House of Lords

MINUTES OF EVIDENCE

taken before the

UNOPPOSED BILL COMMITTEE

on the

Royal Albert Hall Bill

Wednesday 22 May 2024

Before:

LORD GARDINER OF KIMBLE, Senior Deputy Speaker, House of Lords
CHÉ DIAMOND, Assistant Counsel to the Chairman of Committees

DAVID MUNDY, BDB Pitmans, Parliamentary Agent for the Bill

There also appeared:

IAN MCCULLOCH, President, Corporation of the Hall of Arts and Sciences

JAMES AINSCOUGH, Chief Executive, Corporation of the Hall of Arts and Sciences

(10.45 am)

1. **THE CHAIR:** Good morning. Welcome to the Unopposed Bill Committee. I am Lord Gardiner of Kimble, Senior Deputy Speaker. On my right is Mr Ché Diamond, counsel. These proceedings are being broadcast and transcribed. The transcript will, as usual, be put on the parliamentary website in due course.

2. May I begin by welcoming Mr David Mundy, parliamentary agent for the promoters, Mr Ian McCulloch, president of the Corporation of the Hall of Arts and Sciences, and Mr James Ainscough, chief executive of the Corporation. One petition was lodged against this Bill and, as a result, it was referred to an Opposed Bill Committee. The promoters, however,

successfully challenged the right to be heard of the petitioners and, for that reason, the Bill is now before an Unopposed Bill Committee. I would like to thank the chair of the Opposed Bill Committee, Baroness Hale of Richmond, and others members of that committee for their work on the Bill, including their special report to the House. May I ask Mr Mundy to introduce the Bill and to describe its main provisions and, indeed, proposed amendments?

3. **DAVID MUNDY:** My Lord Chairman, thank you for that introduction. As you say, my name is David Mundy, I am the agent for the Corporation of the Hall of Arts and Sciences, the Royal Albert Hall, the promoters of the Royal Albert Hall Bill. I propose to call in evidence, as you have mentioned, Mr Ian McCulloch, President of the Royal Albert Hall, who sits on my immediate right, and, should the committee find it helpful, Mr James Ainscough, the Chief Executive of the Hall, who sits alongside him, who can deal with financial aspects relating to the Bill's provisions in more detail, if required. The committee will have seen Mr McCulloch's and Mr Ainscough's written statements already and, just by way of reference, they are at tabs 1 and 3 of the bundle of documents that you have received; that is the hard copy.

4. The Bill will effect certain changes in the Corporation's constitution. These changes will affect the rights of Members of the Hall, the so-called seat-holders, and therefore cannot be achieved by means other than a Bill or an Act of Parliament. Upon introduction, the promoters made a statement on their view on the compatibility of the Bill's provisions with the convention rights in compliance with Standing Order 38(3). That statement was based on an opinion from leading counsel Paul Bowen KC and was reported on approvingly by a Minister of the Crown in compliance with Standing Order 98A.

5. In summary, the specific changes that are proposed in the Bill would empower the Corporation, when certain conditions are met, to raise additional funds by the following: Clause 3, in relation to the annual contribution, removing the provision in the Royal Albert

Hall Act 1966 that makes provision for a cap on the seat rate or annual contribution payable by Members of the Corporation who are registered holders of permanent seats in the Hall, which Members set every six years; and changing the threshold for approving the seat rate from 66% to 75%, the current threshold for setting the seat year cap, and therefore a reasonable adjustment, protecting the interests of Members, having regard to the fact that the cap is being removed.

6. Clause 4 of the Bill contains provision relating to further power to exclude Members, putting in place a mechanism to set the number of days and occasions per year when and set the terms upon which seat-holders, who are otherwise entitled to attend performances, may be excluded for the purpose of hiring out the Hall as a source of additional revenue. These, as I think you will be aware, are known as exclusive lets or exclusives.

7. I will mention briefly Clause 5, which related to the sale of additional seats in grand tier boxes. The Bill as introduced contained, at Clause 5, a provision to sell rights of membership to additional seats in grand tier boxes with the consent of the existing seat-holders in the box and to sell, on commercial terms, membership rights for those few existing seat-holders who do not have such rights. The Hall has decided not to promote that provision, which was attracting unnecessary, although we say unjustified, criticism and we are proposing to say no more about it.

8. You will be aware, and you have mentioned, that the Attorney-General issued a report on the Bill in advance of the Opposed Bill Committee as required by Standing Order 142, and that report is at tab 2(6) on page 229 of your bundle. The Attorney-General says she does not oppose the Bill, which, she writes, "seeks to ensure the continued viability of one of our most important cultural institutions", although she sees it as a "missed opportunity" to resolve what she calls "a potential conflict between the private interests of seat-holding trustees and the Corporation's charitable objects", which, she says, has caused

the Charity Commission concern.

9. As I think you know, we respectfully disagree with the Charity Commission about its proposed solution to the conflict; that is, reducing seat-holder membership of the council so that they form a minority. It is my client's case that the Hall's existing governance structures properly deal with any such conflict already.

10. My Lord Chairman, you will also be aware that, following the Opposed Bill Committee, that committee published a special report. That is at tab 2(8) of your bundle. Because the locus standi of the petitioners was disallowed by the Opposed Bill Committee, there was no opportunity for the promoters to give evidence or to comment on the matters anticipated to be raised and, in fact, raised in the special report in advance of its publication.

11. We respectfully submit that, while the report notes the difference between the Hall and the Charity Commission as to what form of amendment to its governance is in the best interests of the charity and records the committee's view that, for the reasons set out, an impasse has been reached, there is, in our respectful submission, no impasse in terms of the ways of resolving that difference. It is open to the charity, under its own powers, to make changes to its form of governance if it considers, on careful analysis, that a change is required and it is agreed by the Members. It is, however, also open to the Charity Commission to exercise its powers under the Charities Act 2011 to intervene and make its own scheme.

12. Under either route, compelling reasons are required to make changes, particularly those changes with which the charity does not, on careful consideration and advice, agree. Changes that are alleged to be required in the public interest and in the interests of the charity should, we submit, only be made after proper scrutiny as part, if necessary, of a judicial or quasi-judicial process.

13. In summary, changes to the Hall's form of governance can be made by special resolution of the Corporation under the terms of the charter of 1867. There is also a power

for them to be made by the Charity Commission by operation of the provisions of the Charities Act 2011. In our respectful submission, a private Bill is not the place to address issues that Parliament has devolved to other mechanisms. The promoters therefore respectfully ask this committee to approve the Bill in the form of the filled-up Bill—that is with the amendment including, in essence, the removal of Clause 5—and with thanks to your Lordship's counsel for his advice in relation to some of the points of detail on the Bill, which has been most helpful and appreciated.

14. Mr McCulloch, the president of the Hall, is ready to prove the preamble. My Lord Chairman, I am in your hands. I can go on to explain in more detail the provisions of the clauses in the Bill if that would be helpful. I am going to do it in very short order but it might be helpful just to have it in front of us all.

15. **THE CHAIR:** I think it would be very helpful given the intricacy of some of the clauses, and perhaps then some of the questions we might have afterwards, if you did give us some introduction and some consideration, anyone on the panel.

16. **DAVID MUNDY:** Yes, very good. My witnesses, Mr McCulloch and Mr Ainscough, are here to give further detail, of course, should that be helpful. But as Mr McCulloch would be able to explain—I am now turning to Clause 3 of the Bill, which deals with the annual contribution, and, indeed, Mr McCulloch deals with this at section 6 of his statement—the seat rate is an annual levy to provide financial support in the form of a contribution to the Hall's running costs.

17. No seat rate was paid, none at all, until 1876 when a maximum £2 annual levy was authorised by the 1876 Act. As the preamble of that Act states, without such a measure, "the Hall must soon be closed". I think it is just important to understand the context that the Hall has always struggled for that element of financial security and, in those circumstances, has always relied upon and found, if I can use the word, succour from the Members.

18. The rate was increased to £3 per annum by the 1927 Act, again to stave off imminent bankruptcy and the closure of the Hall, brought about by the London County Council removing the Hall's exemption from fire and safety legislation, and the consequent need for funds, which the Hall did not have available.

19. There was no increase in 1951 but the seat-holders agreed to pay a capital sum of £280 each per seat, payable over 40 years, and again, of course, this required legislation as set out in the 1951 Act.

20. By 1966—it is probably worth noting that, in effect, the legislation comes every 50 years, roughly—the funds available to the Hall were, again, insufficient to meet its liabilities. By virtue of Section 3 of the 1966 Act, the annual contribution was set at a minimum of £10 per annum. In addition, every six years the Members are required to decide on a maximum contribution for the ensuing six years by a three-quarters majority and every year must decide on the seat rate itself for the following year by a two-thirds majority. So there is the annual approval of the rate itself and the ability every six years, at the moment, to set a cap, to give security to the Members that the call upon them is not going to exceed that amount.

21. The seat rate for 2023 was £1,538 per seat plus VAT. It is set by the Members on the recommendation by the council, although the initial recommendation is made by a committee of council members that does not include any seat-holders.

22. Turning to the actual provision itself, Clause 3 of our Bill will amend Section 3 of the 1966 Act—and that is at tab 2(1) on page 78—by removing the provision of the cap set every six years, so it takes away that element of security. The voting threshold for agreeing the annual seat rate will be changed under the Bill from the two-thirds majority to a three-quarters majority, so reflecting the removal of a protection on the one hand, to enhance the majority required for approving the annual contribution on the other.

23. The reason for this is that the cap has acted as an unnecessary and unwelcome

restraint. It is difficult to predict when the need for maintenance work on the Hall will arise and the funding be required. The cap has, again by way of example, a good current example, restricted the amount by which Members could contribute a supplementary seat rate in response to the Covid pandemic. When funding was required to meet the demands placed upon the Hall as a result of the pandemic, the cap operated as a barrier and was not welcome for that reason.

24. Turning to Clause 4, which relates to the further power to exclude Members from the Hall - in our view the key provision before you - is at tab 2(5) on page 225. The original charter conferred upon seat-holders a permanent right to use or to sell their seats for every event at the Hall. That was the original compact or arrangement. Over time, the seat-holders have voluntarily given up, for the benefit of the Hall, their rights to attend and to sell tickets to an increasingly large proportion of events staged by the Hall. On these occasions, the seat-holders agree to be excluded from the Hall, hence the expression "exclusive lets". This enables the Hall to offer a more attractive proposition to promoters of being able to sell and to make profit on all 5,000-odd tickets, including the 1,268 seats owned by the seat-holders, so that the Hall itself becomes available exclusively for the use of the Hall, without the Members exercising their right to be present.

25. Exclusive lets were introduced as early as 1887 by the supplemental charter of that date. So, very early on, it was recognised that there was this need to secure further funding by making the Hall available to a wider class. By subsequent Acts of 1927, 1951 and 1966, the number of exclusive lets was increased.

26. Turning to Section 14 of the 1966 Act—and that is at tab 2(1) on page 81 of your bundle—Section 14 empowered the council for the first time to exclude Members from, up to 75 days a year, other than a concert, recital or boxing or wrestling event, an additional 12

days for any type of event and one-third of a series of six or more events that are consecutive and substantially the same. Any additional rent that was received by the Hall as a result of those arrangements, except in relation to the additional 12 days' provision, is applied to reduce the seat rate. So the return back to the Members is a partial reduction in their seat rate to reflect the greater rent that is achievable by virtue of the entire manifest being available.

27. In 2008, it was discovered that seat-holders were routinely being excluded from a higher number of events than Section 14 actually permitted, without their knowledge or their agreement. Since 2008, at each annual general meeting, the Members have authorised by a very substantial majority a number of days of exclusive lets that exceeds the limitations stipulated in Section 14. These are known as the interim arrangements. This process was formally adopted in a 2012 memorandum—that is at tab 2(3) on page 129 of your bundles—and, by this arrangement, the Members have agreed to being excluded on more days than is permitted under Section 14, in fact up to 100 days or 120 events a year, without limit on the kind of event and for up to half the events in any series of more than two.

28. For this arrangement to work, the decision must be binding on all Members, including future Members. However, there is no statutory basis for this arrangement. The Corporation, concerned, commissioned a report from Sir Robert Owen in 2014—and that report is at tab 2(4) on page 139 of your bundles—to consider the propriety of these arrangements, whether they were consistent with the existing legislation and whether they would withstand legal challenge. Notwithstanding his positive report, which confirmed that in his view the council were acting lawfully—you can see the conclusions on page 171 of the report—under the terms of the charter, the Hall remains concerned about these arrangements for the reasons given. Clause 4 of the Bill would supplement, but not replace, Section 14 to allow the council by resolution to propose, in respect of a calendar year, when

and upon what terms Members may be excluded from the Hall, and that is at Clause 4(2).

29. Following consultation, the Hall adjusted the proposal to allow a group of at least 20 Members to put forward an alternative to the council's proposal. Such a proposal would also require a three-quarters majority to be passed. The amendment would not affect the council's existing power to exclude Members under Section 14. Even if an alternative amendment is passed, the Hall would not be obliged to accept it. Section 14 acts as a default position and the council could revert to it if it regarded it as necessary in the interests of the Corporation.

30. In short, this new procedure would establish a legally secure and flexible way forward to enable and facilitate the Members further benefiting the Hall. The chief executive, Mr Ainscough, is available to give evidence as to the financial benefit derived from those arrangements, if that would be helpful.

31. My Lord Chairman, that is all I was going to say in terms of my introduction to the Bill and the effect of the clauses. As I say, my witnesses are here to provide detail if that should be welcome.

32. **THE CHAIR:** Thank you very much, Mr Mundy, for some helpful highlighting of information. Studying some of the papers, I noticed, over a passage of time, the reduction in the number of seats, if one looks at the original numbers of seats compared with today, and, indeed, in the number of seat-holders; there is reference to 329 and now it is 316. I wondered if I could get a better feeling of whether this change and, indeed, reduction is something that happens gradually and so forth over a passage of time. Why has this particularly occurred more recently? As I say, I have seen figures of 329 and then 316. I wondered if I could really have a bit of background to that. If we go on to think about the Bill before us, I understand the consideration that the cap was involving, as it is described, an unwelcome restraint, when, in the first place, the issue of a cap was to provide presumably

some certainty for seat-holders as to their own requirements, as it were. I do understand the need, given the financial circumstances and the description of how the Hall is financed and, indeed, what it does not receive, as well as what it does receive. I wondered if there was a sense of recognition from both the Hall and its seat-holders on the issue of a cap and everyone agreed that this was no longer viable.

33. I wondered if, in this consideration of Clause 3 in particular, I could get some flavour as to the issue of the seat-holders and their own interests, but what I am sensing is an understanding that everyone has got to find a suitable arrangement, obviously with private property rights, but also the imperative as described, a cultural institution of such significance having sufficient funds to continue and to prosper. Could I just tease out some of those points on the background with Clause 3 a little bit more?

34. **DAVID MUNDY:** My Lord, may I invite Ian McCulloch, the Hall's president, to answer that question.

35. **THE CHAIR:** Yes, certainly.

36. **IAN MCCULLOCH:** Good morning, my Lord. May I start by trying to answer your question about the numbers? We have the number of total seats privately owned and then we have the number of seat-holders. The number of seats privately owned has remained pretty well constant for quite a long time. It did reduce not very long ago when the Hall was actually able to buy in a few seats—I think it was a box of seats—on suitable terms for the benefit of the charity. Unless that sort of opportunity arises and the Hall decides it can afford it and it is the right thing to do, the number of seats privately owned remains the same.

37. But the number of seat-holders can fluctuate. There is no particular significance to this but, as they are privately owned, they occasionally change hands. Sometimes they are for arm's-length transactions. Probably more often they are inherited; they pass down a generation. In that situation, you can have a consolidation, for example, if one seat-holder

owns three or four seats—sorry, you can have the opposite of a consolidation. You can have an increase in the number of seat-holders because one seat-holder who owns three or four seats may give one to each of his children and then you have three seat-holders. But the reverse can happen and, just in the natural ebb and flow of transactions and inheritance, the number of seat-holders can vary.

38. The relatively recent change in the number, since I think the Bill was first promoted, just simply reflects that. We just updated the number to reflect the transactions that have taken place.

39. **THE CHAIR:** So this could describe the fact that this appears to be reducing—historically, it ebbs and flows—or is there a tendency that the number of seat-holders is tending to decline?

40. **IAN MCCULLOCH:** It has in the past declined, quite dramatically at one stage, where a very large block of seats was owned by, in fact, the builders, who took a large number of seats in exchange for payment for building the Hall. But since those historical episodes, I think, the number, is I say, remains substantially the same. I do not think we have any data to show a consistent or even persistent decline in the number of privately owned seats. They are there as privately owned seats.

41. **THE CHAIR:** You mentioned, I think, an arrangement whereby there were some seats available and there was obviously a suitable arrangement. Is that something that, in terms of the general ethos, if there were circumstances like that, the Hall is minded that it would be always interested if it could afford the matter? Is there a culture sense that you would feel that you would like to be the first port of call if someone did wish to sell their seats, as it were, as a seat-holder?

42. **IAN MCCULLOCH:** We have no policy on that matter but, naturally, it is of interest to the Hall and, if the opportunity came up at the right time and a suitable agreement

could be reached, the Hall would certainly be receptive to it in principle. But there obviously has to be a proper benefit to the charity in doing so, because it is an expenditure of charitable funds in what would be an arm's-length transaction. It would have to go through the proper process of consideration before doing so, but the Hall would always be receptive to that kind of agreement, yes.

43. **THE CHAIR:** Yes, that is very helpful. Mr Ainscough, are there any points that you would like to embellish on?

44. **JAMES AINSCOUGH:** Further to that point, there are two main reasons the Hall would choose to buy any seat-holder seats that were coming up. One is for operational reasons, so over time, for example, we have more and more televised events and television cameras tend to block views, and sometimes it suits the Hall to have control over the seats where TV companies like to put their cameras. So there are operational reasons why we might own seats.

45. Then in other situations, we would like to own seats because they can generate a good income for the charity and, in particular, box seats do better for us than stall seats because we can do hospitality packages in the boxes and so on. It would be that kind of thinking and logic where we would look at an opportunity and work out whether for operational reasons or for the financial benefit of the charity it would be worth owning the seats.

46. **THE CHAIR:** Are there any points on Clause 3?

47. **CHÉ DIAMOND:** There is just one point.

48. **THE CHAIR:** Yes.

49. **CHÉ DIAMOND:** The question I have about Clause 3 is whether the six-year cap that was imposed by the 1966 Act has long been thought to be unduly restrictive. Obviously, I suspect there have always been inherent difficulties in predicting the future cost of running

and maintaining the Hall, and we certainly had periods in the 1970s with very, very high rates of inflation. Specific mention has been made of the Covid pandemic but that is not the only reason given in the evidence for the change. There is this general point about inherent difficulties in predicting costs and the point about inflation.

50. So, yes, that is my question. Has it long been considered unduly restrictive, because it is now nearly 60 years since it was put in place that we are faced with the provision that would remove it?

51. **IAN MCCULLOCH:** I am afraid I do not have the historic knowledge to know whether the six-year cap was reached in an unwelcome manner too soon in years gone by, but it may help if I explain that this proposal has not just come from the recent experience of this being the case with the pandemic, because the Hall conducted a general, quite comprehensive review of its constitutional provisions in 2015 and 2016, and we looked then at the question of the six-year cap, which seemed to be relatively benign but we questioned what the point of it was.

52. The point was obviously to provide some sort of reassurance to seat-holders that it was not suddenly going to skyrocket, although, of course, the seat rate is always subject to the will of the Members because it has to have their consent by a two-thirds majority. It is a voluntary arrangement in excess of £10. But we questioned what the value of it was, if not the purpose, when the main purpose of the seat rate is to make a contribution to the maintenance costs. The maintenance costs of a building as complicated as the Royal Albert Hall can fluctuate very considerably from year to year, and so it was very difficult to predict what the maintenance costs were likely to be in any one year. Certainly, looking five or six years ahead, it is impossible to predict with any useful clarity, what the maintenance costs would be. So many things occurred in that kind of timescale that can cause a change in the predicted costs. Of course, then there is the risk of high inflation and so on.

53. So we decided that it did not really serve a very useful purpose and it would just simplify matters, for the Hall's affairs, not to have to go to the Members and ask them to approve both a seat rate and a six-year cap because if they approve every year the seat rate—because it is up to them; it is voluntary by special resolution—they had control over how much they would contribute, anyway, each year. It was then just felt that, well, if we were removing the assurance of the six-year cap, it was only reasonable to adjust the threshold by which they agree, because of course this is a situation where we have collective giving and so the majority binds the minority. So, we thought it was appropriate in those circumstances to raise the threshold for voting and actually put it in line with the voting threshold for all other changes under the charter. It is of course commonplace in other situations, such as under company law, to have a 75% majority for a special resolution.

54. **THE CHAIR:** Thank you.

55. **CHÉ DIAMOND:** Thank you.

56. **THE CHAIR:** Mr Ainscough?

57. **JAMES AINSCOUGH:** It is worth remembering, when seat rates were first introduced at the Hall, that they were done in response to crisis within a building that had been badly maintained over decades because the Hall had a, shall we say, fragile financial model. It just was not working. I can well imagine in those moments, when a new seat rate was put to seat-holders, they needed some assurance that there was a limit on how much the Hall would reach into their pockets at a point in time.

58. But now the Hall is a very different organisation. We have a much more stable business model and financial model. The Hall is well maintained and we have a long-term plan for doing that. Whereas in the past the seat-holders needed the assurance of a six-year cap because of the condition and the state of the Hall physically and financially, I think the assurance comes in different ways now because we have a more solid model and a more, I

would argue, assured and professional way of maintaining the building.

59. **IAN MCCULLOCH:** It seemed there was no particularly urgent need for this but then, of course, Covid-19 struck and the Hall was required to close for 16 months. We were facing very considerable difficulties and so the question arose as to how we would survive. It presented with some very considerable challenges because the Hall has never had an endowment or any substantial reserves and, if the Hall were to be mothballed or closed for any length of time, it had to be able to treat its staff properly and we were, at one point, contemplating very substantial redundancies. This was a time, you see, when there was no vaccine. There was no solution.

60. So, we had to think very hard as to how to overcome these difficulties and one clear way was to go to the Members. The Members had historically always helped the Hall in times of difficulty, and this was another one. Asking the Members to keep paying the seat rate was not sufficient. We asked the Members to pay an additional contribution, this by way of the supplementary seat rate. The supplementary seat rate is just a term we use because there is no other way we can collectively raise funds from all Members. It is the seat rate that is the mechanism for doing it, and the seat rate for the maintenance of the Hall was just not going to be enough to support the Hall in this very difficult time.

61. So, we went to the Members and they agreed to an additional levy via the special resolution required for the seat rate and we raised in excess of £2 million as a grant, not a loan, to the Hall to see it through this difficult patch. We never foresaw that in 2015 but it was relatively quickly that the need for the change had arisen, because we hit the ceiling on our seat rate and wanted to raise more than that to help the Hall through the pandemic.

62. **THE CHAIR:** Thank you. I think it is fair to say the pandemic crystallised a number of aspects in so many areas and I can understand those issues. Thank you on Clause 3. Could we move to consideration on Clause 4? Again, I understand—I notice Members authorising

matters by substantial majorities and so forth—the issue of excluding Members from events and what is considered unduly restrictive. I just wonder again, taking us back to the last time this was considered, so far as the 1966 Act was concerned, about the placing of limits on the existing power. I suppose it is to consider the aspect of Members' willingness and, indeed, the provision that in order to enable the Hall to have a successful financial dynamic the Members have to, in some way, exclude themselves or be excluded in order to raise sufficient funds for the Members to enjoy the seats and the attendance of events they can, but also, as is described in the papers, ensure that the Hall is in a position to command a very significant, I hope, income from events they run.

63. Before perhaps slightly more detail of some of the issues in terms of the membership procedures and so forth, I was wondered if there was a bit more I could glean on this issue of exclusion, the background to 1966, what has evolved since then, to get some flavour again as to how what was decided by terms of placing limits in 1966 has somewhat moved on and the circumstances.

64. **IAN MCCULLOCH:** My Lord, may I start on that and perhaps ask Mr Ainscough to provide more information? I think it probably reflects over time the—I will call them—market forces within the industry, of promoters wishing to hire the Hall for their events. More than three-quarters of the events that take place in the main auditorium are third-party lets. The Hall is not promoting them itself; it is not the promoter. It hires the venue and the event belongs to the promoter, not to the Hall. We receive the rent. We receive other benefits from letting the Hall, such as commissions.

65. So the Hall is working in a commercial environment in which it wants to maximise the lettings. It is really quite dependent on sweating the asset of trying to fill the Hall pretty well every night of the year. I mean, we have more events on in the main auditorium in the calendar year than there are days in the calendar year, remarkably. This is the model that

makes the Hall succeed. But we have to operate with third parties who wish to hire the Hall on certain terms and some of them want to have the whole Hall.

66. Not all promoters want to have the whole Hall. They are quite happy to have the Hall less the Members' seats, pay lower rent, have fewer seats to sell, because the Members will be responsible for their own seats. But there are other promoters who want the whole Hall. These are the sorts of circumstances in which the programming team are essentially negotiating terms with promoters. That is how it has been over many years and the position is never the same from year to year.

67. But we do have obviously, as you will know, one or two landmark bookings like the BBC Proms, of course, and, for some years now, Cirque du Soleil, at a time when the Hall would not be so easy to fill night after night, which is in January and February and so on. We have one or two other landmark events for special occasions, the Festival of Remembrance and so on, but it is a fluctuating scene in which the programming team have to do their best for the charity.

68. **THE CHAIR:** Mr Ainscough, is there any further embellishment on everyday management?

69. **JAMES AINSCOUGH:** I would just add something on the changing nature of performance. I noticed the 1966 Act starts with a recital of the first types of events the Hall was meant to have and it includes conversaziones.

70. **THE CHAIR:** I noticed that, yes.

71. **JAMES AINSCOUGH:** I have not yet managed to promote a conversazione in the Hall during my tenure as chief executive, although you could argue that a podcast debate, "The Rest is Politics", is perhaps one of those things.

72. But the nature of performance changes over time and, in particular, I note two things now that were not even features in such a significant way when I first started as finance

director at the Royal Albert Hall in 2008—this is on my second stint in the building—so firstly short runs of complex shows. For example, we do a series of events called Films in Concert. Sorry this is not an advert, just to be clear. You go and watch a film, but the soundtrack has been removed and it is played live by an orchestra—astonishing events. It is very complex to do. There is a lot of upfront cost in terms of preparing the score and the technical kit that allows the conductor to stay in time. You have to install a huge screen. You install two projectors, one in case the other one breaks et cetera. The economics of those events do not work unless you do a number of performances in a row.

73. The 1966 Act, when it is talking about "series of events", so identical events repeated across time, starts with series of six, six or more, and it allows you then to exclude seat-holders from a third of that run. Trying to sell tickets for six performances of one film is significant. You are looking at over 30,000 tickets. That is a lot, particularly for these films that are not current. We have *Raiders of the Lost Ark* on Saturday and Sunday. Being able to do a run of, say, two, three or four performances is much more feasible in terms of the number of tickets you could sell, but then you are trying to spread a high upfront cost across a smaller number of seats. So it really helps in a short run like that to be able to exclude the seat-holders from a certain number of those performances.

74. The 1966 Act does not allow us to do that in a way that works well for the Hall and so the guidelines that we have been working to, which the seat-holders kindly approve each year at the AGM, allows us then to do shows of that nature, but we are trying to—through the Act, as you can see—put that endorsement of a different letting pattern on to a legal footing. So, it is partly a response to just the changing nature of shows that could not have been predicted in 1966 and even less so in 1871.

75. Even for one-off concerns, which in their own way were envisaged right from the beginning, the nature of what is required to put on a concert now is significant, particularly

for the high-profile acts. There is a lot to be loaded in: lighting, the audio equipment et cetera. So again, there is pressure, as Ian referred to, from a commercial angle, from a promoter to bring in a show and to be sure that it can make its own commercial return from that.

76. Whereas, again, in the past the Hall might have been pictured as having lots of symphony orchestra concerts, and most symphony orchestras, particularly in the 1980s and earlier, were mostly funded by the Arts Council, and so we were able to take a very different view on the terms on which they would let the Hall and the terms on which they would make the surplus desired, these days the Hall is trying to have a programme of events that is attractive to the entire population of the UK. We believe ourselves to be a national treasure. I want to make sure that everybody in this country sees something on our schedule each year they would dearly like to attend.

77. So that means we are reaching out to the world of rock and pop and rap and jazz where we can, and all sorts of musical forms. Particularly at the rock, pop and rap end, they have large infrastructures they need to load in and therefore require certain commercial terms. So being able to have more flexibility in exclusive lets is vital for the charity, and it is not just financial. It is about maintaining the charity's—the Royal Albert Hall's—status as the pre-eminent stage in the UK. There are lots of venues in the UK that I love and I would not like to pit the Hall against them, but the Royal Albert Hall does have a level of affection among the musician community and that is maintained by finding the heroes of tomorrow and giving them a platform to perform.

78. So, both for our brand identity, and also for our business model, we want to attract the very best artists and that means being able to give them the flexible terms that they need. Of course, I do not think anyone is pretending that that is not also in the interests of the seat-holders because, if I can attract a great artist and they do two performances, and one is

an ordinary and one is an exclusive, in that circumstance the artist has got the arrangement that they need commercially, the Hall benefits both financially and from a brand perspective, but also the seat-holders are getting at least one of those performances in the run.

79. This really goes to, I think, the heart of the seat-holder and Hall relationship, in that, in many of the cases, you would hope that what is good for the charity is also good for the seat-holders. That is why I think they have willingly supported our divergence from the 1966 Act on exclusives for many years but why it is important, I think, that we give them an appropriate mechanism to do that, rather than the slightly more informal vote that we have at the AGM.

80. **THE CHAIR:** Well, that is very helpful and it is a prelude—perhaps you will tell me that this is so unlikely to happen—but I was thinking about Clause 4(12) and the resolution of the Members in respect of their exclusion, passed under the new procedure, but the council chooses not to be bound by that resolution, then in relation also to Section 14 of the 1966 Act, I wondered if I could ask what circumstances you would envisage whereby the council would overrule the will of the Members?

81. I just wondered if there were some occasions you wished to expand upon in terms of the rationale because obviously the description you have portrayed is that by a substantial majority, whenever these issues have come up of, shall we say, the well-being of the Hall—the impression I get from everyone here on the panel is that the seat-holders recognise that they have responsibilities, obviously as well as the great privileges of having seats in this great institution. But I just wondered if there were circumstances you could envisage coming up whereby under this Clause 4(12) the council says, "You can say what you like, over 75% of those have voted". What circumstances would you envisage?

82. **IAN MCCULLOCH:** My Lord, I have not been able to conjure up a particular circumstance that I could describe to you in that way, but may I just say again that the whole

nature of these proposals is that, in essence, this is a charity going to benefactors and asking them to help? Ultimately, if any charity goes to any benefactor and asks them for help, it is up to the benefactor in what way and to what extent he or she or it is willing to provide that help. In our case, the benefactor here is a collection of over 300 people who have to agree somehow what the benefit will be.

83. So, what happens in practice is that the Hall sets out with some sort of reasoning why it is making the request it is. This is where, as I think James alluded to earlier, we are providing better and clearer explanation and justification for the Hall's requirement in this regard but, in essence, that is where we are going. We are going to the Members and saying, "please help us". Of course, the Members say, "well, the thing is with this arrangement that it feels like a take it or leave it. Either we agree to everything you are asking for or we have to reject it outright. We may not want to agree to everything you are asking for but, equally, we do not want to reject outright your request because we want to help you but perhaps not quite in the way that you have asked".

84. So, we have included the facility for the Members to, in effect, modify the request being made of them. Now, we did wonder whether perhaps the simplest way would be to enable Members to move an amendment to the Hall's proposal, but we could envisage that becoming procedurally complicated, particularly if there were more than one from different Members who all had different views, because there are so many of them. We thought the manageable way to respond properly to that reasonable request was to say, well, okay, if you think we are asking for too much or in some way it is not what you are willing to do, you should have the opportunity to say to us, by passing a suitable resolution, with a suitable majority, what you are willing to do.

85. In those circumstances, I suppose it is likely that the Hall will not wish to stare a gift horse in the mouth and will likely accept what the Members are willing to do because that is

ultimately what this is really all about. We just thought that we need some safeguard here so that the Members cannot impose something on the Hall which the Hall would find unacceptable. It might be inoperable. It just might not fit the way the Hall contracts with third parties. We felt we needed some safeguard for the Hall to prevent some probably unintended or certainly unforeseen consequence.

86. That is the purpose of this provision but, to come right back to your question, I cannot immediately envisage a situation where the Hall would say, "that is so unacceptable that we would rather operate under Section 14". It seems to me unlikely, but we have it there as a safeguard, just in case.

87. **THE CHAIR:** Thank you. I can understand with the charitable status and all the responsibilities that this is a safety valve provision. I understand that. In terms of the reference to Section 14 of the 1966 Act, to exclude Members from the Hall—whether I have this in the right order—if you therefore need to fall back on Section 14 and you have been, in practice, having to take yourself beyond that, I am just thinking: is there any indelicacy? The fact remains that, if you do decide to rely on Section 14, the truth is that there have been things beyond the terms of Section 14 that everyone has accepted and agreed. But I am just wondering whether there is an element of indelicacy.

88. **IAN MCCULLOCH:** Well, I am not sure if this is the same point you are raising, but what happens in practice when we pass this annual resolution is that we are doing it for three years hence. We are not doing it for this year or next year; we are doing it for three years hence, so the Hall always knows the scope within which it can properly and lawfully contract with third parties. If that resolution were removed, it does have forewarning. It would not bite. It would not hit the Hall's ability to contract immediately because it already has two years of bookings available to it under the prior resolutions. So, it would not be an immediate blow and the Hall would then have some time to work out what it would do.

89. Of course, I think in practice what is most likely, if the Hall's resolution were not passed—or if a Members' resolution were passed that the Hall did not feel it could work with—is that the Hall would come back to the Members with another resolution. It would call a special general meeting. It would discuss the difference between the Members and the Hall, see if they could not be resolved and table a fresh resolution, which might then achieve the support required. I think that is probably what would happen in practice.

90. **THE CHAIR:** Ché, are there any further points?

91. **CHÉ DIAMOND:** Yes, if I could just probe a little bit further to the last question, this relates to both Clause 4(11) and 4(12). They both provide that the council may elect to exercise the power conferred on it by Section 14 of the 1966 Act and Clause 4(11) provides that the council may do so where a resolution under Clause 4 has not been passed for a particular year. Clause 4(12) provides that the council may do so where a resolution has been passed, and it was a resolution proposed by Members rather than the council. We have just discussed that.

92. The particular point I wanted to focus on was that you have explained earlier that the Corporation has been operating outside the terms of Section 14 of the 1966 Act for some considerable time by excluding Members from more events than is permissible under that section, and you describe the interim arrangements that are now in place to authorise this. But is the intended effect of Clause 4(11) and 4(12) that the council would be limited to the number of exclusions that is permissible under Section 14 of the 1966 Act, or is it intended that interim arrangements of the kind that we have seen since 2008 would be put in place instead?

93. **IAN MCCULLOCH:** It is likely to be the former. The fallback is Section 14. We do not want to have to go back to Section 14 because, as you appreciate, for some years now the Members have been agreeing, without any, it seems, constitutional basis for doing so,

something much better for the Hall than Section 14. But I cannot see in practice how we could revert to the current arrangements of having some annual resolution working. It was only ever intended as an interim solution, these annual resolutions, and they have gone on for years. It just needs to be addressed. The anxiety we have over the validity of continuing as we do needs to be brought to a close by writing into the constitution the proper way to do it. It would be very difficult to carry on as now.

94. **THE CHAIR:** So that I am absolutely clear in my own mind, as described in the Bill, you will be relying, if necessary, on Section 14 of the 1966 Act because you will have addressed the problem in this legislation, and, therefore, what you would rely on is distinctly what is in the 1966 Act and not, shall we say, the way in which you have got through that.

95. **IAN MCCULLOCH:** My Lord, not quite, no. We want the current practice to continue, but with a sure legal footing, because the current practice gives so much more to the Hall than it has under Section 14. We do not want to go back to Section 14. We are simply trying to validate, ensure, that the current practice where Members pass an annual resolution to give more is sound, but we saw that we could not remove Section 14. That would be taking something from the charity, which was not appropriate. There is no intention of taking away anything from the charity, so we have left Section 14 in place. If for any reason the resolution, which will now be carried out on a proper basis, is not passed, the Hall can always revert to Section 14 as its failsafe mechanism for continuing, at least under that section, to award the exclusives it permits.

96. **THE CHAIR:** There has been reference to the Attorney-General's report on the Bill, and that she has no objection to the Bill subject to Clause 5 being removed. Is there anything further anyone on the panel would wish to add at this point?

97. **DAVID MUNDY:** I do not think there is, other than those small—if I could so call them—textual amendments, which largely I have agreed with your counsel. Therefore, I would commend the Bill as it stands as the filled-out Bill.

98. **THE CHAIR:** Thank you very much. I am very grateful for the explanation of the Bill and, indeed, the amendments, and for the answers to the questions we have posed. I am content that the Bill with the amendments proposed by the promoters should proceed. I now ask that we move to the formal part of the proceedings, so may I ask Mr Mundy to prove the preamble?

99. **DAVID MUNDY:** My Lord, yes. Mr McCulloch requires to be sworn in.

100. **IAN MCCULLOCH:** I swear by almighty God that the evidence I shall give before this committee shall be the truth, the whole truth and nothing but the truth, so help me God.

101. **DAVID MUNDY:** If I may ask Mr McCulloch to approve the preamble, are you Ian Hammond McCulloch?

102. **IAN MCCULLOCH:** I am.

103. **DAVID MUNDY:** Are you the president of the Corporation of the Hall of Arts and Sciences, the Royal Albert Hall?

104. **IAN MCCULLOCH:** I am.

105. **DAVID MUNDY:** Do you hold responsibility for the promotion of the Bill on behalf of the Corporation of the Hall of Arts and Sciences, which is promoting the Bill?

106. **IAN MCCULLOCH:** I do.

107. **DAVID MUNDY:** Have you read the preamble to the Bill?

108. **IAN MCCULLOCH:** I have.

109. **DAVID MUNDY:** Is it true?

110. **IAN MCCULLOCH:** Yes, it is true.

111. **DAVID MUNDY:** Thank you very much.

112. **THE CHAIR:** Thank you. That concludes our proceedings. I will report the Bill to the House with amendments.

113. **DAVID MUNDY:** Thank you.

114. **IAN MCCULLOCH:** Thank you, my Lord.