

MINUTES OF ORAL EVIDENCE

taken before the

**OPPOSED BILL COMMITTEE**

on the

ROYAL ALBERT HALL BILL

Monday 22 April 2024 (Morning)

In Committee Room 2

PRESENT:

Baroness Hale of Richmond (Chair)  
Baroness Fairhead  
Lord German  
Baroness Hayter of Kentish Town  
Lord Naseby

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IN ATTENDANCE:

Paul Bowen KC, Counsel, Corporation of the Hall of Arts and Sciences  
David Mundy, Parliamentary Agent  
Ian McCulloch (President, Corporation of the Hall of Arts and Sciences)  
James Ainscough (Chief Executive, Corporation of the Hall of Arts and Sciences)  
Hon. Richard Lyttelton (Court of the Worshipful Company of Musicians, FanFair Alliance)  
Lady Brewer (Court of the Worshipful Company of Musicians)

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**IN PUBLIC SESSION**

(At 10.40 a.m.)

1. THE CHAIR: We are now in public session.
2. MR BOWEN KC: My Ladies, my Lords, I appear for the Corporation of the Arts and Sciences—the Royal Albert Hall—who are the promoters of the Royal Albert Hall Bill. I am instructed by Mr David Mundy and Tom McNamara of BDB Pitmans and we will be proposing to call in evidence Mr Ian McCulloch, who is the president of the Hall, and Mr James Ainscough, who is the chief executive of the Hall.
3. THE CHAIR: If we get that far.
4. MR BOWEN KC: If we get that far, my Lady. The petitioners are represented by the Honourable Mr Richard Lyttelton, who sits beside me; Lady Brewer, who appears on behalf of the Court of the Worshipful Company of Musicians; and I believe Mr Adam Webb is appearing for the FanFair Alliance but I have not seen him.
5. MR LYTTELTON: Rock and roll—he is not here yet.
6. MR BOWEN KC: As my Ladies, my Lords, know, Mr Lyttelton who brought the petition and produced a statement in support of the petition no longer maintains that he has locus standi to make an objection, and so the petition now is only being brought in the names of the Worshipful Company of Musicians and the FanFair Alliance.
7. THE CHAIR: I suppose technically, Mr Bowen, Mr Lyttelton has said that he is withdrawing as a petitioner. He may or may not accept that he does not have locus standi.
8. MR BOWEN KC: Well, my Lady, that is a—
9. THE CHAIR: You are not going to argue that but I am just trying to be precise.
10. MR BOWEN KC: I am not going to seek to persuade you that he does not have locus standi because he no longer maintains that he does but it is our case that he does not have locus standi and we would have developed that submission, had we needed to.
11. My Ladies, my Lords, there are some housekeeping matters that I might just raise, the first of which I know my Ladies, my Lords, have been discussing this morning which is the point that came to our attention over the course of the weekend, namely that

there is some information in the public domain which demonstrates a connection between one of the Members of the committee, Baroness Hayter, and one of the petitioners, the FanFair Alliance.

12. The evidence—if I can call it evidence—what we have seen is on the FanFair Alliance’s website, a line in which the FanFair Alliance explicitly thank a number of people for supporting them in campaigning for the objects that they are seeking to achieve in this Bill and one of those named as the person supporting them was Baroness Hayter. And there is also a letter that Baroness Hayter wrote to the Select Committee of the Department of Culture in which she refers, with approval, to the work of the FanFair Alliance and my Ladies, my Lords, we raised the question in an email whether, in those circumstances, it was right that Baroness Hayter should consider withdrawing, bearing in mind under Standing Order 96 that any person with an interest in a matter that is being considered by a Private Bill Committee should be excluded from sitting.

13. We drew attention to the well-known test that applies in a judicial context, which we respectfully submit is the correct test in this context because the committee are sitting in a judicial or quasi-judicial capacity, whether a fair-minded and informed observer, having considered the relevant facts, would conclude that there was a real possibility that she has an interest in the matters before the committee, bearing in mind that the central thrust of certainly the FanFair Alliance’s submission is that it is not in the public interest for Members of the Hall to be able to sell their tickets on the open market at a price above the face value of those tickets and that is the issue on which Baroness Hayter and the FanFair Alliance have joined cause, albeit in a slightly different context involving secondary ticket sales. But it is the position of the FanFair Alliance anyway that there is no distinction to be drawn between secondary ticket sales and that which the Hall’s Members are permitted to engage in.

14. And my Ladies, my Lords, I understand that the committee has met and considered the question, invited us to make submissions to the extent that we felt it appropriate to do so. We do not seek to override or seek you to change your minds. I understand you have reached a ruling but we do respectfully request that the committee just, for the record, explain that it has reached the conclusion that it has. If and in so far, bearing in mind you are sitting in a judicial capacity, you felt able to give some reasons for that conclusion then we respectfully submit that it would be in the public interest for

those reasons to be recorded. So that is the extent of the submission we make in relation to that matter.

15. THE CHAIR: Thank you, Mr Bowen. Well, I should make it clear that when we had our preliminary meeting last week in order to discuss this matter, we all of us were asked whether we had an interest, within the meaning of the word “interest”, to declare and I think I can ask each of the Members to respond to that request. Perhaps Lord Naseby, would you like to say, have you any interest to declare?

16. LORD NASEBY: I have no interest to declare.

17. LORD GERMAN: No interest to declare.

18. BARONESS FAIRHEAD: No interest to declare.

19. BARONESS HAYTER OF KENTISH TOWN: And I have no interest to declare. I did mention at that preliminary meeting that I had 10 years ago moved an amendment in Parliament about ticket touts basically, the Viagogos of the world.

20. THE CHAIR: So none of the Members of the committee and I have no interest. I do not consider that having once sat in a case in the Supreme Court involving Viagogo means that I have an interest because we all have to consider matters of public interest in the course of our duties, whether as judges or as parliamentarians. The committee have discussed your challenge, which came very late in the day. You have known the identity of the Members of this Committee for some time and yet you have only chosen to raise it by an email this very morning and at least one Member of the committee considers that that is too late and it should not even be thought about.

21. We did, however, think about it and I did draw the attention of the committee to the distinction between Standing Order 96, which refers to interests, and the test for judicial recusal, which is an appearance of bias. But that does not mean that having expressed an opinion on a matter of public interest at any time in one’s life gives rise to an appearance of bias. It is, of course, principally a matter for the Member, but the other Members of this Committee took the view that having expressed many years ago a view about secondary intermediaries, what are generally referred to as touts, was not sufficient to raise an appearance of bias in the very different issues that arise in

consideration of this Bill.

22. MR BOWEN KC: I am very grateful, my Lady, for that explanation. Can I just put on the record my apology that it came so late in the day? The information upon which it was based came into our possession only very recently.

23. THE CHAIR: Bearing in mind the amount of material you have put before us, I would have thought that your researches could have been a little bit more diligent but I say no more. Let us get on with the business of the day, which is, of course, your challenge to the standing of the remaining petitioners.

24. MR BOWEN KC: My Lady, yes. What I had proposed to do was to outline, before I went straight into the locus challenge, a little bit of background and exactly why it is that we are bringing the Bill and to explain the processes that the Bill has been through and then to make the locus challenge with my Ladies' and my Lordships' leave.

25. THE CHAIR: Well, you can bear in mind that we have all read everything.

26. MR BOWEN KC: I will bear that in mind, my Lady, and what I had hoped to do was to sketch it out in very short summary. But the starting point, my Lady, is that the Bill has very limited compass. All that it proposes to do is to give the Corporation a power to set, and if necessary increase, the annual contribution payable by Members, what is called the "seat rate", that's Clause 3; and, secondly, to set, and if necessary increase, the number of days a year when seat-holders who are otherwise entitled to attend performances may be excluded for the purposes of hiring out the whole Hall to promoters, so called exclusive lets.

27. You will have seen that the original Clause 5, which would have authorised the Hall to sell some additional seats in the grand tier boxes, has been withdrawn and I say no more about that proposal. This Opposed Bill Committee is here because of the petition by Mr Lyttelton and the other petitioners and, as I have explained, Mr Lyttelton's withdrawn now his claim that he has locus standi and the circumstances in which that arose were these.

28. In his statement, Mr Lyttelton said that he had not attended the Wharncliffe meeting that took place on 20 October—

29. THE CHAIR: Is that relevant to anything that we have to decide?

30. MR BOWEN KC: Well, my Lady, it may be if we get to any evidence sessions but I am happy to leave it until then. But we are in this curious situation that the FanFair Alliance and the Worshipful Company of Musicians are maintaining their objection, that Mr Lyttelton will be speaking for them. So it is being continued in circumstances where the author of the petition and the author of the statement in support, now concedes he lacks locus standi, who voted in favour of the Bill at the Wharncliffe meeting, purports to speak for an organisation that opposes the Bill, who had and they say do have locus standi, which in the case of one of them he claims is independent of him, despite the fact he is its master. And we respectfully submit, and as I shall develop, that the circumstances in which the petition is being continued simply lend support to the view that the remaining petitioners are not sufficiently independent of Mr Lyttelton and that undermines their locus standi.

31. My Ladies, my Lords, the promoters ask the committee to approve the Bill as it stands and to dismiss the position of opposition on these grounds: firstly, that the petitioners lack locus standi; secondly, because the grounds of opposition are not distinctly specified—that is Standing Order 111; thirdly, because the petition seeks to admit provisions which are beyond the scope of the Bill and/or enlarge the powers sought by the Bill or affect private interests; fourthly, because the petition, and particularly the amendments it seeks, are not compatible with third parties' convention rights for the purposes of Standing Order 38 and 98(a); and fifthly, and lastly, because the petition lacks substantive merit.

32. Now, my Lady, you also have received a report from the Attorney-General and I recognise that, having raised an issue late in the day and my Lady, Baroness Hale, having pointed that out, it ill behoves us to be complaining about documents being filed late but the Attorney-General's report was, regrettably, not received until 18 April and my understanding is it should have been served 14 days before you first sat on 18 April. But in any event, be that as it may, the Attorney-General—

33. THE CHAIR: You have to be grateful that it arrived because had it not arrived, we would not be able to sit today.

34. MR BOWEN KC: Well for that, my Lady, I give thanks. Now, the learned

Attorney-General does not oppose the Bill but she does say that it is “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”. And as my Ladies and my Lords are aware, this is a matter that has caused the Charity Commission concern.

35. Now we are in your hands when it comes to the report but, as you also know, we respectfully disagree with the Attorney-General and the Charity Commission about their proposed solution to this conflict of interest, namely the Charity Commission’s proposal to reduce seat-holder membership of the governing council.

36. THE CHAIR: To what extent is any of that relevant to the issues which this Committee has to decide?

37. MR BOWEN KC: Well, my Lady, I am very grateful you ask me that question.

38. THE CHAIR: This Committee has to decide on what is opposed in relation to the Bill that you are promoting and actually, the difficulty is that the Bill that you are now promoting, the contents thereof are not opposed. What is suggested is that they do not go far enough and there should be an additional clause.

39. MR BOWEN KC: Yes.

40. THE CHAIR: That is the issue for us.

41. MR BOWEN KC: Yes, well, my Lady, as I said, I am very grateful that you ask me that question because the submission I was just about to make was to say that nothing that the Attorney-General says in her report, and nothing that is said by the Charity Commission, although they have not put in a report—but you know that they briefed peers before the Second Reading of this matter—is of any relevance at all to the matters that this Committee need to determine and we respectfully invite the committee to say nothing about those matters. But I said that I was in the committee’s hands because, of course, you are obliged to consider any report that is produced by a government Minister and you have now considered it and we respectfully suggest that that should be the end of it.

42. THE CHAIR: Well, I cannot speak for my fellow Members but I feel sure that they would want us to concentrate on the matters which we have to decide as opposed to

other matters that might have crept into other people's consideration of the Bill at an earlier stage.

43. MR BOWEN KC: Well, I am grateful, my Lady. Now, my Lady, I do just want to say a few things about the nature of the relationship between the seat-holders and the Hall. Now these are relevant not just because they underpin the reasons why we are here in the first place and why we need to come to this house for a private Bill, but they also explain why it is that the Hall, or those that are responsible for running the Hall, so vehemently object to the proposals that are made by the petitioners.

44. As my Ladies and my Lords will have seen from the evidence, when the Hall was built—in 1867 it was opened but as it was being built, the funding for the building of the Hall came primarily from private individuals. The Hall cost about £200,000 in the 1860s. A quarter of the money was put up by the 1851 commissioners from the money that had been obtained that was surplus after the 1851 Great Exhibition.

45. So, £150,000 had to be raised privately and it was raised by private subscribers paying either £100 for a seat; £500 for a private box of five seats; or £1,000 for a box of 10 seats. And as you will have seen, a number of individuals, very prominent individuals in some cases, including members of the Royal Family, did buy seats and, in return, the subscribers were given a perpetual transferable right to a seat or seats in the Hall and they became the seat-holders and there are currently 316 heirs and successors of those individuals holding between them 1,268 seats out of a total of 5,272 seats, so some 25% of the seats. The Hall can accommodate up to 5,900 people when you take into account standing designated areas but, in terms of the seats, one can talk of the seat-holders owning 25% of those seats.

46. Now, my Ladies, my Lords, it was always intended that these subscriptions would be an investment and I will give you the page reference. I am not going to take you to it but I will read out the relevant section from the prospectus; that is the prospectus that was sent to potential investors, which reads as follows, at paragraph 26 on page 230 of our bundle. "There seems then little reason to doubt that the purchase of boxes or seats in the Hall may be looked upon as the acquisition of a property from the use of which constant enjoyment and instruction may be derived and which, in a pecuniary point of view, will prove a remunerative investment to be realised either partially by the letting

of seats or wholly by the sale of the entire interest of the purchaser”.

47. Now, the seat-holders’ rights are in the nature of personal estate, and you will see that from the charter itself, and are perpetual, at least for as long as the underlying lease exists. And the charter makes clear that they can be sold, transferred or bequeathed and the rights of the Corporation to let the Hall are subject to the rights of the seat Members. See Clause 5 of the charter at page 111 of the bundle. And the right to a seat or to a box is very valuable. Each seat-holder, as I say, can sell some or all of the tickets to which they are entitled, on the open market or in any way that they please and the seats may, as I have said, be transferred or sold with individual stall seats selling for significant sums.

48. But the seat-holders are also a resource that the Hall has been able to call upon in times of need. As Sir Robert Owen put it, quoting from what one of the Members had said to him in his report in 2014, and you will find this at page 264 of the bundle at paragraph 87, “The Members are the Hall’s bankers of last resort”. And the relationship between the Hall and its Members is unique and the reason, the promoters believe, for the success of the Hall. Every artist who has appeared there, every community organisation that has staged an event there, and every music fan who has visited, owes a continuing debt of gratitude to the Members.

49. They funded the Hall’s construction 150 years ago. They have supported it since then in various ways and have rescued it on more than one occasion. They agreed to pay an annual levy, the seat rate, when none was previously payable. They agreed that their absolute right to attend every event be modified to allow the Hall to be let profitably—so-called “exclusive lets”—today for 100 days of the year, and they have made capital payments and supplementary payments when the Hall has been in crisis, most recently during the Covid 19 pandemic when they paid, in addition to the seat rate, a supplementary seat rate over the course of four years, which was worth £2.2 million.

50. The Members sit on the governing council without recompense and you will have seen from Mr Ainscough’s evidence that he conservatively estimates that the annual benefit to the Hall from their relationship with the Members is some £4.4 million. And it is for this reason that the Hall opposes any amendments either to their governance or to the manner in which Members can sell tickets, which would risk jeopardising the relationship they have with the Hall.

51. Now, of course, the Hall would be the first to accept that there is a quid pro quo. The Members benefit personally when the Hall benefits. Their relationship is symbiotic and mutually beneficial. But those interests of the Members do not impinge upon the charitable objects of the Hall; they co-exist with them. They are seat-holders, not shareholders, and you will have seen they receive no dividend from the Hall if the Hall earns any surplus.

52. And their financial benefits, Sir Robert Owen concluded in his report in 2014, are incidental to the charitable purposes of the Hall. And my Ladies, my Lords, will have seen that the Charity Commission accepts that the Hall is a charity for the reason that the benefits that accrue are, indeed, incidental to the charitable purposes of the Hall. And my Ladies, my Lords, it is paragraphs 19 to 20 of Sir Robert Owen’s report I would direct your attention to particularly, which are at pages 241 to 242 of our bundle. And as Mr McCulloch puts it in his statement at paragraph 8.9, “This history of the Members supporting the Hall can be seen as both charitable and as a form of enlightened self-interest in that it demonstrates a mutuality of interest between the Hall and its Members”.

53. And my Lady, this means that with two exceptions, most recently a loan of £20 million from the Government following the Covid 19 pandemic, the Hall receives no government funding. It is financed entirely by the sale of tickets from events, commercial sponsorship, merchandise, philanthropic giving and financial support by its Members. All of the Hall’s financial surplus is retained by the Hall—as I have said, no dividend is payable to seat-holders—and is re-invested by the charity into delivering its charitable objectives.

54. But the costs of running the Hall are considerable and they 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. And while the Hall’s financial business is rosier today than on previous occasions that it has had cause to bring a private Bill like this one, its reasoning is the same: to authorise the Hall to restrict seat-holders’ private property interests in order to raise additional funding to enable it to fulfil its charitable objects and that is why we are here today and that is the only reason why we are here today.

55. As far as governance is concerned—and you will hear about governance from the petitioners—as you know, the Hall’s council, which is its governing body, is made up of a maximum of 24 Members, which include 18 seat-holders and the president, who is also a seat-holder, who are elected by the Members annually at the Corporation’s AGM. And the other five council Members are appointed by the Secretary of State for Culture, Media and Sport, by the Royal Commission for the Exhibition of 1851, Imperial College, the Natural History Museum and the Royal College of Music, who of course all share the same estate that was purchased by the commissioners of the exhibition of 1851 after that exhibition. And those five additional Members have been appointed since 1928, following a report by your predecessor Bill Committee who passed the 1927 Act and you also know that the Hall has been a registered charity since 1967.

56. Now, the Hall does and has undertaken a review of its governance. It did so in 2015 to 2016 and they identified a range of amendments that needed to be made to their constitution following consultation with Members, which included making changes that now find their way into this Bill, namely to enable them to increase the seat rate and to extend exclusive lets.

57. Now, it is right to say that their attempts to make the changes at the time were somewhat derailed by the disagreement that arose with the Charity Commission who, at that stage, did not consider that the governance changes that were being recommended went far enough and they made, or they insisted, that the Hall change its governance so as to reduce the number of seat-holder Members of the council to the extent that they were no longer a majority. And the Hall took legal advice and in the light of that advice did not, and still does not, agree with the Charity Commission’s bromide.

58. Now the issue was resolved, at least for the time being, after the Charity Commission asked the Attorney-General to make a reference to the Charity Tribunal of a number of questions, including one that they hoped would enable them to impose a scheme on the Hall that would require them to change their governance and you will have seen the Attorney-General’s letter of 23 August 2021, which is at page 440 of the bundle, in which the current Attorney-General’s predecessor refused the Charity Commission’s request for a reference. Now, I should point out, simply because this issue arose before noble Lords and Ladies at Second Reading—

59. THE CHAIR: Mr Bowen, I am taking the view that this extremely clear and helpful exposition of the situation with which every Member of the committee is already thoroughly familiar is designed to get on the public record the Hall's answer to the points that were made in the Second Reading debate. It might be helpful if we were actually to get on to the business of this Committee.

60. MR BOWEN KC: My Lady, of course. The only thing I just wanted to say about it was that when my Ladies and my Lords read that letter, you will see that its description by one of the noble Lords in the Second Reading debate as being made without explanation is simply wrong but I will leave it to you to form your own views when you read the letter.

61. THE CHAIR: I have read it.

62. MR BOWEN KC: Thank you, my Lady. So why is the Hall here? The Hall is here because property rights are affected by the proposals that are being made and the Hall can only bring a private Bill if, as the promoter, it swears an affidavit that the changes to be made can only be made by way of legislation. The Hall's constitution in its original charter gives it power to amend its constitution under Clause 24 and to seek a supplementary charter under Clause 26 but neither of those provisions are adequate to make changes to its constitution which would authorise it to affect private property rights. So only a private Bill will enable it to do that so that it would actually bind those who do not agree with a decision taken by the membership or to bind their successors. And you will see, my Ladies and my Lords, that the previous legislation, in every case, there is set out in the preamble that these changes can only be made by way of a private Bill and you will find the same statement in the preamble to this Bill.

63. The key paragraph in the preamble is at page 102 of the bundle and I wonder if I might just ask you to turn that up. It is in the filled-up Bill and it is paragraph 16, my Ladies and my Lords, which sets out the purpose of the Bill as follows. "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 seat-holders therein."

64. I only draw attention to that paragraph. Of course, paragraphs 1 to 15 provide a very interesting history of how we have got to this point but I do not need to draw my Lady's attention to that.

65. THE CHAIR: Well, I am grateful to you for having highlighted paragraph 16 of the preamble because that was the one that I had also highlighted as disclosing the purpose of the Bill and that will no doubt be important when we get on to, eventually, one of your challenges to the petition.

66. MR BOWEN KC: My Lady, thank you. The point only to make about that paragraph is, of course, that is the key part of the preamble that would need to be proved and there is no objection taken to the preamble by the petitioners and we would therefore ask, for that reason alone, that the preamble stand proved.

67. Clause 3, which you will find at page 102 of the bundle, is the proposed amendment to the annual contribution or seat rate. My Ladies, as Mr McCulloch explains in his statement at paragraph 6, there wasn't any seat rate at all paid by the original Members. It was not until the first of the Royal Albert Hall Acts was passed in 1876 that an annual levy of £2 was authorised to be paid or payable by seat-holders. And as the preamble to the 1876 Act stated—see pages 129 to 130 of the bundle—without such a measure, it was said, “the Hall must soon be closed”. So that was the situation in which they found themselves in 1876 but the Members were prepared to agree to a Bill being passed which would effectively, as a self-denying ordinance, authorise the Hall to recover a levy from them each year.

68. That was increased to £3 a year by the 1927 Act, which was again to stave off imminent bankruptcy and closure occasioned by the London County Council removing the Hall's exemption from fire and safety legislation, which required to spend it to spend a huge sum on upgrading its facilities and the Hall did not have the funds available, and you will see that in the preamble to the 1927 Act at page 142.

69. There was no increase in the levy in 1951 because in 1951, again, the Hall was in desperate financial straits but the solution that was sought then was to authorise and to levy a one-off capital payment of £280, which was payable by each of the Members over a period of 40 years but, again, that required legislation.

70. And again in 1966, the funds available to the Hall were, again, insufficient to meet its liabilities, occasioning a further Bill to authorise a further voluntary incursion into the seat-holders' private rights and, by virtue of Section 3 of the 1966 Act, the annual contribution was set as a minimum of £10 a year and, in addition, every six years, the Members had to decide on a maximum contribution for the ensuing six years by a three-quarters majority and every year to decide on the seat rate for the following year by a two-thirds majority. Now just by way of illustration, the seat rate for 2023 was £1,538. So the minimum £10 that is authorised by the Act, the rest of it all voluntarily agreed to by the membership, by the two-thirds majority currently required under Section 3.

71. Now that seat rate is set by the Members on a recommendation from the council each year but the initial recommendation is made by a committee of council Members that does not include any seat-holders and it is one of the provisions, we say, minimises the risks of conflict of interest having an impact on decision-making, and you will see that from Mr McCulloch's statement at paragraph 6.5.

72. Now periodically, seat-holders have also agreed to pay additional levies. In particular, in 2022, a supplementary seat rate was agreed to on top of the seat rate to help keep the Hall afloat—see Mr McCulloch at paragraph 7—and that raised a further £1,660 plus VAT payable over four years. Now, the Corporation's proposal in Clause 3 is to amend Section 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 the current two-thirds to three-quarters. And as Mr McCulloch explains, the six-year cap has proved to be unscientific as predicting the future cost of maintaining the building is inherently difficult and it can be positively unhelpful, for example, the Members were restricted by the six-year cap in how much they could contribute by means of supplementary seat rate during the Covid 19 pandemic. See Mr McCulloch's statement at paragraph 10.3.

73. So my Ladies and my Lords, if you look at Section 3 of the Act, which you will find at page 182, I could just show you how it would be amended. Section 3(1)(a) reads, "The council should in every year, not later than 31 July, determine what sum will be required in that year for the general purposes of the Hall and shall determine what sum, not being less than £10 for every seat, the Member shall be rated for that year for those purposes and the sum so determined is in this Act called the 'annual contribution'".

74. Now, my Ladies, the next sentence from “provided that” down to “by proxy and voting”, just before (b), will be deleted.

75. THE CHAIR: And you will delete the colon but leave the full stop at the end intact.

76. MR BOWEN KC: My Lady, I am sure I had not thought of that, I confess.

77. THE CHAIR: But the promoters have thought of it. Those instructing you had thought of it.

78. MR BOWEN KC: Yes, thank you, my Lady. Then in (b), “The Council shall not determine an annual contribution exceeding £10 for every seat except with the consent of”—and “two-thirds” is struck out and “three-quarters” is introduced. So that is the extent of the amendment that is to be made by Clause 3.

79. Clause 4, exclusive lets. As I have explained, the charter conferred upon seat-holders the permanent right to use or to sell their seats for every performance at the Hall and that that was initially exercised but in relation to every event although back in the early 1860s there were only 30 something events a year. Now, again, by a gradual but voluntary process, for the benefit of the Hall, the seat-holders have given up their rights to attend and to sell their tickets to an increasingly large proportion of the events staged by the Hall and, on those occasions, the seat-holders agree to be excluded from the Hall and that is why they are known as “exclusive lets”.

80. That is by contradistinction to what are known as ordinary lets, which are those events that Members are permitted to attend and, as I have explained and Mr McCulloch explains, this enables the Hall to offer a more attractive and, of course, profitable option to promoters. They are able to sell and make a profit on all 5,290 seats rather than the 4,000 or so tickets that they can sell when the Members are entitled to attend an ordinary. Now, exclusive lets were first introduced in 1887 but for very limited purposes, namely, private events. They were extended to some other events and increasing numbers by the 1927 and 1951 Acts but it is the 1966 Act that we are particularly concerned with today.

81. Section 14 of the 1966 Act, which you will find at page 185 of the bundle, gives

the council a power to exclude Members from up to 75 days a year, “Except any concert, recital or boxing or wrestling event and for an additional 12 days for any type of event and from one-third of a series of six or more events which are consecutive and substantially the same, provided that any additional rent received by the Hall for the above, but excluding the additional 12 days, is applied in reducing commensurately the annual seat rate known as the rebate”.

82. Now, as Mr McCulloch explains in his statement at paragraph 10, in 2008 it was discovered that seat-holders were routinely being excluded from a higher number of events than Section 14 would permit and for purposes that Section 14 did not permit, without their knowledge and agreement. See paragraph 9.2 of his statement. But once that was discovered, and once it was explained to Members, they agreed by a very substantial majority, and have agreed every year since then, that the Hall could exclude them from a number of days and for purposes that were not authorised by Section 14, the so-called interim arrangements and this was the process that was formally adopted in a 2012 memorandum which you will find in the bundle at page 311. And by this arrangement, the Members have agreed to being excluded on more days than is permitted under Section 14—that is to say up to 100 days—including events such as concerts, in fact, mostly for concerts, and they have also agreed to be excluded for up to half of the events in any series of more than two.

83. Now the Corporation was always concerned that this procedure may not be lawful and they commissioned a report from Sir Robert Owen in 2014 to consider the propriety of the arrangements and whether they were consistent with the charitable objects of the Hall. He produced a report in which he concluded that they were proper arrangements and they were consistent with the charitable objects of the Hall—see his conclusion at paragraph 94 on page 266—but the Hall remained concerned about the lawfulness of the arrangement. As Mr McCulloch put it, it did not address the question whether a majority could bind a minority in taking such action or what level of majority would be required to do so. It left a concern that such a resolution would require the agreement of every Member for it to be valid.

84. So the Corporation’s proposal is to set that question straight by giving it a power to exclude Members for the purposes and for the number of days a year that the Members agree to. So what they propose is Clause 4, which you will find at page 103 of

the bundle. Now Clause 4 does not amend Section 14. Section 14 would remain in place as a fallback but it is a supplementary provision which will allow the council by resolution to prescribe in respect of each calendar year, when and upon what terms Members may be excluded from the Hall. So there is no limit on the number of days; there is no limit on the purpose.

85. THE CHAIR: The Corporation, not the council.

86. MR BOWEN KC: Sorry, it should be the Corporation, my Lady, yes.

87. THE CHAIR: It is the Corporation; it says so.

88. MR BOWEN KC: It is. I was reading from my speaker note, my Lady, not from the Bill. Now 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 Section 14. And following a consultation, the Hall introduced a further amendment allowing a group of at least 20 Members to put forward an alternative to the council's proposal and any such proposal would also require a three-quarters majority to be passed. So that is the thrust of Clause 4.

89. Now, as I have said, the amendment will not affect the council's existing power of exclusion under Section 14 but does allow them, if they have the necessary majority, a three-quarters majority, to exclude all seat-holders for an additional number of days and for purposes not authorised by Section 14 but if they cannot reach agreement then they have always got Section 14 to fall back on.

90. So my Ladies and my Lords, those are the provisions of the Bill that the noble Ladies and Lords are respectively requested to approve. The Bill has been through, as my Ladies and my Lords know, the necessary processes. There has been a Wharncliffe meeting. There has been a statement of compatibility with convention rights for the purposes of Section 38(3) and a Minister of the Crown has delivered a report approving that statement. Just for your notes, the statement is at page 30 of the bundle, based on an opinion by leading counsel, myself.

91. THE CHAIR: You, yes.

92. MR BOWEN KC: My Lady, yes, at page 4 of the bundle and the Minister's statement by the Rt Hon Stuart Andrew MP, the Minister for Sport, is at page 43 of the bundle. The Bill went through its Second Reading on 19 October 2023 and you will be aware that a number of concerns were expressed by noble Lords and Ladies on that occasion. The promoters submit, respectfully, that the concerns raised by noble Lords and Ladies were, in some cases, based on misunderstandings, which may have been prompted by inaccuracies from those briefing them. But, in any event, we respectfully submit they fall outside the scope of the Bill. And, my Lady, the Bill following the Second Reading received a certification by the examiner on 21 November 2023 who certified that the Standing Orders had been complied with, and you will find that at page 92.

93. So, my Ladies and my Lords, with apologies for that lengthy introduction, I now turn to the question of locus standi. My Ladies, my Lords, the committee must be positively satisfied that the petitioners have locus standi so the onus is on the petitioners to make good that proposition. We are content to go first but if there are any points made by the petitioners which demand a response, then we will seek the committee's permission at that stage to respond.

94. My Lady, you should have a smaller bundle of parliamentary authorities that we have made available to the committee, which include, at page 38, a Joint Committee on Private Bill Procedure report from 1988. And I wonder if I might just ask you to turn up page 38 of that bundle and you will see an extract from the Joint Committee's report at paragraph 101 on page 38—

95. THE CHAIR: I do not think these documents came with the bundles of evidence which you provided. They came as attachments to an email and I am not sure that they have been printed out.

96. MR BOWEN KC: I believe we have some copies here, my Lady.

97. THE CHAIR: We were told that you were going to bring copies but apparently you have not.

98. MR BOWEN KC: I understand they are here, my Lady.

99. THE CHAIR: Well, then, it would be helpful if we could have them.

100. MR BOWEN KC: My Lady, I did not realise that they had not found their way to you. My mistake. If I might ask the committee to turn to page 38 of that bundle.

101. THE CHAIR: Have the petitioners got a copy?

102. LADY BREWER: Now we have.

103. MR BOWEN KC: They have now, my Lady.

104. MR LYTTTELTON: I can't wait.

105. MR BOWEN KC: The last six lines of paragraph 101, which you will see have been underlined on a previous occasion, "The committee considered that it is a fundamental principle of private legislation procedure that only parties specially affected should be entitled to be heard and that the rules of locus standi must be upheld. If they are allowed to lapse, more of Members' time will be taken up in Private Bill Committees. They recommend that promoters should be encouraged to police the rules of local standi and that Private Bill Committees should not treat a reasonable but unsuccessful challenge as a point of prejudice". Well, my Ladies, we take that encouragement to heart and we are seeking to police the rules of locus standi in the way suggested.

106. My Ladies, my Lords, we also have put a couple of authorities, parliamentary Bill Committee rulings on locus standi in that bundle. Now, I recognise that those are perhaps less helpful than judicial authorities might be because the reasoning for the ruling tends not to be disclosed in the ruling and one has to deduce it from the questions that are put or the points put by the Members during the course of submissions. So I am just going to show you, if I may, two passages: one from the Bill Committee on the Croydon Tramlink Bill report from 1993 to 1994 by Sir Roger Moate and then the second one from the King's Cross Railways Bill report.

107. So the first extract is at page 51 of that bundle—that is where the report begins—but at page 60 there is an intervention from Sir Roger Moate putting to the petitioner, who, on that case, was a representative of a group of concerned residents of Croydon, where he said this, and it is about halfway down. It is the section beginning, "From your

very impressive presentation, you have obviously studied the background to the locus standi precedents and so on in the past. You are aware, I presume, that, generally speaking, the committee has always taken a fairly strong line that locus standi is restricted to those people who are specially affected or else, where groups or associations have been allowed to present petitions, they have had to demonstrate fairly clearly indeed, and they have had to produce their rules and their membership”—and I will be coming back to that particular aspect of it—“that they do genuinely represent a large body of people. In this case, you are not claiming that this is a strong association, so you are aware, are you not, that, despite your arguments about Standing Orders 95 and 96, in fact most of the precedents are not supporting your case”.

108. Now, I recognise this is an intervention in the process of submissions being made but from it I take a number of points that the committee takes a fairly strong line that locus standi is restricted to those people who were specially affected that those seeking to bring petitioners must demonstrate fairly clearly indeed, including by reference to their rules and their membership, that they genuinely represent a large body of people and we respectfully submit that neither—well, certainly the FanFair Alliance does not have any rules or membership and we submit that neither of the remaining petitioners meet the locus standi rules.

109. Then the King’s Cross petition, if I could ask you to turn to page 72. It starts at page 68 but at page 72 there is a passage from Mr Ivor Stanbrook MP in his exchanges with counsel. Well, in fact, as it happens, Mr McCulloch, who is the promoter in this case, who was acting for the petitioners on that occasion as Parliamentary Agent, but at page 72 paragraph four Mr Stanbrook said this. “Mr McCulloch, leaving aside the other people whom you represent, I am interested in the eligibility of the Joint Committee of National Amenity Societies to claim a locus because it appears that their function is purely one of coordination. They do not have a written constitution. They are not representative in a proper way because, very naturally, the individual bodies of whom they are comprised look after their own interests very competently. And, indeed, the Victorian Society itself is a party to these proceedings and might well be granted locus. Can we allow a body whose function is purely to coordinate, which is not representative and does not have a written constitution, to appear on its own behalf?” Now, of course, he asks the question rhetorically and the committee went on to refuse a locus to the Joint

Committee of National Amenity Societies, albeit without giving reasons, but the reasons can be deduced from that intervention. That is to say, they were purely a co-ordinating body. They did not have a written constitution and they were not representative in any proper way of any particular group of individuals. And we rely upon those two authorities in particular.

110. I probably should, my Ladies and my Lords, have taken you first to Standing Order 117 but you will find Standing Order 117 at page 20 of the same bundle—

111. THE CHAIR: That would have been helpful, Mr Bowen.

112. MR BOWEN KC: It would, my Lady. I recognise that. Standing order 117, page 20, which is headed, “Power to allow associations, et cetera, to have petition considered: (i) Where any society or association sufficiently representing”—and I would ask you to highlight the word “sufficiently”—“any trade, business or interest in a district to which any Bill relates, petition against the Bill alleging that such trade, business or interest will be injuriously affected by the provisions contained therein”—and I would ask you to underline the words “provisions contained therein”—“it shall be competent for the Select Committee to which the Bill is committed, if they think fit, to permit petitioners to have their petition considered by the committee on such allegations against the Bill or any part thereof. (ii) Without prejudice to the generality of paragraph (i) where any society, association or other body, sufficiently representing”—again “sufficiently representing”—“amenity, educational, travel or recreational interests, petitions against a Bill alleging that the interests they represent will be adversely affected to a material extent by the provisions contained in the Bill”—and again I would ask you to underline words “provisions contained in the Bill”—“it shall be competent to the Select Committee, if they think fit, to permit petitioners to have their petition considered by the committee on such allegations against the Bill or any part thereof”.

113. Now, my Ladies, my Lords, we are concerned with the two petitioners before you having to establish that they are a society, association or other body sufficiently representing amenity, educational, travel or recreational interests and, for reasons I will come to shortly, we respectfully submit that they do not meet that test.

114. So we raise three objections to a locus being granted to the FanFair Alliance and the Court of the Worshipful Company of Musicians—I am not going to say anything

about Mr Lyttelton—and they are set out in the notice of 12 April on page 5. The first objection, and, we submit, the determinative objection, is that even if they are representative of any amenity, educational, travel or recreational interests or sufficiently representative of such groups, no such person or group will be injuriously affected or adversely affected to a material extent by the provisions contained within the Bill because the Bill is only concerned with the mechanism for fixing, firstly, the seat rate payable by seat-holders in Clause 3 and, secondly, the number of days on which seat-holders may be excluded from the Hall; so-called exclusive lets. These provisions have no adverse impact upon anyone other than the seat-holders. Now, the concerns raised by the FanFair Alliance and the Court of the Worshipful Company of Musicians relate to the ability of seat-holders to sell their tickets on the open market at above face value. Even if, which the Hall does not accept, but even if there was merit in that argument, that relates to matters that are not in the Bill rather than the provisions contained therein and, for that reason, they have no locus standi under Standing Order 117.

115. Now, this disconnect between the petitioners' objections and the provisions actually in the Bill can be seen from the petitioners' proposed solution to the problem they identify, which seeks an amendment of Section 15 of a 1966 Act. And you will see that from paragraph 53 of Mr Lyttelton's petition, or the petitioners' petition. But he makes the same point at paragraph 87 of his witness statement. Now, the current Bill provisions are concerned only with amending Section 3 and supplementing Section 14. They say nothing about Section 15, which is concerned with preventing the sale of tickets within the Hall or its vicinity. Now, what Mr Lyttelton and the other petitioners propose is that Section 15 should be amended so that, in effect, it would prevent Members from selling their ticket in any other way other than through the ticket return scheme.

116. Now, Mr Lyttelton in his statement seeks to create a link, we would say fabricate a link, between his objections or the petitioners' objections and proposed Clause 4 and for this it is necessary to see what he says in his witness statement at paragraphs 80 to 82. So you will find in his witness statement at page—if you will just bear with me, I think it is page 15 or 16. At page 14 he says, at paragraph 80, "The Hall's ability"—

117. BARONESS HAYTER OF KENTISH TOWN: Which bundle?

118. MR BOWEN KC: Sorry, this is Mr Lyttelton's bundle in his witness statement. "The Hall's ability to grant exclusive lettings"—paragraph 80—"enables Members to enjoy their seats and benefit from promotion opportunities, including long runs and performances by major pop artists". Under Section 14 (2), "Members receive a rebate from the Hall whenever they are excluded". Paragraph 81, "The designation of an exclusive or ordinary letting directly affects the value of seats and, as per the current arrangements, designations are made by a subcommittee of council within guidelines set by council". And then this he has put in bold, "Therefore, Section 14 lies at the root of a longstanding conflict of interest arising from the overlapping roles and duties for individuals who are both Members of seat-holders and Members of council being trustees of the Hall". And then if you turn to paragraph 87 over the page, he says, "It cannot be said that Members are profiting from the charity as their seats are private property but they are profiting at the expense of the charity by controlling the lettings policy. It is, therefore, essential to the interests of the charity and the creative community that any amendment to Section 14 only be made in conjunction with sanctions against selling tickets outside the box office, e.g. prosecuting Section 15. The Hall's council has consistently refused to introduce any sanctions on private ticket sales and condones the use of the Hall's name and likeness on an independent website Hoorah Tickets, which advertises itself as an official platform for Members to sell their unwanted tickets".

119. So what Mr Lyttelton is seeking to do is to draw a connection between Section 14 of the 1966 Act, by which Members can be excluded from the Hall, with Section 15, which gives the Hall a totally unrelated power to prevent people from selling tickets in the Hall or in its vicinity and thereby creating a link between his petition, or the petitioners' petition, and the Bill.

120. Now, we respectfully submit that this is entirely spurious. Firstly, the benefit the Members obtain from their seats is a consequence not of the lettings policy or Section 14. The benefit the Members obtain from their seats is a consequence of the property rights created under the original charter in return for the founders' investment. To suggest that the benefit results from the Hall's power to exclude Members under Section 14, by which Members are, in fact, excluded from the Hall and prevented from selling their tickets, is counterintuitive and nonsensical.

121. Secondly, while Members do receive a rebate, this does not apply whenever they are excluded. For example, it does not include any exclusion under Section 14 (1)(b)(i) for up to 12 days of the year. Moreover, the rebate is significantly less than the seat rate, so you will see, for example, in Mr Lyttelton's bundle at page 202, a copy of an invoice from the Hall which sets out the seat rate and the rebate for 2023 and the amount of the rebate was about 30% of the seat rate for that year. More significantly than that, the value of the rebate is significantly less than the value of the ticket if sold on the open market. So, contrary to what Mr Lyttelton submits, the Members are not profiting at the expense of the charity; the charity is profiting at the expense of the Members. Now, with their agreement but that is the reality.

122. Now, thirdly, in truth, the benefit that Members obtain by being able to sell their tickets is also a result of the fact that the Hall is thriving and that numerous high-profile acts want to play there and fans want to watch events there. And that is a consequence, of course, of many factors. It is a consequence of how well it is managed. It is a consequence of its iconic history and connections. But it is also a consequence of the support that the Members have given it over the last 150 years in the ways that I have already explained, including on those occasions where they have come to the rescue to save it from closure.

123. Fourthly, the benefit that the Members receive is shared mutually by the Hall, for the purposes of its charitable purposes, and, as Sir Robert Owen found in 2014, their benefit is incidental to the benefit of the Hall and its charitable purposes.

124. Fifth, we accept this much, that one factor in the flourishing of the Hall is that, by means of exclusive lets, the Hall is able to entice promoters to stage events by offering them the whole Hall, all 5,272 seats, rather than 75% of the seats. And that is, of course, a more profitable and, therefore, attractive proposition to a promoter than only being able to sell 4,000 tickets. It is also true that this helps attract performers who are most in demand that fans most want to see. Eric Clapton for example. Now, if those performers put on a series of events, only if it is a series of events, then, under the existing arrangements as a general rule, half of those seats must be ordinaries. And, in those circumstances, Members will have valuable tickets that punters want to buy and they are able to sell them, in some cases, as you will have seen from Mr Lyttelton's evidence, for considerably more than the price that the promoter would be selling the Hall tickets for.

125. Now, that does not mean that Section 14 or, more particularly, new Clause 4, is somehow the cause of the benefit of which Mr Lyttelton and his co-petitioners complains or that this must be solved by means of further restrictions on ticket sales by an amendment to Section 15. But what it demonstrates is that there is, in fact, no link between what he complains of and what they complain of and the provisions in the Bill. And, for that reason, sixthly, we submit they should be refused a locus. Indeed, the only persons who do have a locus are the Members themselves and, of course, Mr Lyttelton is a Member but he would have to show under Standing Order 115 that he either had some special interest or that he had objected at the Wharncliffe meeting and he has now accepted that he not only did not object at the Wharncliffe meeting, he supported the Bill at the Wharncliffe meeting. So he does not have locus standi. The two seat-holder Members who did object to the proposal at the Wharncliffe meeting who would have had locus standi under Standing Order 115(2) have not put in an objection.

126. So, my Ladies, my Lords, that should really be the beginning and end of it but I am just going to explain why, in my respectful submission, neither the FanFair Alliance nor the Court of Worshipful Company have demonstrated that they have made a formal decision to oppose the Bill that is sufficient for the purposes of Standing Order 117 and to demonstrate how, in fact, they are not independent of Mr Lyttelton—this is our second objection set out in our notice—and why neither of them can be said to be sufficiently representative of the interests they purport to represent and I am going to deal first with the Court of Musicians. And if I could ask my Ladies and my Lords to first turn to Mr Lyttelton’s bundle at page 1, which contains a letter from the Musicians’ Company dated 9 April, I believe, although I cannot actually see a date on it. Sorry, it was approved unanimously by the court on 9 April 2024. So the letter, I do not need to read out the first paragraph but the second paragraph explains their interest in the Bill. “We believe that the private sale of tickets by Members of the Corporation of Arts and Sciences is self-serving and contrary to the purpose set out in the Hall’s 19th-century charter, ‘The Advancement of Art and Science’. It is also contrary to the interests of musicians, the charity and the public and brings the Hall itself into disrepute. This is to confirm that our current master, the Hon Richard Lyttelton, is fully authorised to speak for us in this matter”. And that was approved unanimously by the Court on 9 April 2024.

127. Now, there is a later letter that was dated 16 April, which is not in the bundle but I hope has found its way into your papers separately, from the Court of Musicians. If that is not in your papers we can arrange for copies to be made available. It may be that Lady Brewer has got some copies of it. It is dated 16 April and heading “To whom it may concern”. Do all the Members have a copy of that letter?

128. THE CHAIR: I do. It starts with “for the avoidance of doubt”.

129. MR BOWEN KC: Yes. And this is written after they had read our notice in which we had objected to the Worshipful Company having a locus because, among other things, we suggested that they lacked independence from Mr Lyttelton, who is the master of the Musicians’ Company. And they said this: “For the avoidance of doubt, the Musicians’ Company is acting independently in its objection to the Albert Hall Bill as presented. We have seen the notice of challenge from the promoter of the Bill that they are objecting to our locus standi to petition against the Bill on the grounds this company is not affected by the provisions contained within the Bill. The art of music and the interests of musicians are at the heart of all this company does and the company’s royal charter states that one of the objects of the company is to foster and encourage the art or science of musicians of London. We believe”—and this is the critical paragraph, this and the next one—“We believe that the private sale of tickets by Members of the Corporation of Arts and Sciences is self-serving and contrary to the purpose set out in the Hall’s 19th-century charter”. And so that is as in their previous email. And then this: “Furthermore, we are concerned by the allegation that the Hall is operating in ultra vires an Act of Parliament in order to further the interests of Members of the Corporation of the financial and reputational costs to musicians, many of whom are Members of our livery. We believe that the main purpose of the Bill is to authorise this practice”.

130. So, my Ladies, my Lords, we make the following points in relation to the Court of Musicians. We accept that the Court of Musicians is capable of being an association representing musicians. We do not accept that they are sufficiently representative of musicians being, in effect, another means by which Mr Lyttelton brings his objection to this committee. Nor do we accept that the persons they represent, musicians, are adversely affected to a material extent by the provisions contained in the Bill. Now, we make this point in relation to the formalities. The approval of the court, as you can see from the first letter, was only obtained on 9 April 2024 so it clearly had not been

obtained at the time that the petition was filed on 30 January 2023.

131. MR LYTTELTON: Can I just correct that, as a management point? The decision was reached back in January.

132. MR BOWEN KC: Well, I can only go on the evidence that has been available, my Lady, as can the committee.

133. MR LYTTELTON: We did not feel it necessary to provide evidence of that.

134. MR BOWEN KC: So, the petitioner has not proved that the petition was made with its support by means of a formal decision made in accordance with its own constitution.

135. MR LYTTELTON: It was.

136. MR BOWEN KC: It is unfortunate and unsatisfactory that such evidence is only being produced now. Proper evidence should have been furnished with the original petition and the production of these letters at a late stage and in response to the promoter's objection only reinforces the suspicion that these bodies are not properly representative of the interests that they purport to represent and are independent of Mr Lyttelton.

137. Returning to the substance of their intervention, the letter from the court of 9 April states that the Bill is contrary to the purpose set out in the Hall's 19th-century charter and is contrary to the interests of musicians, the charity and the public and brings the Hall itself into disrepute. And, as I said, in the 16 April letter they make the same allegation and refer to the Hall operating ultra vires. So, we make four points substantively.

138. The first is this, that we accept that the Court of Musicians are representative of musicians and can speak on behalf of musicians but they are not representative of the general public, they are not representative of the Hall and so they can only speak on behalf of musicians.

139. Secondly, they produce no evidence to explain how musicians are adversely affected to a material extent by the provisions contained within the Bill. Now, if and to

the extent it is said that it affects musicians in the way that Mr Lyttelton seeks to explain at paragraph 80 to 82 and 87 of his statement, I have already addressed that.

140. Thirdly, the reference to the Hall acting ultra vires can only refer to the arrangements for exclusive lets that have been in place since 2008, which the Members have voluntarily agreed to them being excluded from the Hall on more occasions and for more events than is authorised by Section 14. The Hall accepts that this could have been ultra vires but they do not accept that it was. But what is bizarre—

141. MR LYTTELTON: My Lady, may I make one brief point?

142. THE CHAIR: Can you just let Mr Bowen finish his sentence and then, no doubt, he will let you intervene?

143. MR BOWEN KC: In the petition, the petitioners welcome Clause 4 as being an opportunity to fix the problem that had been identified. And it is a curious feature of this petition that the very thing that they are saying is the problem is the very thing that, in their own petition, they say they welcome.

144. THE CHAIR: Mr Lyttelton, there was a point you wanted to make. Briefly, please.

145. MR LYTTELTON: Thank you very much, my Lady. Very, very briefly. The Members did not agree to the acting ultra vires in their entirety. One Member votes against it at every possible opportunity and that was me.

146. MR BOWEN KC: My Ladies, my Lords, so, just in conclusion, the Court of Musicians has not demonstrated either that it is sufficiently representative of musicians or that musicians are adversely affected to a material extent by the provisions contained within the Bill and they should be refused a locus standi.

147. As far as the FanFair Alliance is concerned, you will have seen in the same bundle from Mr Lyttelton a document which is from Mr Adam Webb, which is page 2 of Mr Lyttelton's bundle. I wonder whether I might ask you to turn that up. This is an email dated 27 March 2024. So you will see in paragraph one—well, it is addressed to Mr Lyttelton. "Please find below a supportive statement from FanFair Alliance. Best regards, Adam". And then this: "FanFair Alliance was established in 2016 to campaign

against industrial-scale online ticket touting, supported initially by a group of music managers including representatives of artists such as the Arctic Monkeys, Mumford and Sons, Little Mix and Radiohead. The campaign has now attracted widespread backing throughout the music business. Following a number of legislative and regulatory successes, FanFair was relaunched in September 2023 with three new goals: the introduction of new UK legislation to outlaw ticket resale for profit, to curb the practices of Google in promoting ticket touting and to promote a consumer-friendly resale market where ticket buyers can resell for the price they paid or less”. And then this: “While we accept that the sale of tickets by Members of the Corporation of Arts and Science, the Albert Hall, might be considered a primary sale, i.e. not a secondary sale, such activity is not in the public interest, particularly so in the case of charity concerts, and is running in a counter direction to market developments everywhere else in the UK. We are happy to support the petition against the Albert Hall Bill and confirm that the Hon Richard Lyttelton is authorised to speak on our behalf on this issue”.

148. *My Ladies*, we make the following points in relation to the FanFair Alliance. Firstly, we do not accept that the FanFair Alliance is an association within the meaning of Standing Order 117. Nor do we accept that it is sufficiently representative of the groups it is said to represent and nor do we accept that the persons they purport to represent are adversely affected to a material extent by the provisions contained in the Bill.

149. As to their status as an association, the FanFair Alliance has no constitution, no rules and no membership. At best, it is an alliance of music industry players, all of whom are capable of seeking a locus themselves, and I refer you to the locus standi decisions that I referred to earlier and the statements of Sir Roger Moate and Mr Ivor Stanbrook MP.

150. As to the substance of their complaint, they say this: “While we accept that the sale of tickets may be considered a primary sale, such activity is not in the public interest and running in a counter direction to market developments elsewhere”. Well, we say, firstly, that the FanFair Alliance does not speak for the public interest. It is not a group that represents all Members of the public. If it can speak for anybody, it can speak for the industry players that set it up and perhaps other Members of the industry but they do not specify who in the industry. They speak for a group of music managers and the

music business more generally.

151. Secondly, and in any event, they do not explain why it is not in the public interest for Members to be able to sell their tickets on the open market. Now, of course, knowing, as my Ladies and my Lords do, a little bit more about the background, in particular, to problems that have been associated with secondary ticket sales, one can infer that that is what they are complaining about, that this is another example of ticket touting or secondary ticket sales. And we know, from the newspaper articles which Mr Lyttelton has contributed to in the bundle that he has produced, that that is how this is being presented, certainly by those who are opposed to Members being able to sell their tickets. It has been called ticket touting. It has been called secondary ticket sales.

152. And it is very important to emphasise, indeed as Mr Webb acknowledges, that when Members sell their tickets, it is are not a secondary ticket sale. They are not ticket touts. A ticket tout is somebody who goes out and buys a bunch of tickets at their face value and then sells them on for a profit. None of the Members are involved in that process because none of them have to buy the tickets in the first place. They are their seats. They can sell their tickets to whoever they please and for whatever price they please. Now, we accept that there are strong views on both sides about secondary ticket sales and we know that Members of the committee have been very much involved in this as an issue and the Hall respects and sympathises with the views expressed by the petitioners and by noble Lords about the sale of tickets at many times the face value of tickets sold by promoters. But the Hall are not in the business of banning Members who choose to sell them privately because it is not unlawful and is not contrary to the public interest. And I say that—

153. LORD NASEBY: Could you just repeat that slowly again?

154. MR BOWEN KC: Yes. The Hall are not in the business of banning Members, even if they could, who choose to sell their tickets privately because it is not unlawful and it is not contrary to the public interest. And I am going to explain why that is, my Lord.

155. Even if these were secondary ticket sales, it would not be contrary to the public interest. There have been a series of reports that have looked at the issue of secondary ticket sales from Professor Michael Waterson's independent review of consumer

protection measures in 2016 to the House of Commons Select Committee for the Department of Culture, Media and Sport for their report on live music in 2019, and I think it was that Select Committee process that Baroness Hayter gave evidence to. And since then there has been the Competition and Markets Authority's report on secondary ticketing in 2021. None of these recommended the abolition of secondary ticket sales. All recognised that a well-regulated secondary ticket market has public benefits and should not be banned. They did identify issues that require a legislative solution, for example professional resellers who bulk buy tickets through illegal means or selling ticket they do not own or advertising tickets with inaccurate information, but none of those factors are said to be present in relation to ticket sales by Members who are selling one or two tickets at a time.

156. Now, the Government have reviewed those reports and agreed not to prohibit secondary ticket sales and there is a very helpful recent House of Commons research paper headed "ticket resales" published in March 2024 which sets out the history of this review and it also sets out the conclusions of the Government. And I just wonder whether I might ask you to turn to the bundle containing the parliamentary authorities that I referred you to a little bit earlier to just make good this proposition. So, you will find in that bundle at page 39 part of the report, I think we might have lost the first page, but you see the second page of the report which says that it is by Lorraine Conway and it is dated 13 March 2024. Something seems to have happened to the top of the page but anyway—

157. BARONESS HAYTER OF KENTISH TOWN: Not on mine, no.

158. MR BOWEN KC: If you turn to the summary at page 43, it sets out a brief history of the reviews, including by Professor Waterson and by the Department for Culture, Media and Sport and by the Competition and Markets Authority. I do not need to take you through that. But if I just ask you to pick it up at page 45, so this is just an extract from this briefing paper, it sets out a series of parliamentary questions and debates and one sees the Government's current position set out in responses to questions, firstly by Sir John Whittingdale on 11 September at the bottom of page 46, which begins, "More recently, Charlotte Nichols MP asked the Secretary of State for Culture, Media and Sport if she would make it her policy to ban ticket touting".

159. On 11 September 2023, Sir John Whittingdale, then Minister of State, provided the following written answer: “Her Majesty’s Government is committed to supporting fair and transparent ticket pricing and tackling unacceptable behaviour in this market. We have strengthened the law in relation to ticketing information requirements and have introduced a criminal offence of using automated software to buy more tickets online than is allowed. We also support work of enforcement agencies in this area, such as the CMA, trading standards and the Advertising Standards Authority”. And then this: “We believe there is a role for a responsible secondary ticket market and ultimately ticket pricing strategies are a matter for event organisers and ticketing platforms, providing they comply with relevant legislation, particularly regarding transparency to consumers on how tickets are priced in order to help consumers make a fair and informed decision”.

160. And then you get another quote from another government spokesman, in fact a little bit earlier in 2023 over the page, the third paragraph that begins, “The Digital Markets Competition and Consumers Bill was introduced to the House of Commons on 25 April 2023. A government Bill, it is now progressing through Parliament. During the Second Reading of the Bill in the House of Lords, various Members argued that the Government had missed an opportunity by not using the Bill to tighten the regulation of the secondary ticketing market. In Committee, Lord Long described the Government’s response to the CMA report as ‘inadequate’. Lord Offord, Parliamentary Under Secretary of State for the Department of Business and Trade, reiterated the Government’s position. ‘We do not believe that the evidence to date justifies new and onerous secondary ticketing measures. Indeed, it may drive sellers to try to avoid compliance by selling on social media or platforms beyond the reach of UK enforcers making buying riskier’”.

161. My Ladies, my Lords, my point is that there are strong views held on both sides. There have been copious reports, researches, evidence and conclusions drawn, all of which led to the same conclusion; that while there were arguments on both sides, a well-regulated secondary ticket market is neither unlawful nor contrary to the public interest. And bearing in mind in this case you are concerned not with secondary ticket sales but with primary ticket sales, all of this, everything that the petitioners are complaining about, is a complete red herring. And I have only had to go into it in the detail I have

because the petitioner has sought to persuade you that it is not a red herring but he is wrong.

162. And, as far as the FanFair Alliance are concerned, they have not produced any evidence to show how the provisions contained in the Bill adversely affect those that they represent. We do not have any evidence at all from the Company of Musicians or from FanFair Alliance. The only person who has produced any evidence is Mr Lyttelton and he no longer pursues his objection. And, in those circumstances, my Ladies, you are invited to dismiss the petition on the ground that the petitioners have no locus standi and the matter should now proceed to an Unopposed Bill Committee.

163. *My Lady*, I have just been passed a note. I wonder if I might just have a moment. I am very grateful. Those are the submissions on behalf of the promoter.

164. THE CHAIR: Thank you, Mr Bowen. Mr Lyttelton?

165. MR LYTTELTON: Good afternoon, my Lady and your Lordships. My name is Richard Lyttelton. Unlike many of us in this room, I am not a lawyer, which might be a relief, but, like everyone in this room, I am a beneficiary of Queen Victoria's gift of the great Hall of Arts and Sciences, the Royal Albert Hall, to the nation. As the committee are aware, I have withdrawn my own claim for locus, paradoxically, because I am a whistleblowing Member of the Corporation. So I was never familiar, unfortunately, not being a lawyer, with Wharncliffe. Had I been, I just would not have bothered to vote. Clearly, the fact that I think that it is a good thing that this matter come before the public is—I made a mistake but I certainly do not withdraw my application to speak on behalf of the public.

166. As a businessman, I can only admire Mr McCulloch's legal dexterity and that of the other promoters of this Bill, who, over many years, have managed to stifle all criticism and protect their business. I mean I think I have been given this morning a masterly lesson in obfuscation. As a charity trustee, however, and deemed to be a Member myself of the Corporation, frankly I am deeply ashamed. I am ashamed to see how a magnificent institution like the Albert Hall can be corrupted and employ, at public expense, I have to say, a very powerful legal team to justify what I perceive, and I think the general public at large will perceive, to be totally unacceptable and a self-serving waste of charitable funds and, dare I say it, your Lordships' time.

167. The Hall is a registered charity operating under royal charter. Its governance should be fully transparent and above reproach. It is, frankly, neither and it is unseemly that we are debating anyone's locus standi when there is such apparent public concern about the way the Hall is being governed. And if anyone, particularly those in possession of privileged information, has concerns, they do not just have standing but they have an obligation to voice them. Anyway, we are where we are.

168. The first ground for objection by the promoters is that neither organisation is directly affected by the provisions contained within the Bill. Well the Court of Musicians' Company—the Musicians' Company was started in the 14th century—submits that the art of music and the interest of musicians are at the heart of what it does and the company's royal charter of 1950 states that one of the objects of the company is to foster and encourage the art of science of the musicians of London, the Court believes that the private sale of tickets by Members of the Corporation is self-serving, it is contrary to the purposes set out in the Hall's 19th-century charter and is also contrary to the interests of musicians, and I will explain very briefly, you will be glad to hear, why.

169. The Musicians' Company believes that the Bill, as presented, serves to legitimise the way that the Hall is currently being operated and if it goes through unamended we are going to be losing an extraordinary opportunity to actually set it back on a more sensible course. The reasons, I believe, are set out in the petition and I am absolutely confident that your Lordships and your Ladyship will have had a chance to look at them.

170. The concerns of the FanFair Alliance are actually a little different. The FanFair Alliance, as we have heard the reasons that lie behind it, and, while we accept and the FanFair Alliance accepts that sale of tickets by Members of the Corporation of Arts and Science might be considered a primary sale and such activity in the public interest, that is not the case because the covenant between artists, performers and their fans is sacred. It is absolutely essential to the whole cultural structure. When fans are taken for granted or have to pay obscene prices for tickets, this covenant between the artist and the audience is broken and I think that the Bill as presented, for that reason, because it is perpetuating a practice which is, frankly, odious, is very much in their interests.

171. The second ground for objection by the promoters is that neither the Musicians' Company nor the Court of the Worshipful Company of Musicians have demonstrated

that they have made a decision to oppose the Bill or that they are independent of Mr Lyttelton. Well, you have seen the letters presented by the Court of the Worshipful Company of Musicians. The one written about the Court acting independently was written by a vice warden of the company who also happens to be a Church of England bishop. Within the years that I have spent campaigning against the conduct of the Hall, my lawyers have said all along, “We can only comment on the law. We cannot comment on anything else”. And that is why, actually, I am not being represented today because I think that this one actually, although I respect the law, I am not sure that the law really follows this particular issue because it is a matter of creativity and art.

172. I am bound to declare a strong interest in the Worshipful Company of Musicians, as you know. I am privileged to serve as its master. But I have no interest whatsoever in the FanFair Alliance, other than to respect the sterling work of its Members against the secondary ticketing market and to share common purpose with the excellent work of Sharon Hodgson MP and the all-party group on ticket abuse. To get two artists’ managers to agree on anything, I can only tell you from experience, is a little short of miraculous. Frankly, I am disappointed that Mr Webb has not shown up this morning, although I have to confess that after 40 years in the rock-and-roll business it does not totally surprise me. But it has affirmed that they are happy to support this petition, that it does believe in this petition, because, again, like, me, we feel that this has to be brought into the public domain. The Albert Hall is not a secret private Members’ club. It is a charity. It is a gift to the nation and we have an obligation, surely, to make sure that it is properly and transparently run.

173. The original purpose of the Hall was to promote the arts and science so everything that takes place on the stage or in the auditorium is through the efforts of the creative community. So I wonder how it is possible that the promoters of the Bill do not seem to recognise that the only reason that we are really here talking about anything of this nature is because of the work of the creative community.

174. Finally, and you will be very glad to hear it is finally, in considering the promoter’s objection to locus, I would hope the committee take into consideration that, in financial terms net of the seat rate, the amount contributed by Members to the Hall is £2.4 million. Now, that does not mean I disagree with anything that James has said. He gave a figure of £4.4 million but that included seat rate. The comparable figure of the

benefit to Members is £7.5 million and could be as high as £11 million. This illustrates that the promoters of the Bill are not acting solely in the public interest in objecting to the standing of the petitioners. I respectfully suggest that the Bill, as it remains, should progress as an opposed Bill, and the standing of those in opposition accepted so that Parliament does not miss the opportunity to effect meaningful change to the arrangements by which the Royal Albert Hall is governed. As far as the promoter's other objections to the petition, other than locus, very briefly the grounds of objection are not distinctly specified.

175. THE CHAIR: We are only really talking about locus.

176. MR LYTTELTON: In that case, I will not trouble you any further.

177. THE CHAIR: If we decide that you do have locus, or at least those you are speaking for have locus, well then, of course, you will have every opportunity to counter what he has said.

178. MR LYTTELTON: Thank you very much.

179. THE CHAIR: Could I just ask you something?

180. MR LYTTELTON: Yes.

181. THE CHAIR: The specific point that Mr Bowen is emphasising is that the bodies we are concerned with are not adversely affected by anything that is actually in the Bill.

182. MR LYTTELTON: That is absolutely correct.

183. THE CHAIR: You agree with that?

184. MR LYTTELTON: I agree with that.

185. THE CHAIR: So we will have to consider whether that is, in fact, a sufficient objection to their locus.

186. MR LYTTELTON: Yes. Can I just say that there is one place where actually it is fundamental, and that is that if the Bill were to go through unopposed it would legitimise what is actually already happening. And the reason that the element about the sale of seats was withdrawn was, actually, that it had already happened. The extra seats

were in the boxes. The owners of those seats, in certain cases, were selling them on the open market at vast profit. So the effect of that situation was that, if the clause had stayed in, far from being solely in the public benefit, it would have enabled the attached rights to the two extra seats in those boxes owned by Members to increase in capital value by something in the order of £600,000 per box.

187. THE CHAIR: Thank you. I think that we have heard what we need to hear on the question of the standing—

188. LORD GERMAN: Could I just ask one question of Mr Lyttelton?

189. THE CHAIR: Yes.

190. LORD GERMAN: You have talked about the covenants between artists and their fans as sacred, what relationship do you think the issues before us in this Bill would affect that covenant precisely?

191. MR LYTTELTON: Precisely because, if I can give you an example, Ed Sheeran wrote to the Hall and asked that Members refrain from selling tickets to their seats at inflated prices. The reason for that was that he has great respect for his fans. When he was starting out, they supported him. And if you are a shopkeeper or a shop assistant in Barnsley, and you went to Ed Sheeran's first concerts, he subsequently became enormously successful, and you then find that the only way you can get to see him is by forking out £6,000, basically you are excluded.

192. And, of course, no artist likes to do that, and the fan who is not familiar with how the Albert Hall is run thinks well, "Why isn't Ed looking after me? How can he let this happen?". That is the covenant that I am talking about. Or, another example, the Last Night of the Proms. If you are a music fan, you are a Promenader—that's a young person—you get in and you enjoy standing up and watching your favourite artist for two hours in concert, if you support the Proms strongly enough, your name can go forward into a ballot for attendance at the last night. And quite sensibly the BBC says that you have got to have attended three or four, or five concerts, in order for your name to go forward to show that you are a real supporter.

193. Well if Members are then selling tickets for the Last Night at thousands of

pounds, again the fans are being excluded. Last week we had the Big Curry Lunch for the Lord Mayor in London and I put my tickets for the Last Night of the Proms into the auction for the charity, and I am very pleased to say they raised £2,600. Now I have no guilt about that because those seats are mine to do with what I want, and I certainly do not want to benefit from them financially. The reason I bought seats, I explained in the petition, had nothing to do with a financial investment. And I am sorry, it gets rather strong about this, but it is obscene that the Albert Hall be seen as a financial investment and that we spend so much time worrying about the rights of investors.

194. Common law property right, peaceful enjoyment of property, does that include the right to become a Member of a charity and thereby affect the value of your investment? Again, if you just look at it in general terms, investors—I mean I am a businessman, I have been all my life, and I would respect the rights of businessmen and shareholders—but the fact is that the Albert Hall is run as a business. In other words, the seat-holders effectively are shareholders. The more seats you have, the more power you have. And so you are actually motivated in a way to run the thing as a business. I am sorry, my Lady, I must not digress.

195. THE CHAIR: I think you have answered my Lord's question.

196. BARONESS FAIRHEAD: May I possibly just follow-up on Lord German's point? You talk about the sacred bond between musicians and the public, if you look at musicians on their own, can you point to any other area where they have been injuriously affected by this Bill?

197. MR LYTTELTON: Other than the Albert Hall, do you mean?

198. BARONESS FAIRHEAD: No, no, by this Bill. So the musicians themselves rather than that sacred bond with them and the public.

199. MR LYTTELTON: Well, that would imply there is a difference between artists and musicians. I once made the mistake of talking about singers and musicians, for which I got severely rebuked. All artists are musicians.

200. BARONESS FAIRHEAD: My question more was about any specific, injurious effect to artists, musicians of all types.

201. MR LYTTELTON: I suppose one that I could think of is, a few weeks ago there was a charity concert given by Members of The Who at the Albert Hall. The artists gave their performance and actually sponsored, effectively, the whole concert. Certain Members felt it wholly appropriate because they are investors to sell their tickets for their own benefit. Now that, I think, does illustrate the kind of mindset.

202. LORD NASEBY: Just one. When it was originally started, did it have charitable status from day one or not?

203. MR LYTTELTON: Effectively, yes, but of course the charitable status as we know it today was not there. It was built very much for the public benefit which I suppose is really what charity is about. So, I think the answer to your question is yes.

204. THE CHAIR: I suppose one could have a serious debate about whether all the purposes for which the Hall was established fell within the charitable purposes as laid down in the Elizabethan Statute. I think one could have some debate about that.

205. MR LYTTELTON: Absolutely correct, Your Ladyship, but of course there are all sorts of wonderful things that happened at the Hall. The suffragettes had their meetings in the Hall. That was not really a charitable purpose, as we know it. There have been wrestling matches and all sorts of wonderful entertainment. It was charitable in as much as it was for the benefit of the nation. Nobody made any money out of that. All the Members actually, in those days, were able to do was to enjoy the seats that they had contributed towards. And it was not really possible to run it as a business because, in fact, the 1966 Act was the mechanism by which the Hall could operate commercially because it was a mechanism under which the Members gave the Hall, under certain conditions, the right to be excluded from their seats so that the whole Hall could be sold, rather than just the lesser seats.

206. A final point I would like to make, which I think goes to locus, as a Member of the public, not as a musician or anything else—I have lost it.

207. THE CHAIR: Give yourself a few moments.

208. MR LYTTELTON: I am getting too hot under the collar.

209. THE CHAIR: Just pause a bit and just think, because if it is relevant to locus, we

very much want to hear it.

210. MR LYTTTELTON: Yes. I suppose what I was going to try and express in as simple terms as possible is the significance of implying that when Members give up their seats, it is in the public interest solely. It is not solely in the public interest; it's very much in the interests of the Members too.

211. THE CHAIR: Thank you, that's very clearly put. Lady Hayter has a question.

212. BARONESS HAYTER OF KENTISH TOWN: It may be that we need to deal with this later; I am not absolutely certain, so I'll take your guidance, but we are just looking at the Bill at the moment in its entirety, which includes Clause 5. Clause 5 is still, obviously, in the Bill.

213. MR BOWEN KC: Clause 5 has been withdrawn, madam.

214. BARONESS HAYTER OF KENTISH TOWN: I think the Bill in front of us includes Clause 5.

215. MR BOWEN KC: The filled-out Bill does not include Clause 5.

216. THE CHAIR: This is true, but the question is that the Bill has, of course, been given a Second Reading in Parliament and has to be amended, and whether the process for amending it in order to remove Clause 5 is something that has to be done by the Unopposed Bill Committee or can be done in this committee. I am not sure that it is open to you simply to withdraw it, as opposed to propose amendments.

217. BARONESS HAYTER OF KENTISH TOWN: Clause 5 is in the Bill in front of us, and I think Mr Lyttelton said that it had already been implemented. He made some comment about it which I did not understand. As I say, whether this comes to locus or not, I do not know.

218. MR LYTTTELTON: Excuse me for asking. Is Clause 5 the clause about the additional seats in boxes?

219. BARONESS HAYTER OF KENTISH TOWN: Yes.

220. THE CHAIR: Yes.

221. MR LYTTELTON: Yes, that has been implemented, and the seats actually went in—perhaps Mr Ainscough would be able to tell us when the seats went in. He is not here. Oh, you are here.

222. MR AINSCOUGH: I am Chief Executive of the Royal Albert Hall. I am very happy to give you a brief summary.

223. MR LYTTELTON: Just when those seats went in.

224. MR AINSCOUGH: The grand tier boxes were originally sold with 10 seats in, so all the seat-holders who bought grand tier boxes started out with 10. The Hall for many, many years, for exclusive lets, has been putting 12 seats in the box because there is space, and we can. During the 1990s and early 2000s, when the Hall was doing a major building development and needed to raise funds, one of the things it did was to sell to seat-holders who owned 10 seats in the box the right to attend concerts on the 11th and 12th seats, because in effect there was no disadvantage to the charity from them using those two seats because they could not be used by anybody during an ordinary let. And what it did was generate capital funding for the Hall.

225. The difference between what was done then during the major development and what was proposed in this clause is that originally in the past when the Hall sold those two seats, there were no voting rights attached. So in other words, a seat-holder was purchasing the ability to attend concerts on those two seats but no additional two seats' worth of votes at the AGM. The proposal in this Bill originally, was to be able to sell in other boxes, where seat-holders had not yet taken up the right to buy those two seats, to sell them with full voting rights and membership rights attached. So it is true to say that in eight boxes, I think I am right in saying, in the past the Hall has sold the right to attend events on the 11th and 12th seats to seat-holders, but no additional membership rights have been granted in those circumstances.

226. THE CHAIR: Yes, yes, understood what Clause 5 was supposed to be about. Lady Hayter, the question that you want to—

227. BARONESS HAYTER OF KENTISH TOWN: Therefore, these two seats do exist in these boxes and if this Bill goes through with Clause 5, it gives them then the same rights as the existing seat-holders, therefore, for votes and things like that.

228. MR LYTTTELTON: Yes, it does two things. It increases the number of Members of the Corporation—sorry, votes at AGMs—because as I said, it’s not one man, one vote; it’s one seat, one vote. So it increases the investor involvement in the Hall. And the other thing it does is that, should the owner of a box now wish to sell his box or her box, instead of selling it with 10 seats in it worth, let us say, £170,000 or £200,000 each, for £2,000,000, the incremental value of the box increases by two times £200,000, so £400,000, to the investor who already has that box.

229. BARONESS HAYTER OF KENTISH TOWN: I am not sure this goes to locus, but can I be absolutely clear, these extra two seats or whatever are there, and with Clause 5 it would give them the voting rights at meetings? Okay, thank you. Thank you, as long as I am clear. Thank you very much.

230. THE CHAIR: I am not entirely sure how that goes to locus.

231. BARONESS HAYTER OF KENTISH TOWN: No, I know.

232. THE CHAIR: But in case we don’t hear from Mr Lyttelton again, I wanted to ask. Thank you.

233. MR LYTTTELTON: I very much hope you do.

234. MR AINSCOUGH: If I could just clarify one point, just on that bit. The only additional rights, and the right to attend those seats, if that clause had remained in, would be if the seat-holder purchased for a capital sum those two seats. In other words, the clause would not just have automatically given the seat-holders with boxes two additional seats. They would need to have purchased them from the charity at fair market value.

235. THE CHAIR: Yes.

236. MR AINSCOUGH: And so the reason for that clause was to help the charity raise funds for capital works.

237. BARONESS HAYTER OF KENTISH TOWN: Thank you very much.

238. LORD NASEBY: What is the taxable status of the income that comes from the selling of boxes in the open market?

239. MR BOWEN KC: I can answer that question. It depends on the status of the Member; they will pay tax on it. It is ordinary income; they don't get any rebate.

240. LORD NASEBY: Does it have any charitable exemption?

241. MR BOWEN KC: No, and similarly the seat rate does not entitle them to any tax relief.

242. LORD NASEBY: Okay, thank you.

243. MR LYTTELTON: Going to the subject of locus, it is quite important to understand that the Hall actually does receive rather more public benefit than you might imagine. The rental that it pays to another charity, to the 1851 Commission, is one shilling a year, which is actually quite a good deal. And the other thing that I think is quite important to understand is that, because of its charitable status, the Hall pays no corporation tax, and also gets certain reliefs on VAT.

244. THE CHAIR: Thank you.

245. LORD NASEBY: Thank you.

246. THE CHAIR: Well, I think we have asked all the questions that we want to ask, and we now have to deliberate on the question of locus. So can I ask you please to leave us to enable us to do so, and we will cease to be in public session?

*Sitting suspended.*

*On resuming—*

247. THE CHAIR: Thank you all very much indeed. As you can tell from the length of time that it has taken us to discuss this matter, we have not found it altogether straightforward. However, we have all reached the conclusion that neither FanFair nor the Musicians' Company have the standing to petition against this Bill and the basic reason for that is that it has not been demonstrated that the interests of the musicians they represent will be adversely affected to a material extent by the provisions contained in the Bill. Mr Lyttelton was good enough to say to us that they were not adversely affected by what was currently in the Bill. Their concern was what was not in the Bill. Regrettably, because of the narrowness of the terms on which people are allowed

standing to petition against private Bills, we have to decide that that standing does not exist.

248. Nevertheless, in the course of the proceedings relating to this Bill, there have been drawn to the committee's attention matters that they feel should be drawn to the attention of the House and it is therefore our intention to make a special report to the House in due course. We will continue business in order to do that, but this hearing is now completed.

249. MR BOWEN KC: My Lady, may I just address the committee briefly in relation to the "nevertheless" bit of my Lady's ruling?

250. THE CHAIR: You may, Mr Bowen.

251. MR BOWEN KC: I am very grateful. If it is the committee's intention, as it appears to be, to produce a report for the House, there are matters that we did not reach in the course of the hearing that may be and are likely to be relevant to the contents of any such report that the committee might make. Obviously it is very difficult to anticipate what that report might contain without any indication of what it might contain, and our concern is that this is the opportunity we have to address factual misconceptions, opinions, that people may or may not have formed about how the Hall works, how the ticketing scheme works, and that, if the committee were to express a collective view in a report without hearing that evidence, then it would risk perpetuating those misunderstandings, misconceptions, opinions that may be, on reflection and our better understanding, incorrect.

252. Therefore, we respectfully request that the committee adopt the approach that is mandated by the Standing Order of having refused a locus to hear no evidence and for the Bill to proceed to an Unopposed Bill Committee, but that the House Committee should say nothing by way of report to the House that is or may be affected by any of the evidence that you have not heard.

253. THE CHAIR: I think you can rest assured, Mr Bowen, that we will take the greatest possible care in expressing ourselves on the matters to which we wish to draw the attention of the House.

254. MR BOWEN KC: Very well. I wonder, my Lady, whether you might enlighten us a little bit more about the matters that you are at least contemplating addressing in a hareport to the House, because it may be that I will be in a better position to make a more informed submission.

255. THE CHAIR: We are not going to listen to much more in the way of submissions, Mr Bowen. We have reached our conclusion. I think I can say this: what we were discussing was a response to the Attorney General's Report to the Committee, which might make you feel a little bit happier.

256. MR LYTTELTON: Definitely.

257. MR BOWEN KC: It depends what you say in response, of course—

258. THE CHAIR: You are pushing your luck, Mr Bowen. I think you had better—

259. MR BOWEN KC: I have never been one to push my luck very much further than I have already. I am very grateful to the committee and I thank you. There is one matter on which I anticipate I will receive instructions, which is that the—would you just excuse me for one moment?

260. I am not instructed to pursue that application and so I say no more about it.

261. THE CHAIR: Thank you, indeed. If you would be good enough to allow us to just complete our conversation.

262. MR BOWEN KC: Yes, of course.

263. MR LYTTELTON: My Lady, would you require us to come back or are we—

264. THE CHAIR: I am afraid that is the end of the matter, Mr Lyttelton.

265. MR LYTTELTON: Please do not be afraid.

266. THE CHAIR: Subject to, as I say, the further matter that we have indicated, our functions in relation to this Bill are completed.

267. MR LYTTELTON: Thank you.