



HOUSE OF COMMONS
LONDON SW1A 0AA

17th August 2021

Jean Contilheut

RE: ELECTIONS BILL AND THE POLICE, CRIME, SENTENCING & COURTS BILL.

Thank you for your recent correspondence in respect of the *Elections Bill* and the *Police, Crime, Sentencing & Courts Bill*. I have read your comments with interest.

On the issue of the *Elections Bill* and joint campaigning, our democracy is admired around the world for its values that have been upheld for generations. I recognise the importance of ensuring that those values are robustly defended.

That is why the *Elections Bill* will put British citizens' participation at the heart of democracy and support voters in making free and informed choices at elections. Measures will address postal vote harvesting, introduce digital imprints, as well as require a photographic ID before voting at a General Election - a requirement in Northern Ireland since 2003, when it was introduced by the last Labour Government.

I understand concerns about civil society organisations being prevented from adding their voice to the debate, but let me assure you that this would not be the case. I recognise the important role CSOs play in providing valuable information on a variety of policies. The Bill instead aims to make elections fairer and more transparent by requiring greater transparency from campaigners.

Clause 24 of the Bill, for instance, would require third party campaigns to give notice to the Electoral Commission at a lower level of expenditure than is currently required. Clause 25 would require campaign spending, which is part of a joint plan between a registered party and a third party, or parties, to be counted as part of the spending limits of all parties involved.

I believe that joint campaigning has an important role to play in our electoral system, but it should be transparently and fairly regulated, particularly when it could be regarded as intending to achieve a common purpose.

With regard to the provisions of the *Police, Crime, Sentencing & Courts Bill* and the right to protest, I understand your concerns about the proposed new powers to deal better with protests and thank you for outlining your views on this issue. As I have made consistently clear, the freedom of assembly and freedom of expression are vital rights that I wholeheartedly support, and I can reassure you that the Government is clear that the right of an individual to express their opinion and protest is a cornerstone of our democratic society. Any suggestion otherwise is patently absurd.



However, I would like to make clear that under no circumstances do I believe that protests should become violent. The right to a peaceful protest does not extend to harassment, intimidating behaviour, or serious disruption to public order. Of course, the responsibility for the maintenance of public order lies with the police, who have a range of powers to manage protests. How they deploy their powers and the tactics they use are rightly an operational matter for the police, but I am pleased that we live in a country where policing is by consent.

The issue at hand relates to the balance between the rights of a protestor and the rights of individuals to go about their daily business. There have been examples where protests have caused unjustifiable disruption and distress to other citizens. For example, some of the scenes we saw from the Extinction Rebellion protests, where ambulances were stopped from reaching hospitals and efforts to prevent the printing of newspapers, were deeply troubling and concerning. Therefore, the measures in the Bill are not about stopping or clamping down on the right to protest, but are about ensuring the police can better manage highly disruptive protests and maintain the balance I have outlined.

You are right to ask how protesters' rights will be protected. It is the case that when using these powers, or existing public order powers, the police must act within the law. Importantly, the police must be able to demonstrate that their use of powers are necessary and proportionate. It is also clear that the police must act compatibly with human rights, in particular Article 10 (freedom of expression) and Article 11 (freedom of association).

I am aware that much has been said regarding the proposed public nuisance offence. As you may be aware, Clause 59 gives effect to recommendations made by the Law Commission in their July 2015 report on '*Simplification of the Criminal Law: Public Nuisance and Outraging Public Decency*'. The report stated that the common law offence of public nuisance should be replaced by a statutory offence covering any conduct which endangers the life, health, property, or comfort of a section of the public, or obstructs them in the exercise of their rights. You can find the Law Commission report on this issue at the following link: https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsou24uy7q/uploads/2015/06/lc358_public_nuisance.pdf.

Importantly, the new statutory offence of public nuisance will cover the same conduct as the existing common law offence of public nuisance.

This is a long-awaited Bill with many measures previously announced or discussed before the Bill itself was published, most notably those within the *Sentencing White Paper*, published in September last year. I welcome the fact that the Second Reading debate for the Bill was spread across two days. The Bill has since been through Committee and Report Stages, where each clause, part, and any amendments, proposals for change, to the Bill have been debated and it has now completed its House of Commons consideration after extensive scrutiny. That said, I fully understand your strong feelings on this issue and you were right to ensure I was made aware of these. While we may not agree, I hope this response has outlined clearly why I am in favour of the changes relating to the management of protests.



Finally, with regard to the Electoral Commission, as you may be aware, the Commission has sought in recent years to bring criminal offences before the courts. This is not a role that has ever been agreed by the Government or by Parliament.

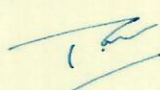
I am concerned that the additional powers the Electoral Commission has taken on risk creating conflicts of interest and wasting taxpayers' money. This is because the Electoral Commission is responsible for providing the advice and guidance on electoral law on which the prosecutions it seeks to bring may depend.

It is the role of the police and the prosecution services to enforce electoral regulations and the Government intends to clarify this status quo in legislation through the *Elections Bill* before Parliament. I can assure you that this is not about interfering with the investigative, operational, or enforcement decisions of the Electoral Commission. The reforms would not affect the ability of the Electoral Commission to undertake enforcement action as it deems necessary, but it would ensure greater accountability to Parliament.

Sir, now Lord, Eric Pickles' independent review into electoral fraud raised a number of concerns and made recommendations on the role of the Electoral Commission and the current system of oversight in 2016. These measures also seek to address those points in the context of wider work to protect our democracy and maintain public confidence in the electoral system.

My ministerial colleagues will, of course, consider proposals from the Committee on Standards in Public Life and from the Public Administration & Constitutional Affairs Committee which are separately conducting inquiries into electoral regulation and the Electoral Commission.

Once again, thank you for having taken the time to contact me and if I can ever be of any further assistance to you then please do not hesitate to contact me again.

With best wishes,


TOM PURSGLOVE MP
MEMBER OF PARLIAMENT
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