

Amendment 8

Moved by Lord Craig of Radley

8: After Clause 23, insert the following new Clause-

"Commonwealth medals

After section 339 of AFA 2006 insert-

"339A Commonwealth medals

Medals awarded by Commonwealth governments, including the Pingat Jasa Malaysia Medal, to present or former members of Her Majesty's armed forces and other Crown servants may be worn without restriction."

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Lord Craig of Radley: My Lords, I beg to move Amendment 8 in my name and that of the noble Lords, Lord Ramsbotham and Lord Touhig. I am grateful for their support. As I made clear in my remarks at Report and Committee stages, the current arrangements are not satisfactory. This is not so much a criticism of individuals but of a process that is no longer-to use that popular phrase-fit for purpose.

I propose to respond to the points made by the Minister when he resisted this amendment in his letter of 23 September and at Report stage. In that letter to me and to other noble Lords who have spoken on this topic, the Minister said that when exceptions to the long-standing rule of no double medalling and the five-year moratorium are allowed, the results are then seen to be anomalous and unfair.

This is surely the wrong conclusion. The problem arises because the rules are out of date, and are no longer suitable for dealing with the donor countries and international organisations of today and the variety of involvements of many individual recipients. I am glad the Minister has put a review in hand. However, it must address the matter of what guidance there should be on accepting-or refusing to accept-foreign awards. The no double medal and the five-year moratorium have been breached at least since the time of the Korean War in the early 1950s and, in one way or another, in almost every year since. It is simply not tenable to claim that they are the right benchmark. I suspect that the mindset-or default position-is to try to deter an offer first, rather than have to deal with the much trickier problem of refusing or prevaricating over one once made. That is why these rules are still prayed in aid. However, they have lost their validity with the passage of time.

Secondly, in his reply to my earlier amendment, the Minister claimed that the HD committee was non-political, being made up of senior Crown servants, and was the source of advice to the Queen on the acceptance and wearing of foreign medals. However it defies belief that an award proposed by a foreign head of state or Government to one or more British subjects would not be considered

by Ministers at some stage. Surely the interplay of diplomatic and cultural, economic and security interests and so on between a donor and this country must be taken into account on how best to respond to a generous gesture by a putative donor.

Lacking the speed of modern communication, those considerations may not have been uppermost 70 years ago, but surely they cannot be ignored today. Ministers must have some part to play, particularly if a refusal is mooted. Moreover, as is clear from my remarks at Report about the Minister's letter of 23 September, and in the Written Statements that I quoted about the rules and government policy, the Queen, as is normal, will on this topic act on the advice of Ministers. The Minister says so himself. I assume that this advice is couched to deal with agreements to restricted or unrestricted acceptance. I doubt that any submission put to Her Majesty seeks formal approval to refuse an award.

The Minister, in answering my points at Report, said that the effect of my then amendment would be to

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end the broadly consistent approach across government. The words "other Crown servants" in the current amendment deal with that objection.

The Minister's next point was that a problem would be created by establishing a separate principle that applied to medals offered by the Governments of Commonwealth nations, as opposed to those offered by other allies. He said that it would not be easy to justify to non-Commonwealth allies or members of our Armed Forces why we would generally decline the offer of a medal from them, while readily accepting a medal offered by a Commonwealth nation. Surely, that misunderstands this amendment, and I note too the mindset or default opinion which is expressed in the words "would generally decline the offer".

On the one hand, my amendment would facilitate, without recourse to any archaic HD committee rules, the acceptance and wearing of Commonwealth medals. That would be set down in statute. Until the rules are changed, as I believe that they should be, the treatment of other friendly nations or international organisations would be, as now, unchanged, apart from explaining to them that the new Commonwealth arrangement was approved by Parliament and had received Royal Assent. I do not see that causing any greater diplomatic difficulty than already exists, as the Minister asserted, and almost certainly a good deal less, even without any changes to the HD committee rules. Those rules, or the way in which they are applied by officials, seem designed to deter as far as possible any foreign offer. That approach must surely merit thorough re-examination.

As I mentioned at Report, there is renewed interest in Government to strengthen the Commonwealth heritage—in short, to put the C back in FCO. It would be timely to adopt this amendment so that the Prime Minister, at the forthcoming CHOGM in Perth at the end of this month, could mention it then as a gesture of the Government's determination to strengthen their Commonwealth ties.

I now turn to the vexed question of a particular Commonwealth medal, the Pingat Jasa Malaysia medal, which is mentioned in the amendment. UK subjects have Her Majesty's approval to accept that medal but not to wear it. The Minister, who has one, says that he keeps it hidden in his top drawer. However, I welcome the statement at Report saying that the Minister would,

"write to ministerial colleagues in the FCO emphasising the strength of feeling that continues to exist, both in this House and elsewhere, specifically about the Pingat Jasa Malaysia medal ... I will propose that they look again at whether they can advise the HD committee to recommend to Her Majesty that those who were awarded the medal should also be permitted to wear it".-[*Official Report*, 4/10/11; col. 1074.]

Can the Minister confirm that he has written? Has he any indication when he will receive a response? Indeed, does this not also confirm the involvement of Ministers and that this is a topic not solely left to the HD Committee, as has been claimed?

4.15 pm

I do not wish to detain the House by going over in full all the arguments brought to the Minister's attention that favour removing the restriction on wearing

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the PJM by British subjects, but let me give him just one further example of what is happening and is wrong, sent to me by another recipient of the PJM, one of many who have contacted me to express their outrage at the way that they have been treated by our system.

This individual, an RAF veteran of Malaya and North Borneo, describes his experience on ANZAC Day. He says that when marching with Malaysian and North Borneo veterans of the Australian Defence Force, he is unable to wear his PJM medal, although all the ADF veterans have royal approval to do so. It appears, he says, that the Queen of Australia rejoices in them wearing the PJM, but the Queen of the United Kingdom does not. As he and others have pointed out, that appears to be an insult to the people of Malaysia. He personally concludes, regretfully, that he can but agree.

It is time that that ridiculous anomaly was righted forthwith. Will the Minister accept my amendment? He does not automatically have to resist now that the Bill is to return to another place. The amendment would give great pleasure to numerous veterans—a gesture to their loyalty and valour worthy of the military covenant—and smooth the HD committee's work with Commonwealth countries pleased to make a national award to UK Crown servants. Agreement now would allow holders to wear their PJM on Remembrance Sunday this year, and wear it with pride.

I urge the Minister to accept the strength of those arguments and those of other noble Lords and to let the revised Bill complete its passage through both Houses with the amendment to gain Royal Assent. I beg to move.

Lord Ramsbotham: I put my name to the amendment, as I did in Committee and at Report. I declare an interest as a holder of the Pingat Jasa Malaysia. I shall not repeat all the arguments made so well by my noble and gallant friend, which have been put forward on numerous occasions. I should just like to mention three points.

First, as my noble and gallant friend said, the existing rules are utterly discredited. It was mentioned in the previous amendment that the coroners' regulations are 149 years old; some of the regulations for these medals go back to the Crimean War.

Secondly, it is all very well saying that it is a committee of civil servants who will draw this up, but it is actually Ministers who should give advice. I am concerned that Ministers do not appear to have given the ruling on this issue that they might have done.

I mention that in coming to my third point, because we are all abundantly clear-it has been made clear by the Secretary of State for Foreign Affairs and by the Minister in this House-that the Foreign Office is trying to put back the C into the FCO. There is an emphasis on the Commonwealth. This is a Commonwealth medal. To my mind, it is discourteous not to accept something from the Commonwealth when the people who were awarded it went out honouring a treaty obligation to help a fellow Commonwealth member in trouble. This really ought to be put right as soon as possible.

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Lord Touhig: My Lords, I support the amendment moved by the noble and gallant Lord, Lord Craig-in particular, his remarks about the Pingat Jasa Malaysia medal. This has been a running sore for far too long, and it is about time that we sought to heal it. I have been a long-time critic of the Committee on Honours, Decorations and Medals, the so-called HD committee, which advises Her Majesty the Queen on these matters. As has been said, the committee advised Her Majesty that the veterans of the Malaysian campaign should accept the medal but must not wear it. Over the years, like others, I have tabled parliamentary Questions. When I sat in the other place, I obtained an adjournment debate and tabled EDMs, all to no avail: the rule still stands.

If any of us were to walk down any high street in Britain today and stop a complete stranger and say, "Do you know that this country has allowed veterans who fought in the jungles of Malaysia to accept a medal from the King of Malaysia but they must not wear it?", they would think you were "twp"-a Welsh word meaning daft in the head. British soldiers gave their lives in this campaign. We are told that this cannot be changed because of the five-year rule and the double medalling rule. We now discover that these are not rules at all but merely conventions which the HD committee operates. We are here this afternoon in the glorious surroundings of this magnificent Chamber of the House of Lords and yet only halfway round the world in Afghanistan somebody's husband, son or father is risking his life for us as a country in defending British interests. What sort of message do we send to these brave young men when we say that someone who fought for our country over 50 years ago should be treated so dishonourably?

I recognise that the HD committee has a difficult task. I have done my best to understand how it reached its decision. I have attempted through freedom of information requests to discover how this has happened, but I have been totally thwarted by the Cabinet Office. However, we have a chance to do something about this today. This is the Parliament of the United Kingdom. It is a privilege to sit here, whether in the elected House down the corridor or in this House. People in this country still expect Parliament to do something about righting a wrong or ending an injustice. I believe this should be a free vote in both Houses. If your Lordships' House was to carry this amendment today, I have no doubt that on a free vote down the corridor it would be passed overwhelmingly by Members there. If ever there was a case for parliamentarians to be allowed to use their conscience, this is one. This is about how we respect and treat those who have served our country. The Minister is a good and decent man and well thought of all around the Chamber. We know he has worked hard to try and resolve this matter and we certainly wish him well. But this is a case when the Executive should stand aside and Parliament, unfettered by the Executive, should speak for the people of Britain.

Lord Newton of Braintree: My Lords, I declare an interest in that I chair one of the honours committees within the mainline honours system, although happily it has nothing to do with this. However, because of my familiarity with that system and some of the problems

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that can arise between us and Commonwealth countries, I feel at least entitled to express the view that I cannot see a single good reason for allowing somebody to accept a medal and not be able to wear it. I can see circumstances in which you might refuse to allow them to accept a medal for whatever reason, but I cannot see how you can say, "You can have this medal but you must never put it on". I think this needs looking at.

Lord Cormack: My Lords, I am afraid I have disobeyed my late great friend Lord Weatherill who said, "If you are at all in doubt do not listen to the debate". I have listened to the debate and I entirely agree with my noble friend Lord Newton. It really is nonsense. I am actually standing before your Lordships wearing a decoration-Commander of the Order of the Lion of Finland. When I received it for services which do not begin to compare with the bravery that the people we are talking of displayed in the Malaysian jungles, I received a letter from the Queen's private secretary giving me unrestricted permission to wear it whenever I wished to. It seems a total nonsense to give permission to these brave people to accept this medal and then to say, "But you cannot wear it". There is no logic in that argument whatever and I hope that my noble friend who will be replying to this debate-for whom I, too, have very real regard and respect-if he cannot give the logical answer will say that we ought to let Parliament make up its mind to allow these brave veterans, most of whom are very old people now, to enjoy at least one Remembrance Day where they can wear this decoration of which they are rightly proud.

Lord Palmer of Childs Hill: My Lords, I rise as someone with no military medals, though my late father had some. I find it incomprehensible that we are not proud that service people fighting for this country were awarded medals by one of our Commonwealth nations. If we are proud that they should be awarded such medals, why should they not be allowed to wear them? It seems incomprehensible that they are not. We talk in your Lordships' House about the cost of this and

the cost of that-I was told that the cost of national defence medals would be higher than I imagined-but the cost of doing this is nothing other than perhaps a dent in some civil servant's pride. There is no reason why this House should not encourage the Government to allow people to wear medals such as the PJM medal.

Having been awarded a medal from a Commonwealth country, the recipient does not have to wear it. There is no saying that if you have received a medal from a Commonwealth country of which you might, for current reasons, disapprove you have to wear it, but the idea that you cannot wear it seems anathema.

The Bill has to go to the other place. It is not on this one amendment that it may ping-pong. Therefore, contrary to my normal loyalties to the coalition, I will vote with the noble, valiant Lords in favour of the amendment.

Lord Tunncliffe: My Lords, I listened to the debate on medals in Grand Committee. I said at the end of it that our position was neutral but that I had found many of the arguments very persuasive. I have read

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the letter from the Minister of 23 September and welcome it as far as it goes. It is good that there is to be a review, and I am pleased that it will be relatively rapid. I apologise for not being present on Report, but I have carefully read the debate in *Hansard*. As a consequence, I assume that, arising out of those debates and that letter, the noble and gallant Lord, Lord Craig of Radley, and his colleagues have produced what is now a very narrow amendment about a particular anomaly.

We have taken enough time on this; I shall not repeat the arguments except to say that I unknowingly applied the test described by the noble Lord, Lord Touhig, to a peculiar group of people called the opposition Whips. I tried to explain to them that we were going to debate how the King of Malaysia had presented a medal to British soldiers, how the Queen through Her Majesty's Government had agreed that they could accept it, and how they were not then allowed to wear it. It took me 10 minutes to convince them that I was being serious, especially, as I recollect from Committee, there is one day or one week when the soldiers are allowed to wear the medal.

We will support Amendment 8. I take this opportunity to say how flexible and how positive the Minister, his fellow Ministers and their team have been throughout the Bill. I earnestly invite him to maintain that theme and accept the amendment. Unfortunately, if he is unable to do so and there is a Division on it, we will join the noble and gallant Lord, Lord Craig of Radley, and his colleagues in the Lobby.

Lord Morgan: My Lords, does my noble friend not think that we should also point to how these actions will be seen in Malaysia, which is a very important country that is deeply attached to ours? We have very strong links in higher education and business. It seems to me needlessly insulting of the people of Malaysia to do this.

Lord Tunncliffe: I concur with that comment.

4.30 pm

Lord Astor of Hever: My Lords, the debates that we have already had on the subject of medals can have left no doubt about how important this matter is, and I am very grateful for the opportunity to address it again today.

The debate has had a number of strands: the process and rules for deciding on the acceptance and wearing of awards given by foreign and Commonwealth nations; the position within this process of Her Majesty as the fount of honour and the person to whom loyalty is owed; and the desire—shared, I believe, by all noble Lords—to recognise and support the Commonwealth. The amendment put down by the noble and gallant Lord, Lord Craig, relates to all these strands.

The position of the Government on the fundamentals of how the system should work remains the same as that of the last Government, when in 2007 the HD committee considered for a second time the Pingat Jasa Malaysia medal. It is the same position as has been held by every previous Government since King George VI established the HD committee.

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The foundations of this position are quite simple. First, when British citizens, whether civilian or military, carry out their duties to the sovereign and their country, it is for the sovereign to decide on the award of honours for that service.

Secondly, the advice given to the sovereign about the grant of honours should be consistent across government—expert and, so far as is possible, dispassionate. Decisions on whether to reward service should not be made in the glare of public debate or potential party political argument about the wider political context in which that service was given.

Lastly, there should be consistency in our response to the wishes of all states, foreign or Commonwealth. In particular, our response to all our allies and friends should be consistent. I do not pretend that absolute consistency has been, or can always be, maintained. Sometimes exceptions are, and no doubt will be, made. But it is nearly always when exceptions are made that unfairness or anomalies are likely to occur.

The amendment would have two direct effects. First, it would lay down for the future a new rule about medals—that those awarded a Commonwealth medal shall be entitled in all circumstances to wear it. Secondly, it would apply this rule to Commonwealth medals awarded in the past. These include, as the amendment specifies, the PJM medal.

In doing so, the amendment would also have a number of indirect effects. By overturning past decisions that have been made on Commonwealth medals, it would establish the precedent that Parliament may overturn—and after any length of time—any decision of the sovereign as the fount of honour. Her decision is needed on the full details of what is proposed, as to both the acceptance and the wearing of medals. The amendment would overturn, specifically, past

decisions on Commonwealth cases. I need hardly say that it is Her Majesty who is Head of the Commonwealth, not Parliament.

It would establish a further precedent that Parliament is able to lay down and change the rules which are to be applied to decisions on the acceptance of honours from foreign and Commonwealth states. It would assert that Parliament can do so in a way which alters the fundamentals that I have described of the existing arrangements, such as the need for a basically consistent approach to awards by all friendly and allied states.

Equally profound in its implications is the argument that must underlie this amendment—that decisions on the award of honours, and whether to change decisions previously made, are better made in the emotive and often party political atmosphere of parliamentary consideration, than with the detached and largely non-party political approach envisaged in the arrangements set up by King George VI. I believe that it would be wrong in principle for this House to lead the way towards such a new approach to the award of honours. As to the particular new rule that the amendment would put in place, I simply point out that it would create a different principle for the wearing of medals awarded by Commonwealth nations from that which applies to those awarded by other allies.

The operations in which our Armed Forces are involved are increasingly international, with British units regularly working alongside UN, NATO or EU

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partners. It would not be easy to justify to non-Commonwealth allies, or to those individuals whom they wish to reward, why the United Kingdom had decided to treat their awards on a fundamentally different basis from those offered by a Commonwealth nation.

That does not mean that I do not attach a special value to our membership of the Commonwealth and to our connections with its members. They are of the greatest importance, historically, culturally and constitutionally. But I do not believe that the creation of the distinction which this amendment would make between our Commonwealth and other friends is the way to reflect our respect for the Commonwealth.

Neither does it mean that I do not understand the force of the points that have been made in these debates about particular cases, and about the way that the process works, or is perceived to work. I have therefore instructed Ministry of Defence officials to consider the process by which advice about the institution of medals and the acceptance of foreign awards in respect of military service is put together, considered and submitted to Her Majesty.

As I explained on Report, this work will also consider the way that decisions are promulgated. My officials will ensure that they have the benefit of the views of the current chiefs of staff and they will discuss the issue with HD committee members. They will then consider whether any advice should be given to Her Majesty about the need to review the process and to make changes. Once my officials have reported back to me, I shall report the outcome to Parliament through a Written Ministerial Statement. I aim to do so before the end of the year.

I have been particularly struck with the force of the points made about the decision on the PJM medal. We have heard about how it is seen in Malaysia and about the continued importance and awareness of the issue not only in Malaysia and among those working for or representing the United Kingdom in Malaysia but among all those who were awarded the PJM medal. I shall put in hand, through my officials, representations to members of the HD committee about these issues, with a request that their advice to Her Majesty is to consider again whether those who have been awarded the medal should be permitted to wear it. Again I shall report the outcome to Parliament through a Written Ministerial Statement, and I aim to do so before the end of the year. However, for the reasons that I have explained, I do not believe that it would be right, in order to improve the system, for Parliament to overturn Her Majesty's decisions or to establish a precedent for laying new rules. Such an approach would not in my view support the essential merits and aims of the existing system, or support Her Majesty in carrying out her role as the fount of honour.

For those reasons, I cannot support the noble and gallant Lord's proposed amendment, and I would urge noble Lords to reflect extremely carefully before starting down the road it represents.

Lord Newton of Braintree: My Lords, before my noble friend sits down, I hope he will be pleased if I simply say that I, at any rate, in what I acknowledge is an extremely difficult area, found his reply entirely

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acceptable, bearing in mind the pressures that he will exert for a review and the fact that he will come back to us before the end of the year.

Lord Craig of Radley: My Lords, I raised this particular question in my earlier comments. The Minister has said:

"I propose to write to ministerial colleagues in the FCO emphasising the strength of feeling that continues to exist, both in this House and elsewhere, specifically about the Pingat Jasa Malaysia medal ... I will propose that they look again at whether they can advise the HD committee to recommend to Her Majesty that those who were awarded the medal should also be permitted to wear it".-[*Official Report*, 4/10/11; col. 1074.]

Has the noble Lord written, and when does he expect a reply?

Lord Astor of Hever: I have not as yet written but I will do so very soon, and I would anticipate a pretty quick response to my letter.

Lord Craig of Radley: I thank the noble Lord for that assurance. There is a fundamental disconnect, I feel, between the approach that I and my colleagues are taking and the one that the Minister has taken. It is all to do, fundamentally, with whether the HD committee rules to which we keep referring are still fit for purpose. My contention is that they not fit for purpose. On that basis, I propose to ask for the view of the House.

4.41 pm

Division on Amendment 8

Contents 208; Not-Contents 194.

Amendment 8 agreed.

Motion

Moved by Lord Astor of Hever

That the Bill do now pass.

Lord Astor of Hever: My Lords, I gather that it is traditional at this point for the Minister guiding the Bill to say a few words of thanks. More than 30 noble Lords and noble and gallant Lords spoke during the debate at Second Reading in July. That is testament to the deep and abiding interest in the Armed Forces that exists in this House. In our exchanges since then, we have at times taken different views on some issues. However, I have been impressed, as I always am, by the courtesy and helpfulness that has been shown to me by noble Lords on all sides of the House. It is difficult to single out individuals, but I should like to pay tribute to the noble and gallant Lord, Lord Craig, for his hard work on the Bill and for his tenacity in pursuing issues that he thought were wrong. I also pay tribute to the noble Baroness, Lady Finlay, who is not in her place now. I should also like to thank the many people behind the scenes, in the House and elsewhere, who have supported us during the Bill's passage. Finally, I should like to pay tribute to the Armed Forces. This Bill is for them. We owe them our best efforts at all times, and I believe that we have a Bill that meets the high standard that they set for us.

Lord Rosser: My Lords, I will be brief, but I would like to thank the Minister and his team for all the considerable help that they have given on this Bill. The Minister has been prepared to listen with an open mind to the points made during our discussions. Where he has felt able to make changes in the Bill to address some of the concerns that have been raised, he has done so. We wish to express our thanks to the Minister for all the work that he has done on the Bill and for his major contribution to the fact that our debates have been constructive and conducted without rancour, and conducted with the interests of our Armed Forces in our minds.

Bill passed and returned to the Commons with amendments.