. The Bill proposes the sale of 72 new seats. If they were sold for £300,000 each, that would be £22 million, which would enable that loan to be paid off immediately. Since these are capital items, not income items, priority should go towards paying off that loan, thereby relieving the long-suffering taxpayer of a burden.

Fourthly and finally, as my noble friend Lady Stowell pointed out, there is a need to disentangle the position regarding the resale of tickets by seat-holders who are trustees and so play a significant role in the operation of the hall from that of seat-holders who are not trustees.

It is absolutely clear that the hall has discouraged the resale of tickets in or around the hall. Section 15 of the Royal Albert Hall Act 1966 gave specific powers to prevent what in an earlier age was called ticket touting. Members of your Lordships' House of a certain age will recall being approached at big sporting or cultural events by gentlemen in grubby macs offering to buy or sell tickets. It is quite understandable that the hall wanted to discourage that sort of activity in or around the hall. Ticket touting still goes on but nowadays rather more discreetly. It is no longer done via gentlemen in grubby macs but happens on the internet, but this does not disguise the fact that this is still ticket touting and damages the hall's reputation—witness the Ed Sheeran promoter's letter to every seat-holder. There are various ways in which this could be sorted. My noble friend Lady Stowell made the point that if you became a trustee, you could usefully be required only to use the ticket return scheme, which would show exactly what your return could be.

To conclude, I hope that the promoters of the Bill will be prepared to let some sunshine into this murky business and address some of the points that I and other Members of your Lordships' House have made. If not, I hope that the Opposed Private Bill Committee will look closely at the implications. I am far from convinced that the House should allow this Bill to proceed further without at least some amendment.

12.34 pm

Lord Etherton (CB): My Lords, I am very grateful to all Members who have spoken before me, particularly the noble Lord, Lord Harrington, for his introduction. I pay tribute to the noble Lord, Lord Hodgson, who has pursued the issues relating to the constitution of the Albert Hall for many years. One way or another, they have covered virtually all the issues, so I can be relatively brief. I want to concentrate on what, from a legal perspective, are the very simple issues involved in this matter. I do not want to enter into a close analysis of the merits of this private Bill. That is the task of the Opposed Private Bill Committee, which will hear detailed submissions and receive evidence I have not seen, and no doubt will have the benefit of legal advice. However, it is important to make two general points that are relevant to the context of the Bill and that the Opposed Private Bill Committee will undoubtedly wish to bear in mind when it considers the merits of the Bill and the petition against it.

As has been said, the Albert Hall, called the corporation, is in legal terms a most unusual entity—unique, in fact. It was registered as a charity in 1967. It has all the usual financial benefits of a charity and has received large sums of public money for refurbishment and improvement. There are two fundamental legal principles of charity law that are relevant to any consideration of the Bill and of any other decisions made by the council of the corporation. First, an entity can be charitable only if it is wholly and exclusively charitable. This does not prevent a charity having a trading arm, the profits of which are applied exclusively for the purposes of the charity. However, in the case of the Albert Hall, the seat-owners, who are the members of the corporation and form a majority on the governing council, are able to—and many do—treat their seats as investments, generating a profit by selling tickets on the open market for events the seat-owners do not wish to attend. In this way, this charitable corporation provides the means by which the members of the charity can make a purely private profit.

This leads directly on to the second very basic principle, which has been mentioned a number of times. It is a basic principle of trust law that the trustees, whatever they are called—board members, council members or whatever—must not place themselves in a position in which their private interests may conflict with their overriding obligation to further the interest of the charity. This is usually expressed in the pithy statement that trustees must not place themselves in a position where there is a conflict between interest and duty. Plainly, as we have heard, there is a real issue in relation to that point. The power to run the Albert Hall is vested in its members. The members are the seat-holders. The council of the corporation comprises 18 members and five appointed non-members. On the face of it, the presence of members on the council who have profited, intend to profit or wish to profit from their seats by selling tickets for them on the open market involves a clear potential conflict between personal interest and their duty to act solely in the interests of the charity.

This is, on any footing, an extraordinary legal situation. How has it arisen? As has been referred to, the first reason is historical: the building of the Albert Hall, which opened in 1871, was funded by subscribers in consideration of being granted permanent seats. As has been said, 329 members hold over 1,200 seats. The second reason, which was referred to by the noble Baroness, Lady Stowell of Beeston, concerns the limited oversight of the Charity Commissioners over the corporation. The Charity Commission does have power to create schemes to make alterations to the management or other terms of a charity. In the case of the Albert Hall, it can under the statutory constitution relating to the corporation—in Schedule 2 to the Royal Albert Hall Act 1966—only do so on the application of the council.

As the noble Baroness mentioned, the Charity Commissioners wanted to make a reference to the charity tribunal, but under the Charities Act 2011 they could do so only with the consent of the Attorney-General. Permission has been sought in the past, but on the last occasion relating to the Albert Hall, after a number of years without any response whatever, permission was refused by the Attorney-General without any explanation at all. This was really quite a scandalous approach to a serious issue.

I hope that I have said enough—together with everything everybody else has said—to explain why I respectfully recommend that, when considering the present Bill and the opposing petition, the Opposed Bill Committee should be careful to ensure that the charitable objects of the corporation will always have priority over the actual or potential private financial interests of members.

12.41 pm

Baroness Fraser of Craigmaddie (Con): My Lords, I approach this Bill from two angles: the first is from my experience of charity law, as I am the chief executive of a charity and was on the board of OSCR, which is the Office of the Scottish Charity Regulator; and the second is my experience in, and love of, the arts. When I worked at English National Ballet, we staged wonderful in-the-round performances at the Royal Albert Hall. I am delighted to see that these productions are still being staged; the very first one, Derek Deane's "Swan Lake", which I was involved in when it was first produced in 1997, is coming back in June 2024. It is an unforgettable experience, and I urge noble Lords to book a ticket if they can get one.

Arts and heritage is a tough sector to operate in, particularly in the current climate. It is also an incredibly tough time for charities and, as other noble Lords have said, the Corporation of the Hall of Arts and Sciences, known as the Royal Albert Hall, is a charity and it has chosen to be a charity. In the latest annual report and accounts it declares that its purpose—and I always go back to a charity's purpose—is to:

"promote the Arts and Sciences as well as to maintain our Grade I listed building, held in trust for the nation".

I recognise that its royal charter and the various subsequent Royal Albert Hall Acts mean that it is not like other charities, but it is still a charity.

Public benefit is what makes charities different from any other organisation, so surely we should judge any Bill pertaining to the Royal Albert Hall through the lens of whether or not it supports public benefit and

[Baroness Fraser of Craigmaddie]
enables the corporation to fulfil its purpose to promote the arts and sciences and preserve its building for the nation. Given that, I believe the Royal Albert Hall does need a Bill; I just do not believe that it needs this one.

At the heart of the governance of the hall, as other noble Lords have said, there are huge and unresolved conflicts of interest. As matters currently stand, I do not see that the council, as the noble and learned Lord pointed out, is bound under the current constitution to always act in the interests of the charity, and nor do I see that it properly recognises and manages its conflicts of interest. Both of these are legal requirements for any trustee in any other charitable organisation. I acknowledge, as my noble friend Lady Stowell mentioned, that the council has a conflict of interest policy that is regularly updated—it was last updated in December 2022—and there is a conflicts committee, but in terms of good governance, and on the urging of the Charity Commission, this still reads as though it is marking its own homework.

I also pay tribute to my noble friend Lord Hodgson for his work in trying to resolve these matters, but this Bill seems to be another missed opportunity. We have already mentioned the membership of the council and how those who are not seat-holders will always be outvoted. That constitution has come about because of a historical anomaly, and the scale of influence of seat-holders on decision-making relating to their own private interests is out of step with modern standards of any other charity's governance.

When the hall was first conceived and built, the model of seat-holders' contributions was perfectly good. As the hall has developed over the years, it should be congratulated on offering many more performances and hugely expanding its programme. As my noble friend Lord Hodgson mentioned, the 1966 Act recognised the threats posed by ticket touts and banned the sale of tickets within the environs of the hall, but the world has changed since 1871 and since 1966. No one then could have conceived of online ticket sites such as viagogo and there is no way the original seat-holders could have set up a ticket resale site such as hoorahtickets.com or a Facebook group, with over 50,000 members, to maximise profit on their investment.

I have also been checking ticket sites; everybody is obviously having a go at the moment. Apparently, the Last Night of the Proms is indeed going for over £1,000 each. Last week, I could have got a ticket to Ed Sheeran for 650 quid, which sounds like a bargain when there is a report in today's *Telegraph* saying that they are going for almost £6,000. These are tickets with a face value of £125 or £200.

People are reselling their tickets in this way when there is a perfectly good official mechanism in place: the ticket-holder return scheme was launched in 1983 to provide a means for seat-holders to resell their tickets back to the hall and give the public the best possible access.

Who does this benefit? The public have to pay more than the face value of the ticket; the organisation loses out on a booking fee and, more concerningly, control of the data of who is in the hall and who they can market to in the future; or the seat-holders, some of whom—not all—seek to maximise financial return for private profit and their right to sell a commercially popular show. As far as I am aware, and I am happy to be corrected, no seat-holder loses money in any year. They receive more from the payment the hall makes to them than the annual contribution they make for the maintenance and enhancement of the hall. Owning the right to use a seat is therefore a very sound financial investment.

I agree with my noble friend Lady Stowell: I am not looking for a Bill that deprives seat-holders of their rights. I have no objection to seat-holders being members of the council or making a profit from their investment, but trustees who have a personal financial interest in the running of any organisation should not be allowed majority sway over that organisation to the extent that we see here, where, I believe, public benefit is compromised. I am not saying that it has been, but its charitable purpose and the maintenance of the building could be neglected.

My issue with the Bill is that, instead of tackling these issues, it just muddies the waters further. It exposes the corporation to significant future risk. I am sorry for going into detail, but I hope your Lordships will forgive me, since we will not have a Committee stage as other Bills do. Specifically, Clause 3 sets the seat-holders' annual contribution and Clause 4 enables a resolution to be proposed by

"the council; or … not less than twenty members".

If there is more than one resolution, Clause 4 allows for just

"the resolution with the highest number of votes in favour"

to be valid. For me, this Bill not only fails to deal with issues of conflict of interest but enables greater influence for the seat-holders of the organisation.

As my noble friend mentioned, Clause 5 seeks to increase members' numbers, with powers to add seats to the boxes. This adds to my impression—which may not be backed up by evidence, but in charity governance the impression given is what is important—that the seat-holders are manipulating the legislation for their own benefit, not necessarily that of the hall or the public.

As for most other arts organisations, the financial reserves of the organisation have already been used up and are in deficit thanks to Covid and higher maintenance bills. The members, while an important source of income, do not keep the hall running on their own: the corporation relies on fundraising from major donors, trust foundations, corporates and individuals, just like any other charity. I accept that it receives no regular public subsidy, but, as others have mentioned, it received a £20 million Covid loan through the culture recovery fund, and its accounts show that it receives other grants from time to time. I do not know how the executive can confidently plan for and run an organisation for public benefit when a minority of members can change the rules at any point to suit their own financial interests.

Finally, I hope that your Lordships will look at amendments to the Bill to address some of these issues. It does no good for public trust and confidence in the charity sector, nor for the authority of the Charity Commission, for these issues to remain

unaddressed. But I am aware of the little time we have left in this Session. I am also chilled by the comments that I read by the president of the council, who has written to members to state that the charity would

"resist changes that we think would be detrimental to the"

private "interests of members", and that the charity could withdraw the Bill

"if its terms become unacceptable to us".

I add my thanks to my noble friend Lord Harrington of Watford, not only for the time that he has given to all us gadflies, as I think we are now termed, but for his service on the board of the hall. However, I hope that he and the Minister will agree that it would not be to the benefit of the public—nor, I believe, true to the original vision of the founders of the hall—if the Bill were to pass as it stands and we were to miss yet another opportunity to deal with the conflicts of interest arising out of the current governance arrangements of the hall.

12.52 pm

Baroness Barker (LD): My Lords, I too thank the noble Lord, Lord Harrington, for the clear way in which he introduced the Bill today. I also thank him for taking the time to talk with me yesterday about it. After I met him, I subsequently went off and did what I should have done from the very start of my preparation: I went to look at the annual report, not of the Royal Albert Hall charity, which somebody going to the Charity Commission would automatically do, but of the Corporation of the Hall of Arts and Sciences, which is the charitable body that we are talking about. On doing so, you can see how our Victorian forefathers have given us a problem of a really difficult technical nature. However, through the discussion that we have had in this debate, the issues are becoming quite clear and simple. This is about a fundamental flaw in the structure of the organisation, which runs counter to the basic precepts of charity law. That is what is happening today and what we must address.

It is a frustrating moment for Members of this House. We do this sort of legislation rather well, and we cannot give it our best shot on this occasion because those of us such as the noble Lord, Lord Hodgson, and the noble and learned Lord, Lord Etherton, who have looked at this issue over several years, will not be able to take part in the Opposed Bill Committee because that body must come to the matter in a state of complete neutrality. All we can do is to do as we have today: to set out the issues as we understand them as clearly as we can and to hope that members of that committee will note what we say. I would also advise them—if I were able to, but I am not—to go back and look at the accounts and the annual reports of not just the Hall of Arts and Sciences but its related companies. I will come back to that point later in my speech.

Annual reports and accounts of charities are always fascinating—I am sorry: I am a person whose happy place is the Charity Commission register. If you look at a charity's accounts, they always tell you not just the bare, legal things you need to know but an awful lot about what is going on there by the way they are written and what they say and do not. I hand it to the trustees: their report is full, their explanation is detailed, they have a clear exposition of the governance, and they talk about the existence and the operation of their many committees. They have a standing conflicts committee—does that not speak volumes? They also have a governance and ethics committee. The problem is not that they do not have them—they clearly pay a lot of attention to what are almost unique problems—but that those committees are all filled by people for whom the conflict of interest is that of their personal benefit versus the charitable interest.

Looking at the report and listening to the debate, there are three key points on this. One was made by the noble Baroness, Lady Stowell, on the dual role of seat-holders as members of the council and therefore as trustees. I think that it is impossible to do that dual role: when you are a trustee of a charity, you are duty-bound by charity law to make decisions in the best interest of the charity. It is impossible for somebody who is a seat-holder to do that without simultaneously making decisions that have a direct benefit on what may be their business. The noble Baroness said that she had no interest in harming or damaging legitimate businesses and assets which people hold in any way, but the point is that those businesses exist entirely within the charity—physically within it. It is impossible to separate decisions from one entity to the other. Therefore, what I understood to be the second point was that the Charity Commission was trying to find a way to unpick or analyse that conflict of interest in terms of decision-making and benefit. If noble Lords go back and look at this report, which covers the period for 2022, they will see that the charity has made minuscule attempts to deal with some of the criticisms: it has put in one independent person as chair of a committee, and the chair of the council no longer has to be a seat-holder. It is very small and grudging, but it ought to be an indicator of hope to those people who have toiled in the trenches for some time trying to raise this issue that it is possible to bring about some influence.

The second thing that emerges from the accounts is that the purpose of the Bill is unclear. There is a long section in which the charity talks about that. It says that it is a small piece of legislation whose purpose is, as the noble Lord, Lord Harrington, put it earlier, to deal with small issues such as enabling the organisation to generate capital. But we are potentially making a long-term decision about the revenue-generating capacity not just of the charity but of those businesses.

The final thing I would say on this is that the nature of the accounts and the annual report is such that it tells us one clear thing: we cannot make an informed decision on this matter. That was eloquently brought out by the question from the noble Lord, Lord Winston, which nobody can answer: how much money is made by those private seat-holders—businesses, charities, whatever they are? The accounts are incomplete.

It is technically true that those are separate businesses and therefore do not fall within the charity's accounts, but, as the noble and learned Lord, Lord Etherton, and the noble Baronesses said, many arts charities have operating subsidiary companies that are purely commercial arms and whose profits are covenanted

[Baroness Barker]
back to the original charity. Many large arts organisations could not exist without those commercial entities generating income for them. The crucial difference is that there is transparent accounting between the two entities and it is always possible to see how the commercial entity and the charity work together, not least so that the charities can demonstrate that they are not doing something they are not allowed to do under charity law, which is to make investments that are beneficial to their trading arms but harmful to the charity. It is not possible to determine that from these accounts.

Yet these accounts mention the other trading companies: the Royal Albert Hall Developments Ltd, which is a separate company, and Royal Albert Hall Concerts Ltd. It is absolutely reasonable that a large charitable entity should seek to contain some of its potential losses and risks by forming separate companies, but there must be clear accountability between the two.

The Bill is a flawed in many ways. It certainly does not address the key issue we have raised. Nor does it do something quite important, which is to help the trustees of the charity counteract assertions that they are not acting with full probity. They might be, but we do not know, and we will never know. The fundamental point, for me, having sat with lots of wet towels around my head as I worked my way through all of it, is that the Bill's key purpose is the creation of those extra seats, which will in the long term, putting to one side the need to generate capital redevelopment, generate revenue. In permitting that, are we benefiting the charitable purposes of this organisation or are we merely opening up further business opportunities for the businesses that exist within its shell? Unless and until we can answer that correctly and definitively, we ought to say to the trustees that they should not do that.

My final point is on a matter that is not peculiar to this organisation or this case. The role of the Attorney-General in frustrating the Charity Commission's ability to refer matters to the charity tribunal is a matter of ongoing concern. Those of us who took part in the review of charity law said so at the time. That matter certainly will not be resolved by this Bill, but it is one of the outstanding big issues in charity law that we need to seize on and address.

1.04 pm

Lord Bassam of Brighton (Lab): My Lords, as all other Peers have said this lunchtime, we are enormously grateful to the noble Lord, Lord Harrington of Watford, for facilitating this Second Reading debate. As I understand it, it is something of a rarity for private Bills of this kind.

We should also be grateful to the noble Lord for the transparent way in which he described and set out the Bill, and his particular role and interest. I thought I heard him say at some stage during his peroration that the Bill seeks to put questionable practices on a legal footing. We have heard the noble Baronesses, Lady Stowell and Lady Fraser, my noble friend Lord Chandos, the noble and learned Lord, Lord Etherton, and in particular the noble Lord, Lord Hodgson, set out their concerns with great eloquence and a very fine understanding of the legislation that underpins them. I also pay tribute to the noble Baroness, Lady Barker, for putting her finger on one of the major problems. We face something of a difficulty here, frankly, and we should face it honestly. We need to say at the end of all of this that the trustees need to reconsider their position.

That said, the Royal Albert Hall is a treasured cultural institution. These Benches recognise that. We recognise its value, its history and, very importantly, the need to safeguard its future for future generations. Indeed, as a charitable organisation—I declare an interest as an employee of a charity—one of its core missions is to preserve and enhance the wonderful grade 1 listed building that we are all very familiar with. Whether you attend the Proms—I was fortunate in the summer to listen to some fine examples of northern soul—go to a comedy show such as Les Patterson, for whom my noble friend Lord Chandos explained his love, or have a tour of the building, anyone who has visited there will have fond memories and stories to tell. Mine is from 1969, when I witnessed a fine performance by Jethro Tull, with Ian Anderson standing on one leg playing the flute—a sight to behold. I was 16 at the time; I must have escaped my mother's clutches to get there. It was a memorable concert.

We recognise that, to safeguard the Royal Albert Hall's future, its trustees must be able to generate new interest in it, and new income, and that this will largely focus on fundraising. However, as with everything in life, this is about balance. The charity's other key mission is to promote the arts and sciences—its founding purpose, as set out by Prince Albert. We must never see that cause become secondary to the interests of fee-paying members.

Noble Lords will know, as many have expressed, that the past few years have not been an easy time for the arts. During the pandemic the Royal Albert Hall and other venues were forced to close their doors, with all the consequences that brought for venues, performers and others across the cultural industries. Although the Royal Albert Hall does not directly receive taxpayer funding, it does get grants. As others have said, the realities of the pandemic meant it got a sizeable loan from the culture recovery fund, of some £20 million.

Beyond Covid, changes to our relationship with the EU and other domestic schemes that support the arts have created other problems in the field. Although today is not the day to go into the specifics or to debate the rights and wrongs of certain policy decisions, we must consider this legislation in that wider context, and remember that the world around us is changing. Yes, venues and cultural institutions must adapt to changes in how people consume and participate in the arts, but they must also reflect other changes in consumer preferences, including an increased interest in fairness and transparency. The noble Baroness, Lady Fraser, expressed that rather well by drawing on charitable purpose as the basis of her argument.

That said, I can see why the Royal Albert Hall has brought forward these proposals. But they are too narrow. The provisions around additional seats in

grand tier boxes would enable the corporation to raise money, while sparing the blushes of those who have already installed seats ultra vires.

This Bill goes into the Opposed Private Bill Committee process, and I can well understand, because of that, why noble Lords have been as forthright as they have in today's debate. We owe a debt of thanks to the noble Lord, Lord Hodgson of Astley Abbotts, for his forensic take on the Bill and its impact.

Others will have noted the tabling of a petition against the Bill by Mr Lyttelton, in co-operation with the FanFair Alliance and the Court of the Worshipful Company of Musicians. That petition quite rightly raises the questions that have been raised today relating to the institution's governance, the rights of its members, and the extent to which the proposed changes will impact on ordinary people's ability to access the arts at an affordable price.

No doubt these topics will also be the subject of detailed discussion in the forthcoming Committee hearings, perhaps informed by the tabling of the amendments which the noble Lord, Lord Hodgson of Astley Abbotts, has drawn our attention to. For our part, we see merit in those amendments; we think they will begin to set this piece of legislation in the right direction, but we do need to get this right. We value the Royal Albert Hall and the work it has done to broaden its appeal and open its doors to new visitors. But we should not lose sight of the need for it to act quite properly as a charity.

As others have highlighted, the proposals raise questions about the charity's aims, how they are delivered and whether the number of seat-owning members on the organisation's council gives rise to clear conflicts of interest. I have read the Charity Commission briefing on this, and it is very clear. It says:

> "These conflicts of interest are allowed under the charity's governing documents. However, the situation has regularly attracted criticism and threatens to undermine public confidence in the charity".

We should take that as a very clear warning. The Charity Commission has put on record its

> "longstanding concerns about these inherent conflicts of interest".

This Bill needs to tackle that issue. The Charity Commission suggests that

> "the board of trustees should have enough independent members to enable it to be quorate without the participation of seat-holders or those appointed by seat-holders. The Private Bill does not make provision for these improvements",

but they could be addressed either in the constitution or in legislation.

Previous attempts to get clarity on this have been blocked by the Attorney-General, and one wonders why that might be the case. This Bill does not deal with the core issues regarding those conflicts, and until those issues are properly dealt with, it is a piece of legislation which it is very hard to see our side of the House supporting.

I spoke earlier of balance; I am convinced that there could be a way forward that will support the future of the Royal Albert Hall in a manner that delivers fairer access to the arts that it hosts. But that cannot be as a profitable sideline for those seat-holders who get a benefit from the Royal Albert Hall acting as a charity in the way in which they do. So I too am drawn to the conclusion echoed by the noble Baroness, Lady Fraser, that this piece of legislation is a missed opportunity, and these Benches will not support it in its current form.

1.14 pm

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): I am very grateful to my noble friend Lord Harrington of Watford for introducing his Bill so clearly and, indeed, for the work that he, his fellow trustees, and all the Royal Albert Hall's staff and supporters do to protect and champion this cherished institution.

Noble Lords have highlighted many ways in which the hall has played an important part in their lives, and in the life of our nation. I know that if my noble friend Lord Lexden had been a participant in the debate, rather than being on the Woolsack for the previous hour of it, he would have mentioned the many historic events to which it has played host. For many years, the Conservative Women's Organisation held packed-out meetings there. Winston Churchill spoke there on 30 occasions; the first was as a member of the Liberal Government in 1909. The noble Baroness, Lady Barker, may be dismayed to hear that his 10,000-strong audience were all men, the Liberal Party having banned women for fear that suffragettes might interrupt and campaign for votes for women. But, reflecting the long-standing and important neutrality of the hall, it had in fact played host to a meeting of the Women's Social and Political Union the evening before, some members of which attempted to hide overnight in order to disrupt the meeting. Sadly, they were discovered in the small hours.

As Minister for Arts and Heritage, I have the pleasure of visiting the hall very regularly, from the Proms to the Olivier Awards, and most recently on Monday evening for a delightful concert hosted by Classic FM Live. Like other noble Lords, I would not hesitate to call the hall a true icon in our cultural life. It is for this reason I am not surprised to see so many noble Lords taking an interest in this Bill and in the governance of the hall.

As noble Lords will know, in relation to private Bills, the Government do not generally adopt a position unless the Bill contains provisions which are considered to be contrary to public policy. We take the view that the Bill does not contain any such provisions; therefore, as is the usual form with private Bills, the Government neither support nor oppose it.

Noble Lords have taken the opportunity to ask a number of questions. The noble Viscount, Lord Chandos, referred to what he called cuts by the Arts Council. As he will recall from the excellent debate we had at his instigation earlier this year, the amount distributed by the Arts Council in the new portfolio is higher than in the previous one. It benefits from an additional £43 million of grant in aid secured by my department at the spending review. Thanks to that, and increases from the National Lottery—

Viscount Chandos (Lab): My Lords—

Lord Parkinson of Whitley Bay (Con): I will give way in a moment, but—

Viscount Chandos (Lab): The cuts in real terms since 2010 of the Arts Council's grant in aid are, I believe, about 40%.

Lord Parkinson of Whitley Bay (Con): Thanks to increases from the National Lottery as well, the Arts Council is spending £30 million a year additionally in this portfolio than in the last. The challenges of inflation certainly do beset many cultural institutions, and I speak to them about it, but I did want to correct what the noble Viscount said there.

More pertinently, the noble Viscount mentioned the decisions by previous Attorneys-General not to refer the matter to the tribunal. I cannot speak for decisions made by previous Attorneys-General, but the Attorney-General, as parens patriae, is the constitutional defender of charity and charitable property. She is required to prepare a report for the other place on certain private Bills affecting charitable interests. If she is asked to report on this Bill in another place, she will of course make her views known.

My noble friend Lady Stowell of Beeston and others referred to the loan which the Royal Albert Hall got through the unprecedented culture recovery fund. That £1.5 billion of funding provided assistance to more than 5,000 cultural institutions across the country during the challenging period of the pandemic. It was emergency support to help them through those difficult months, and no conditions were imposed upon it other than to make sure that where there were loans, they would be repaid. It was not designed as an instrument of wider policy, but as an instrument of assistance to organisations that needed it.

Other noble Lords have—

Baroness Barker (LD): I wonder whether the Minister would agree with me on this point. All that he said about that loan is absolutely true, and the loan is repayable, I believe, at 2%. Does he not understand the point that some of us are trying to make that, for a member of the council of the Royal Albert Hall, which has to take decisions about the repayment of that loan, it is also possible for that same person to be the owner of a business which is conducted within the Royal Albert Hall, and that therefore they might well take the view that paying back to the Government at a low rate of 2% is better than having to pay back other loans at a higher rate? Therefore, what is actually happening is that something that was proposed for a particular public institution is actually benefiting private companies in a way that was not envisaged.

Lord Parkinson of Whitley Bay (Con): The cultural recovery fund assisted more than 5,000 organisations across the country of different sizes, constitutions and setups. Some were given grants, while others were given loans, as the noble Baroness said, at a favourable rate to try to assist them at a time when the pandemic made the running of those businesses difficult. Where there are loans, the Government are clear that they must be repaid, but it is for institutions to make the decisions about how they run themselves in the light of that.

Noble Lords took the opportunity to raise a number of broader issues, which I am sure my noble friend Lord Harrington will want to reflect on when he concludes in a moment. Indeed, he may wish to reflect on them as the Bill proceeds to the Private Bill Committee.

1.21 pm

Lord Harrington of Watford (Con): My Lords, I have never been in a debate where I have been complimented so much at the beginning of everyone's speech and then had almost everything I said disagreed with afterwards. I thank noble Lords for their contributions. The noble Baroness, Lady Fraser, referred to the people who spoke as "gadflies"—I believe that was the expression. With due deference to my noble friend Lord Hodgson, Robin Hodgson and his merry men comes to mind, although I do not think he would quite articulate this Bill in terms of taking from the rich and giving to the poor. I will leave that for him to consider.

In all seriousness, the core point, as far as I can tell, is that the hall's perspective of the conflict point—which has been brought up by nearly all speakers—is that the existing arrangements with the majority of what would be perceived as conflicted trustees are not really enough for a charity to progress itself in a charitable manner.

My noble friend Lady Stowell asked me when the conflict rules were last changed—that was in 2022—and what discussions there have been about conflicts. There is an independent conflicts committee, none of whose members are trustees. That meets routinely after every council meeting, so there is a process. I accept the argument that it may not be enough and that it does not deal with conflicts properly. That argument can be made, but it is not taken lightly.

Baroness Stowell of Beeston (Con): Just to clarify, that conflicts committee meets after the decisions have been made by members who are conflicted.

Lord Harrington of Watford (Con): Other than the fact that ongoing conflicts are discussed—it is not the conflicts that have come out in that council meeting, it is future conflicts. However, I accept there is an argument. I would argue, of course, that it is nothing whatever to do with the Bill. It is an argument, and it was very well articulated by other noble Lords.

I was impressed, as ever, by my noble friend Lord Hodgson's and other noble Lords' screenshots—I do not know how to do them—and technical knowledge, and by my noble friend's serious point about tickets for Ed Sheeran and others going for large amounts of money. However, that implies that the people who own those seats have done something wrong by selling them. They own them and they are selling the seats that belong to them on the market, however crazy the market might be. I am pleased to see present Sharon Hodgson, the chairman of the APPG on such matters.

She and I have discussed viagogo, for example, but I do not believe that that issue is relevant because those people own those seats.

Lord Hodgson of Astley Abbotts (Con): My noble friend really cannot be allowed to get away with that statement. The fact is that we have made a distinction between trustees who are seat-holders and are therefore deciding which concerts seat-holders can offer seats for, and those who are not. People who have no conflict of interest are free to sell seats they do not they want, but once you become a trustee, the name of the game changes. With great respect to my noble friend, I do not think the way he is putting it makes that distinction clear enough.

Lord Harrington of Watford (Con): My noble friend makes his point clearly and with great lucidity, as ever.

Quite a few points were made about the Covid loan—as has been said, it was given according to the decision of an independent committee that DCMS, I presume, appointed for all the loans that took place—and whether surplus money should be used to pay back the loan early to the Government. Any charitable body which has a loan that it can pay back at 2% would not be doing its duty for charitable purposes if it did not invest it in something that would perhaps pay back at 4%. I do not believe that that point is relevant to the conflict of interest issue.

The valuation of seats was raised. My noble friend Lord Hodgson believes that seats should be valued by an independent evaluator nominated by the Charity Commission, or put through the Charity Commission. I remind him that, although the clause says that the trustees should take professional advice, all trustees, whether they are appointed, like me, or are seat-holders, are subject to the duties of trustees under the Charities Act, which means that they would be in breach of that duty if they sold them at less than the available market price. One noble Lord told me that some of these seats have already been allocated and sold. I am not aware of that, but I intend to find out. I would disapprove most strongly if that were the case, but I do not believe it is.

The noble and learned Lord, Lord Etherton, made, as one would expect, a very significant contribution regarding the legal aspect. He made a point about charities having separate commercial entities. I have some experience of that, having been chairman of a charity that had a separate commercial entity. That happens all the time. However, that is different because the commercial entity of the charity is set up for that purpose. In the case of the hall, the commercial interests are owned by the seat-holders. From that perspective, they are there in two capacities: because they are selling their seats and because they are trustees of the hall, trying to enforce its charitable purposes.

Lord Bassam of Brighton (Lab): There is a point which we need to reflect on. In putting his argument, the noble Lord is seeking to protect those who have a conflict of interest. He is right that the hall can have a commercial side to its charitable practice, but it cannot surely be right that seat-holders be able to exploit its being a charity. Those seats are sold by seat-holders at a vastly inflated commercial rate that reveals no benefit to the hall itself. That is one of the fundamental objections we have voiced clearly today. Until this legislation answers that question, I cannot see the merit in having it before us.

Lord Harrington of Watford (Con): I thank the noble Lord for that. He made it clear that he felt that his Benches would not be able to support the Bill in its current form, but I do not think that is particularly important today, because I think the last time a Private Bill such as this was divided on was in the 1930s. If I remember correctly, it was a railways Bill.

It has been my duty and pleasure to propose this Bill—perhaps a masochistic form of pleasure, given what has been said in the past couple of hours. The serious point is that I am proud to be a trustee of this charity, and I believe that the trustees act in a manner commensurate with its interests. If I had experienced any conflict of interest or if any decision of the council had been taken that was in conflict with the hall's charitable purposes, I would not only have resigned but publicised the reasons for doing so. However, I have not found that up to now.

Lord Winston (Lab): Perhaps the noble Lord can tell the House what he feels about the following. At the moment, London is under massive pressure for performance space, and a number of theatres may be at risk of being closed. The Coliseum, for example, which is occupied by the ENO, will clearly be under pressure as well. The great point about this wonderful institution, the Royal Albert Hall, is that it is a monument to culture—in fact, it is said that it is for science as well, although I must say that I cannot remember the last time there was a science meeting there, it was so long ago. There is surely a duty for the trustees to recognise the importance of the Albert Hall, particularly at this time, when the arts are under such pressure.

Lord Harrington of Watford (Con): The trustees recognise that. The noble Lord's point is one for any cultural institution of any sort. They are conscious of that point, and the number of performances that are put on effectively by the charity which would not be financially viable to be put on commercially shows their commitment on that point. However, he makes a specific point about financial pressures on the hall. I argue that it is a very well-run institution. Obviously, any surplus goes back to the charity. We had very difficult times during Covid, like all cultural institutions, and we are grateful for the Government's loan. However, we are very conscious of that issue.

It is traditional with private Bills for the House to wait for a Third Reading when it considers the Bill as amended, admittedly by a different form of Committee to that we are normally used to in the Commons and the Lords. The House will then make its judgment as a result of the Committee and the Third Reading debate. In the meantime, I hope that I have answered some of the questions that were put forward. I argue that some of them are certainly without the scope of the Bill. It is my duty to ask the House to give the Bill a Second Reading.

Bill read a second time and referred to the Examiners.

IN PARLIAMENT

HOUSE OF LORDS

SESSION 2023-24

ROYAL ALBERT HALL BILL

Witness Statement of Ian McCulloch

EXHIBIT 7

Minute entry dated 22 November 2023 confirming compliance of the Wharncliffe meetings with Standing Orders

Minutes of Proceedings of Tuesday 21 November 2023

The House met at 2.30pm.

Prayers were read by the Lord Bishop of St Albans.

1 **The Lord Bishop of Lincoln** Stephen David the Lord Bishop of Lincoln was introduced between the Lord Bishop of Durham and the Lord Bishop of Worcester, took and subscribed the oath and signed an undertaking to abide by the Code of Conduct.

Select Committee Reports

2 **Liaison**
The following Report from the Select Committee was made and ordered to be printed:

New committee activity in 2024. (1st Report, HL Paper 12)

3 **Secondary Legislation Scrutiny**
The following Report from the Select Committee was made and ordered to be printed:

Drawn to the special attention of the House:
Draft Agriculture (Delinked Payments and Consequential Provisions) (England) Regulations 2023
Draft Employment Rights (Amendment, Revocation and Transitional Provision) Regulations 2023
Draft Strikes (Minimum Service Levels: Border Security) Regulations 2023 and three linked instruments

Includes information paragraphs on:
Draft Data Protection (Fundamental Rights and Freedoms) (Amendment) Regulations 2023
Draft Equality Act 2010 (Amendment) Regulations 2023
Draft Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) No. 2) Order 2023
Draft Financial Services and Markets Act 2023 (Benchmarks and Capital Requirements) (Amendment) Regulations 2023
Draft Trade Union (Deduction of Union Subscriptions from Wages in the Public Sector) Regulations 2023
Information as to Provision of Education (England) (Amendment) Regulations. (3rd Report, HL Paper 13)

Private Business

4 **Royal Albert Hall Bill [HL]** The Examiner certified that the further Standing Orders had been complied with. The bill was committed to a Select Committee.

Public Business

5 **Local government finance** A question was asked by Baroness Taylor of Stevenage and answered by Baroness Penn.

6 **Low-traffic neighbourhoods** A question was asked by Lord Berkeley and answered by Lord Davies of Gower.

7 **Mental Health Act 1983** A question was asked by Lord Bradley and answered by Lord Markham.

8 **Rwanda: asylum arrangements treaty** A question was asked by Lord Goldsmith and answered by Lord Sharpe of Epsom.

9 **Arbitration Bill [HL]** Lord Harlech, on behalf of Lord Bellamy, presented a bill to amend the Arbitration Act 1996. It was read a first time and ordered to be printed. (HL Bill 7)

10 **Arbitration Bill [HL]** The Explanatory Notes on the bill were ordered to be printed. (HL Bill 7–EN)

IN PARLIAMENT

HOUSE OF LORDS

SESSION 2023-24

ROYAL ALBERT HALL BILL

Witness Statement of Ian McCulloch

EXHIBIT 8

Filed-up Bill, 18 April 2024

Filled-up Bill

Royal Albert Hall Bill [HL]

EXPLANATORY MEMORANDUM

This Bill is promoted by The Corporation of the Hall of Arts and Sciences (the Royal Albert Hall) ("the Corporation").

The purpose of this Bill is to amend certain existing provisions relating to the annual contribution payable by Members of the Corporation ("the Members") towards the general purposes of the Royal Albert Hall ("the hall"); and to make further provision regarding the exclusion of the Members from the hall~~; and to make provision for the sale of further seats and the exercise of certain rights in respect of Grand Tier boxes located on the first tier of the hall~~.

Clause 1 gives the short title of the Bill and provides that it shall come into force when it is passed.

Clause 2 defines certain expressions used in the Bill.

Clause 3 amends certain existing provisions relating to the annual contribution payable by the Members.

Clause 4 makes further provision for the exclusion of the Members from the hall.

~~Clause 5 makes provision for the sale of further seats and the exercise of rights in respect of certain Grand Tier boxes located on the first tier of the hall.~~

EUROPEAN CONVENTION ON HUMAN RIGHTS

In the view of The Corporation of the Hall of Arts and Sciences (the Royal Albert Hall) the provisions of the Royal Albert Hall Bill are compatible with the Convention Rights.

Royal Albert Hall Bill [HL]

CONTENTS

A

B I L L

To amend certain provisions of the Royal Albert Hall Act 1966 relating to the annual contribution payable by the Members of the Corporation towards the general purposes of the Royal Albert Hall; and to make further provision regarding the exclusion of the Members from the hall~~; and to make provision for the sale of further seats and the exercise of certain rights in respect of Grand Tier boxes located on the first tier of the hall~~.

WHEREAS—

(1) The Corporation of the Hall of Arts and Sciences ("the Corporation") was incorporated by Royal Charter dated the 8th April 1867 ("the original charter") for the purpose of building and maintaining a hall and buildings connected therewith on the estate of the Commissioners for the Exhibition of 1851 ("the exhibition commissioners") at South Kensington and appropriating the hall to purposes connected with science and art as therein mentioned; and the Corporation accordingly built the Royal Albert Hall ("the hall") which was opened on the 29th March 1871:

(2) The membership of the Corporation consists of the registered holders of permanent seats in the amphitheatre of the hall or of private boxes containing a certain number of seats or of seats in such boxes such seats having been allotted to them in proportion to the amount of subscriptions paid by them towards the building of the hall or having been subsequently purchased by them. The seatholders now number ~~329~~ 316 holding 1,268 seats:

(3) The exhibition commissioners subscribed large sums towards the building of the hall in respect of which they held rights to seats which they have since surrendered. They also made a free grant to the Corporation of a lease of the

site of the hall for a term of 999 years from the 25th March 1867, at a nominal rent:

(4) The said lease included covenants by the Corporation to keep the hall in good repair and not to use it or permit its use for any ends, intents or purposes except such as were authorised by the original charter without the consent in writing of the commissioners and a right of entry for the exhibition commissioners in the event of breach of any of the covenants on the part of the Corporation contained in the lease:

(5) The original charter provided for the drawing up and sanctioning of a constitution for the Corporation and under such constitution the management of the hall was vested in an elective council consisting of a president and eighteen ordinary members. A supplemental charter dated the 7th December 1928, provided for the addition to the council of five appointed members appointed respectively by the parties therein mentioned. The members of the council all serve in an honorary capacity:

(6) The original charter provided that no dividend should be payable to any member of the Corporation and all profits which the Corporation might make by the use of the hall or by the sale or letting of any seats belonging to the Corporation for the time being after completion of the hall should be applied in carrying into effect the purposes of the Corporation. The constitution provided that the boxes or seats in the hall remaining at the disposal of the Corporation might be sold or let by the council either for the remainder of the term of the said lease or for any less period on such terms as the council might think fit:

(7) The purposes for which the hall was authorised by the original charter to be used were the following:—

- (a) congresses both national and international for purposes of science and art;
- (b) performances of music including performances on the organ;
- (c) the distribution of prizes by public bodies and societies;
- (d) conversaziones of societies established for the promotion of science and art;
- (e) agricultural, horticultural and the like exhibitions;
- (f) national and international exhibitions of works of art and industry including industrial exhibitions by the artisan classes;
- (g) exhibitions of pictures, sculpture and other objects of artistic or scientific interest;
- (h) generally any other purposes connected with science and art:

(8) The original charter empowered the Corporation subject to the rights reserved to the members of the Corporation to let the use of the hall "for a limited period" for any purposes for which the Corporation might themselves use the hall:

(9) By a supplemental charter dated the 25th October 1887 ("the charter of 1887"), the said purposes were supplemented under article 9 by the following purposes:—

- (a) public or private meetings of any body of persons;
- (b) operettas, concerts, balls or any "other than theatrical" entertainments for the amusement and recreation of the people;

and the council of the Corporation was authorised under article 10 to let the hall for any of those purposes and also to arrange with individual members of the Corporation for the exchange purchase renting or temporary user of their boxes or seats:

(10) The charter of 1887 provided under article 11 that the Corporation in general meeting might by resolution after notice and with the support of a majority of not less than two-thirds of the votes of those voting empower the council to exclude the members of the Corporation from the hall on a certain number of days not exceeding ten in any one year on any occasion on which the hall should be used for private meetings or entertainments to which the general public should be unable to obtain admission by payment of money only:

(11) The Royal Albert Hall Act 1876 ("the 1876 Act"), after reciting that the funds at the disposal of the council for maintaining, repairing and furnishing the hall and supporting an adequate staff of officers and servants were wholly insufficient for those purposes and that a majority of the members were willing that the seats should be charged at a rate not exceeding two pounds per annum for providing a fund for those purposes empowered the Corporation to rate the members in every year at such sum (in the said Act called "the seat rate") not exceeding two pounds for every seat as the members present at a general meeting called for that purpose some time in the month of February in each year should determine:

(12) The Royal Albert Hall Act 1927 ("the 1927 Act") after reciting that the funds at the disposal of the council for the purposes recited in the 1876 Act were again insufficient by reason of increased cost of those purposes and that the expenditure of large sums of money on the hall had become necessary in order to comply with the requirements of the London County Council relating to means of escape in case of fire and safety of persons resorting to the hall and that the Corporation had no funds to enable them to comply with such requirements included (inter alia) provisions to the following effect:—

(a) imposing on every member for the time being of the Corporation a compulsory seat rate in place of the seat rate under the 1876 Act for a period of six years from the 1st January 1927; and as from the expiration of that period increasing to three pounds the maximum sum of two pounds chargeable in any year for seat rate under the 1876 Act;

(b) providing that notwithstanding anything in the original charter or in article 9 of the charter of 1887 the hall may be used for theatrical entertainments and operatic performances but without affecting the operation of the Theatres Act 1843;

(c) providing under sections 17 and 18 as follows:—

(i) that the occasions on which the Corporation in general meeting may under article 11 of the charter of 1887 by resolution empower the council to exclude the members of the Corporation from the hall shall be extended so as to include firstly occasions on which the hall is used for balls for the purposes of which a floor is erected over the amphitheatre stalls and secondly occasions when it is used for other entertainments (not being (a) balls for the purposes of which a floor is not so erected or (b) boxing entertainments) whether or not the general public can obtain admission thereto by payment of money;

(ii) that on occasions (other than those to which, the said extension applies) on which the hall is used for any purpose for which it is necessary or convenient to erect a floor over the amphitheatre stalls a floor may be erected thereover and the holders of such amphitheatre stalls shall be disentitled to use such stalls but entitled to free admission to the hall and to all rights and privileges as such holders other than the use of their stalls. The floor may not remain over the amphitheatre stalls longer than six weeks unless with the consent in writing of the holders of a majority of such stalls;

(d) prohibiting the Corporation from letting the main hall for any continuous period exceeding one year:

(13) The Royal Albert Hall Act 1951 ("the 1951 Act") after reciting that after eighty years of existence and constant use the hall was urgently in need of large structural and other repairs and improvements to render it safe and commodious for those who resorted to it and properly equipped for the many uses to which it was and might be put, and that heavy expenditure mainly of a capital nature was involved for which the funds and resources of the Corporation and possibilities of revenue from use or letting of the hall were insufficient to provide, included (inter alia) provisions to the following effect:—

(a) imposing a capital contribution charged upon and in respect of every seat of two hundred and eighty pounds payable by yearly instalments of seven pounds for a period of forty years, the sums so charged when received by the Corporation being applicable solely to capital purposes; and

(b) providing that the occasions on which the council might be empowered to exclude members from the hall pursuant to the provisions of article 11 of the charter of 1887 should comprise all occasions on which the hall was let for any purposes for which the Corporation was empowered to let the hall and that in addition the council might exclude the members from the hall on certain further occasions not exceeding eight in number:

(14) The Royal Albert Hall Act 1966 ("the 1966 Act") in order to enable the funds of the Corporation to be used to the best advantage and the financial resources of the Corporation to be augmented to the necessary extent and to give the Corporation increased means of earning revenue, conferred further powers upon the Corporation and the council with respect to the use and letting of the hall and the rights of seatholders therein as set out in that Act, in particular:—

(a) making provision as to the annual contribution that could be charged for each seat; and

(b) providing that the occasions on which the council might be empowered to exclude members from the hall pursuant to the provisions of article 11 of the charter of 1887 be further amended.

(15) On 18th December 1967, the Corporation was registered as a charity under the provisions of the Charities Act 1960:

(16) In order to assist the administration and management of the affairs of the Corporation in the pursuit of its purposes, it is expedient that further provision is made for the members to benefit the Corporation by the conferring of further powers upon the Corporation and the council with respect to the use and letting of the hall and the rights of seatholders therein:

(17) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please your Majesty that it may be enacted, and be it enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Citation and commencement

(1) This Act may be cited as the Royal Albert Hall Act 202[ ] and comes into force on the day on which this Act is passed.

(2) The Royal Albert Hall Acts 1876 to 1966 and this Act may be cited together as the Royal Albert Hall Acts 1876 to 202[ ].

2 Interpretation

(1) In this Act, unless the subject or context otherwise requires—

"the 1966 Act" means the Royal Albert Hall Act 1966;

"the annual contribution" has the meaning assigned to that expression by section 3 (annual contribution) of the 1966 Act;

"the constitution" means the constitution of the Corporation contained in Schedule 2 to the 1966 Act;

"the Corporation" means the Corporation of the Hall of Arts and Sciences;

"the council" means the council of the Corporation;

"the existing enactments" means the Royal Albert Hall Acts 1876 to 1966;

"the hall" means the Royal Albert Hall of Arts and Sciences at South Kensington (constructed in accordance with the provisions of the original charter and commonly known as "the Royal Albert Hall") as for the time being existing;

"member" means a person who is for the time being a member of the Corporation whether a body corporate or an individual and in the case of several persons jointly entitled to the same seat means all such persons collectively;

"the original charter" means the Royal Charter dated the 8th April 1867, by which the Corporation was incorporated;

"seat" means a permanent seat in the hall with a registered holder whether such seat be in the amphitheatre ~~stalls~~ or forms one of several seats in a private box; and

"the supplemental charters" means the supplemental charters of the Corporation dated 25th October 1887 and 7th December 1928.

(2) Except where the context otherwise requires, any reference in this Act to any enactment is to be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Act.

3 Annual contribution

(1) Section 3 (annual contribution) of the 1966 Act is amended as follows.

(2) In subsection (1)(a), after the words "the annual contribution" (in the first place those words appear), omit the colon and the following paragraph except the full stop.

(3) In subsection (1)(b), for the words "two-thirds" substitute "three-quarters".

4 Further power to exclude members from the hall

(1) Notwithstanding anything in the original charter, the supplemental charters and the existing enactments, the following provisions have effect.

(2) The Corporation may, by resolution in general meeting, determine when and upon what terms the council may, in respect of a calendar year, exclude members from the hall.

(3) A resolution under subsection (2) may be proposed by—
(a) the council; or
(b) not less than twenty members.

(4) A resolution proposed under subsection (3) shall not be carried unless approved by a majority of not less than three-quarters of the votes of members voting in person or by proxy and voting on a show of hands (or by a poll if demanded) or in a poll taken by means of postal voting papers.

(5) If more than one resolution is proposed under subsection (3), the method of voting shall be the same for each one.

(6) If more than one resolution proposed under subsection (3) is carried, only the resolution with the highest number of votes in favour of it shall be valid.

(7) A resolution under subsection (2) may specify whether, and if so the terms upon which, any additional rent received in respect of the letting of the hall on any occasion on which the members are excluded from the hall in accordance with the terms of the resolution, which is attributable to such exclusion, shall be applied by the council in or towards the reduction of the annual contribution.

(8) Subject to the provisions of subsection (9), the provisions of clauses 21 to 26 of the constitution shall apply to any general meeting held pursuant to this section.

(9) The council may make, revoke and alter byelaws under clause 11 of the constitution for regulating matters relating to the operation of this section including—
(a) the manner in which the resolution may be proposed;
(b) how the identity of a member proposing the resolution may be authenticated;
(c) the giving and timing of notices; and
(d) the variation of a resolution for it to be made efficacious.

(10) In subsection (2), "calendar year" means any one or more calendar years within the period of five consecutive calendar years following the year in which the resolution is approved by the Corporation under that subsection.

(11) For any calendar year in respect of which a resolution under subsection (2) has not been passed, the council may exercise the power conferred upon it by section 14 of the 1966 Act to exclude members from the hall.

(12) For any calendar year in respect of which a resolution proposed under subsection (3)(b) has been passed, the council may elect instead to exercise the power conferred upon it by section 14 of the 1966 Act to exclude members from the hall.

5 As to seats in Grand Tier boxes

(1) Subject to subsection (3), the Corporation may sell or let to any persons up to two further seats in Grand Tier boxes, either for the full remainder of the period of nine hundred and ninety-nine years for which the hall is held by the Corporation, or for any lesser period, on such terms as it reasonably considers appropriate after taking professional advice.

(2) The subscribers to any further seats in Grand Tier boxes sold or let under subsection (1) shall be entitled to exercise all of the rights and privileges of membership set out in the original charter, the supplemental charters and the existing enactments, but shall also be subject to the obligations contained therein, and all rights, privileges and obligations will from the date which is agreed apply to those seats.

(3) The Corporation may not exercise the power in subsection (1) without the prior consent in writing of each of the existing members who hold seats in the relevant Grand Tier box.

(4) Where, prior to the passing of this Act, a person has subscribed for a seat in the Grand Tier boxes but does not in respect of that seat enjoy all of the rights and privileges of membership set out in the original charter, the supplemental charters and the existing enactments, the Corporation may, on such terms as it reasonably considers appropriate after taking professional advice, agree with that person that they shall from such date as may be agreed exercise all such rights and privileges of membership (together with the obligations of membership) as attach to the seat and such rights and privileges (and obligations) will from that date apply to that seat.

(5) In this section, "Grand Tier boxes" mean –

(a) in the case of subsections (1) to (3), such boxes as are located on the first tier of the hall containing no more than ten seats; and

(b) in the case of subsection (4), such boxes as are located on the first tier of the hall containing twelve seats.

Royal Albert Hall Bill [HL]

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To amend certain provisions of the Royal Albert Hall Act 1966 relating to the annual contribution payable by the Members of the Corporation towards the general purposes of the Royal Albert Hall; and to make further provision regarding the exclusion of the ~~m~~Members from the hall~~; and to make provision for the sale of further seats and the exercise of certain rights in respect of Grand Tier boxes located on the first tier of the hall~~.

SESSION 2023–24

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58/4