

MINUTES OF ORAL EVIDENCE

taken before the

HOLOCAUST MEMORIAL BILL COMMITTEE

PETITIONS AGAINST THE BILL

Wednesday, 6 November 2024 (Morning)

In Committee Room 4a

PRESENT:

Lord Etherton (Chair)
Lord Faulkner of Worcester
Lord Hope of Craighead
Lord Jamieson
Baroness Scott of Needham Market

FOR THE PROMOTER:

Christopher Katkowski KC, Counsel, MHCLG
Jacqueline Lean, Counsel, MHCLG
Robbie Owen, Parliamentary Agent, Pinsent Masons

FOR THE PETITIONER:

Baroness Finlay of Llandaff
Lord Hodgson of Astley Abbotts
Lord Griffiths of Burry Port

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(At 10.30 a.m.)

1. THE CHAIR: Good morning, everybody. This is the third public meeting of the Select Committee on the Holocaust Memorial Bill. As I explained yesterday, the hearing today will be about standing only, not about scope or principle of the Bill. We will deal with that once we have heard all the petitioners on their claim to the right to make representations on their petitions, when we will nominate or state who it is that we agree has standing, and then we will commence the hearings on principle and policy. That includes scope of the Bill.
2. We have read all the petitions, and so we hope that each petitioner who comes forward at this stage will merely elaborate on their reasons for saying that they have the right to make representations, specifying any additional points or particular points that they wish to emphasise, rather than going through everything that they have said in their petition.
3. There are a couple of administrative matters, which I am afraid I have to repeat again. One concerns arrangements in the case of fire. In the case of fire, bells are not used in the parliamentary estate. A two-tone siren followed by a series of taped messages is broadcast. If evacuation is necessary, please follow the instructions of the clerk. Anyone not in the committee room itself should find the nearest security officer.
4. The proceedings are broadcast and a full transcript will be taken.
5. At some point, we will go into private session, normally after we have heard all the people scheduled to be heard during the morning, but should there be some reason why, before we have finished everybody this morning, we need to go into private session, we will ask you to clear the room, but I hope that will not and should not happen.
6. The first petitioner today is Baroness Finlay. Good morning.
7. BARONESS FINLAY OF LLANDAFF: Good morning.
8. THE CHAIR: As I understand it, Baroness Finlay, you are going to be speaking on your own behalf, without counsel.
9. BARONESS FINLAY OF LLANDAFF: Yes, completely on my own behalf.

10. THE CHAIR: The procedure we have followed and we intend to follow again, unless you object, is that Mr Katkowski, who is the counsel for the promoter, who is sitting next to you, will explain why he, if he does, objects to your standing, and then you will have your own right to say what you want—your right, as you claim it, to standing and to make representations. If Mr Katkowski wants to come back on any particular point, we will allow him to do so. So is that all clear?

11. BARONESS FINLAY OF LLANDAFF: Will I have the right to reply to that?

12. THE CHAIR: If necessary, yes.

13. BARONESS FINLAY OF LLANDAFF: Thank you.

14. THE CHAIR: Very well. We cannot go on for ever, of course, but let us wait and see what happens. Mr Katkowski, would you like to start?

Opening Statement by Mr Katkowski KC

15. MR KATKOWSKI KC: Yes, my Lord. Thank you. Good morning. On that note of not wanting to go on for ever, and on the theme of yesterday, which is to avoid repetition, I should be very brief, because, as you will know, my Lord, I addressed you at the beginning and the outset of yesterday morning's proceedings in relation to the standing—or lack of standing, as we see it—of the 15 petitioners who you are considering yesterday, today and next Tuesday and next Wednesday.

16. To briefly summarise for the benefit of those who were not here yesterday or have not watched the proceedings on Parliament TV, as the committee will know in relation to the right to be heard it is my submission that, in order for a petitioner to have the right to be heard, there needs to be some actionable interference with their rights, which could be enforced by way of a private law action in the courts, were it not for the provisions of the Bill. I can make these submissions in relation to all three of the petitioners who you are hearing from this morning, so I do not have to repeat myself on each occasion.

17. It is our submission that none of the three petitioners of this morning satisfy the definition, or fall within that definition, of the right to be heard. You will recall that I elaborated all of that yesterday and, indeed, it is explained at greater length in the various papers that we have submitted, which are all available on this committee's web

page.

18. That, therefore, then moves one to the question of whether or not any of the petitioners this morning fall within the scope of the discretionary powers that are available to this committee, because, just now, I have addressed the ability to be heard as of right.

19. Moving now to discretion, your discretionary powers are encapsulated in this House's Standing Order 117, which does not apply here to any of the three petitioners, because that relates to associations and societies, and, plainly, none of the three petitioners this morning fall within the scope of that.

20. That then takes us, finally, to Standing Order 118, and that, as you will know, brings into its scope the local authority for the area in question and, plainly, none of the petitioners are here on behalf of Westminster City Council, but it also brings into its remit inhabitants of the area who would be injuriously affected by a Bill or any of its provisions.

21. You will recall my submissions yesterday that it is the promoter's position that that does not mean that any inhabitant of the City of Westminster, of which there are approaching a quarter of a million, fall within the scope of Standing Order 118. Instead, the inhabitant or resident needs to be sufficiently representative of the inhabitants of an area that would be injuriously affected by the Bill. There needs to be something to mark the resident or inhabitant out from the others, so to speak, who live in the area in question, and I certainly do submit that none of the three petitioners this morning fall within the scope of that submitted definition or explanation of those who potentially fall within Standing Order 118.

22. In brief, we challenge, most obviously, the right to be heard of the three petitioners this morning, but we also challenge the ability of any of the three to bring themselves within the discretionary powers available to this committee. That is a brief summary of the promoter's position. Were I to say any more, it would be repetitious, but, obviously, if there is any clarification I can provide, then I am very happy to do that.

23. THE CHAIR: Thank you very much. Baroness Finlay, now it is your opportunity.

Baroness Finlay of Llandaff

Submissions by Baroness Finlay of Llandaff

24. BARONESS FINLAY OF LLANDAFF: Thank you. Can I immediately pick up on the issue of residence? When I submitted, I did not put down the address that I have just round the corner here in Marsham Street, for the very simple reason that, when I was doing the smoking in public places Bill, my home address in Cardiff was public and I had a lit cigarette put through the letterbox. We were very lucky that the house did not go up in flames at night when we were asleep, and I have become very security-aware. The website did not make it clear that the address would be kept not disclosed. I understand that addresses were subsequently blanked out, but, for my own personal protection, I did not fancy going through another episode like that.

25. I have a flat in Marsham Court, in Marsham Street. I am in London because I am the Deputy Speaker most days that the House is sitting, and I go between here and there, which means walking along that area past the park and round into Horseferry Road every morning and every night, and I have to make my way through various demonstrations that already occur outside Parliament on many an occasion. If you wait long enough, sometimes the demonstrations have gone, but one's own personal security might be at risk, and there have been some quite nasty episodes around the area.

26. The other thing that I do, which is part of my work, is I do a lot of work with—

27. THE CHAIR: Baroness Finlay, can I just ask you a question? You said, "I go by the park". Do you go through the park?

28. BARONESS FINLAY OF LLANDAFF: I go through the park in the morning. At night, the park is locked, and I think it would be very stupid to walk through a park in the dark anyway, but the park is locked. In the mornings, I often walk through it.

29. THE CHAIR: Apart from walking through it, do you ever use it for any other what I would describe as recreational purpose?

30. BARONESS FINLAY OF LLANDAFF: Yes. Can I come on to that? It is not really recreational, but it is tied up with the work that I do with Learn with the Lords. Because of widening the influence of Parliament and educating the next generation, I do

a lot of work with them. I do it online, but I also go to the education centre. When the weather is fine, the children often go out into the park and have their lunch picnic out in the park, and it is a really good time to go and just network with them and make them realise that Peers are human beings who want to relate to them and answer their questions. They ask all kinds of questions that they would not ask in the relative formality of the education centre.

31. These children are often quite shocked at some of the demonstrations that have gone on outside Parliament, and certainly, whilst they can have their lunches inside, and they do when it is raining, it is not a very nice environment. It gets very stuffy and can get quite smelly. The kids have loads of energy and they need to run off that energy in the park adjacent. One of my big concerns is the security of the children who are coming to Parliament to the education centre.

32. THE CHAIR: You are veering now into scope and purpose.

33. BARONESS FINLAY OF LLANDAFF: Okay. Sorry.

34. THE CHAIR: Can we just confine it to what you have done up until now, which is your use and enjoyment of the park?

35. BARONESS FINLAY OF LLANDAFF: That is my use. My other part, then, again relates to my personal security, which is that I have an office on the west front that overlooks College Green, and I am well aware of the phenomenal disruption from the demonstrations. Sometimes they are so great that you cannot work in the office. This centre, sited where it is, is going to be, I would suggest, a real attractive point for multiple demonstrations, particularly as tensions rise in the political region between Israel and its neighbouring countries, and Palestine.

36. For very personal reasons, I have felt quite insecure walking through some of those demonstrations at times. If I have had to go back in the day to the flat, because I have forgotten something for example, it can feel quite threatening. In fact, our security people here advise us to avoid those areas sometimes, and the police here are very helpful, but I would suggest that it constitutes a security risk.

37. There is something else in my own background which makes me feel particularly

strongly about it, but I do not know whether that is relevant or not.

38. THE CHAIR: Carry on and we will see.

39. BARONESS FINLAY OF LLANDAFF: Okay. In my own family, in my mother's generation, during the war, in the Polish army in exile, they started off with 108 officers and marched up to liberate Majdanek. By the time they got there, there were only 11 officers left surviving. One of them was cousin Kazik, and he subsequently took me and my mother around Majdanek and described to us what he had seen and what he found. That was probably about 30 years ago. My mother is now dead and he is now dead, but that certainly brought home to me exactly what had happened.

40. I also saw the museum in Warsaw and the way that had been constructed, and heard a lot from him and others about the process with which that had been built, and it seemed to be extremely different to the process that is being undertaken here, with an enormous amount of local consultation to make sure that it was not a site that would attract demonstrations or jeopardise the security of anybody visiting, and particularly a site that was safe for children to visit.

41. THE CHAIR: I think that probably goes more, again, to the second part, but thank you very much for that. Is there anything else you want to say before I ask Mr Katkowski?

42. BARONESS FINLAY OF LLANDAFF: I think the only other thing is that I am extremely worried that the whole issue of security of Parliament seems to have been inadequately addressed in what I have been able to read about this, because I think—

43. THE CHAIR: Can I just stop you? That is all the second part.

44. BARONESS FINLAY OF LLANDAFF: That goes into the second part.

45. THE CHAIR: It is all policy and principles.

46. BARONESS FINLAY OF LLANDAFF: Okay, but as somebody who is in Parliament, I do not particularly want to be blown up in it, if I can put it like that.

47. THE CHAIR: We understand that. Mr Katkowski, would you like to say anything at this point?

48. MR KATKOWSKI KC: Thank you, my Lord. Just very briefly indeed, as I understand it, Baroness Finlay is not claiming the right to be heard, as I understand it. As I understand it, she is asking you to exercise your discretion under Standing Order 118. That is to say, as an inhabitant or resident—perhaps to use a more modern word, a resident of the area, I think.

49. THE CHAIR: I am not sure whether Baroness Finlay is aware of the finer distinctions.

50. MR KATKOWSKI KC: Indeed so.

51. THE CHAIR: We can come back to Baroness Finlay on that, but I think you have to leave it to us to interpret what she is saying.

52. MR KATKOWSKI KC: Of course, my Lord, in which case, if I can put the position in this way instead, if it would be of greater assistance, none of the points that have been made by Baroness Finlay support a status of her having the right to be heard. If anything, they would potentially bear upon an exercising of your discretion under Standing Order 118. I have made my submission about the nature of the inhabitant or resident that would fall within the scope of that order.

53. I do wish to submit that all the points about protecting the recreational use of the gardens and, similarly, the amenity of the gardens, of course, are very well represented by the petitioners who you have exercised your discretion to hear—that is to say, the London Historic Parks and Gardens Trust, the Thorney Island Society, et cetera, and indeed, by the Buxton family.

54. In relation to a point of discretion, I would query or question, if you like, on behalf of the promoter, the utility of exercising your discretion any further in relation to those sorts of matters, because they are all very well covered and extremely extensively covered by the petitioners that I have just mentioned—numbers 12, 13 and 15. Those are my submissions.

55. THE CHAIR: Did you want to respond then?

56. BARONESS FINLAY: Yes. Quite simply, I am not a lawyer. I am a jobbing doctor and I have the privilege of being in Parliament, but I would not have written a

submission, which I did carefully, if I did not want to be heard. Just to make that absolutely clear, I did not write it just to write something. I wrote it because I felt extremely strongly about it. Thank you.

57. THE CHAIR: Certainly. We understand that. Very well. On that basis, does any member of the committee wish to ask any questions?

58. LORD JAMIESON: It was just a point of clarity. The apartment you have—is that owned, rented, yours?

59. BARONESS FINLAY OF LLANDAFF: I emptied every bank account that I had to be able to buy it. It is only a studio. It is tiny, but it is mine.

60. LORD JAMIESON: The fact is that you are an owner of an apartment.

61. BARONESS FINLAY OF LLANDAFF: Yes, it is mine. I am the sole owner of that apartment.

62. LORD JAMIESON: All right. Thank you. I thought you were, but I was not absolutely clear.

63. BARONESS FINLAY OF LLANDAFF: I would love a bigger one.

64. THE CHAIR: Anybody else?

65. LORD HOPE OF CRAIGHEAD: I have a question for Mr Katkowski, if I might. We had a discussion yesterday about discretion. Standing Order 118, at the end of it, is really talking about an individual who represents a group of people. I do not think Baroness Finlay is presenting herself as a representative. She puts forward a case that is very much personal to her, and the question then is whether you accept that we have an underlying discretion as a committee, looking at a Bill particularly of this nature, quite apart from Standing Order 118. I thought yesterday you accepted that we did.

66. MR KATKOWSKI KC: My Lord, if that is the case, then that would have been me misspeaking or mis-submitting. Certainly, my submission is that the extent of this committee's discretion is confined by and to the provisions of Standing Order 117 and 118. I do not accept that there is a broader discretion beyond what is set out in those Standing Orders.

67. LORD HOPE OF CRAIGHEAD: The problem with 118 is, as I said, that the last bit is the individual supposed to be representing a group.

68. MR KATKOWSKI KC: That is my submission.

69. LORD HOPE OF CRAIGHEAD: Baroness Finlay is representing herself. It is a very personal thing. Why can we not take what she said into account in deciding whether we should give her a hearing under our discretion?

70. MR KATKOWSKI KC: My Lord, I would say it is rather the other way around, if you will forgive me, because the submission I made yesterday—and it is entirely my fault that it obviously was not made clearly enough—is quite the other way around. On the face of Standing Order 118, the words, read literally, appear to be very wide, because, having referred to a local authority, they then go on to refer to any inhabitant of any such area—that is to say, here, the City of Westminster.

71. My submission yesterday was to the effect that the Standing Order should be read in the light of precedent, and I have taken you to precedent on the subject, to support the submission—and it is a submission, because it is not written in the Standing Order—that an inhabitant or resident needs to, in some way, be representative of a broader group of residents or inhabitants of the area who would be injuriously affected by the provisions of the Bill, and that is the submission I have made.

72. My Lord, if the committee accepts that submission, then Standing Order 118 will be construed and applied by this committee in the way in which it has been construed and applied by other committees of this nature in the past. If you do not accept my submission, then, plainly, the scope of the discretion is very wide, because any of the quarter of a million inhabitants of Westminster—

73. LORD HOPE OF CRAIGHEAD: I do not think that is fair. Obviously, the individual, Baroness Finlay, is not at the extremities of the boundaries of Westminster. We are looking at somebody who lives close by and is in the vicinity very frequently, for the reasons she has expressed. It is an individual case, and what I am putting to you is that it is not open to us to construe 118 to consider the individual position, although she is not representing anybody else?

74. MR KATKOWSKI KC: In my submission, no, it is not, on the basis of the submissions I made yesterday and I briefly summarised this morning. Plainly, the committee may well decide otherwise, but those are my submissions, because it is indeed my case that Standing Order 118 is to be construed in the way in which it has been construed in the past. That is to say to look for an inhabitant or a resident who, in some way, represents a wider group of residents or inhabitants who would be injuriously affected in some way by the provisions in the Bill.

75. THE CHAIR: Can you just remind us where, in your longer note, you say that? Presumably, there is a cross-reference to something.

76. MR KATKOWSKI KC: There are cross-references. My Lord, if you will forgive me, can I start with the shorter note, which I happen to have at the top of my pile of papers? In the shorter note, we make the submission at paragraph 11.4 on page 3. And the reason that I take you to that paragraph is because, in its footnotes—that is to say, footnotes 12 and 13—it takes you to and cross-references you to the authorities and precedents that I mentioned yesterday and I took you to yesterday. That is in the shorter note.

77. In the longer note, the submission is made on page 4, at paragraphs 17 through to 20, and the particular submission about, “It’s not an inhabitant. It’s an inhabitant who is representative in some way”, is made at paragraphs 18 and 19.

78. THE CHAIR: One moment, sorry. So this is the bigger one, and which page is it?

79. MR KATKOWSKI KC: I did not catch the beginning, my Lord. Were you referring to the longer note?

80. THE CHAIR: Yes, this is the long one.

81. MR KATKOWSKI KC: The right of petitioners to be heard by the Select Committee.

82. THE CHAIR: Correct.

83. MR KATKOWSKI KC: My Lord, there it is page 4 of the note, and paragraphs 17 through to 20 are where our submissions on the subject are made.

84. THE CHAIR: I am sorry. The trouble is I have a number of your submissions here. I have one on principle, on scope. I have this long one on the right to be heard.

85. MR KATKOWSKI: That is the one I was just referring to, my Lord—the longer note.

86. THE CHAIR: And then I am trying to find the one you referred to before that, which is the short note.

87. MR KATKOWSKI KC: The short note, my Lord, was the one that we referred to yesterday. It is the one dated 1 November. Once the notes have been found, there is something else I wanted to say in relation to Lord Hope's question to me.

88. My Lord, I just wanted to add, within the longer note, you will recall—and you had the longer note just a few moments ago—in appendix number 2, we have set out extracts from various rulings or precedents, whatever one wishes to describe them as, and those which are pertinent to this question about residents and inhabitants are set out in section 3 of appendix 2, which begins at numbered page 83. There you will find, I would like to say at a glance, the relevant parts of the precedents, which are, of course, set out in full in our book of authorities. Section 3 of appendix 2, beginning at page 83.

89. The one point that I just wish to add in relation to this question of a wider discretion is that, unsurprisingly, this whole issue has been considered before. In our bundle of authorities at tab 2—again, you will recall from yesterday that this is part of the various rulings on one of the high speed rail Bills, one of the HS2 Bills—you will see that, at page 23 of that, submissions have been made by one Sir Keir Starmer in relation to the discretion of a committee of this nature. Submissions were made as to a broad discretion being in the hands of a committee of this nature.

90. You will see that, at paragraph 4 on page 23, the committee there rejected the submission that there is any discretion beyond that set out in the Standing Orders that I have specifically referred to.

91. BARONESS SCOTT OF NEEDHAM MARKET: My speed reading is not what it was, but I am having another look at these precedents and I am struggling to make these fit with the circumstances of this case. For example, at paragraph 3.3, “Individual

petitioners raising nuisance issues affecting their community”. A little of what Baroness Finlay has said is community, but the majority is about her as an individual, so I am not clear why 3.3 is relevant. Then there are a few others, which, at a quick read, I cannot see as being in the same categories at all as what we have just heard. There are clearly incidents of where committees have decided not to exercise their discretion, but that is not the same as saying they cannot exercise it here.

92. MR KATKOWSKI KC: My Lady, that is, in a way, the point: that, in these various cases, where committees of this nature have decided not to exercise their discretion to hear various petitioners, they have explained why that is the case, and their explanations as to why that is the case show that the scope of Standing Order 118 is—or has been in the past, certainly—relatively narrowly confined.

93. LORD HOPE OF CRAIGHEAD: You sum your point up in paragraph 18 of the longer note. You have chosen those words with care, but you say that the convention is that individual inhabitants are not “normally” treated as covered. You have chosen your word. It fits in, no doubt, with what Baroness Scott is saying—that we have examples of those ones—but what about individuals? If it is a convention, then it is open to us in this particular case, which is so highly unusual, to give it a wider meaning and look at individual cases.

94. MR KATKOWSKI KC: My Lord, plainly I understand the point that is being put to me, but my Lord will equally understand that my submission is that it is established practice, convention and precedent that the ability to exercise a discretion under 118 has been confined. I am sorry to repeat the point, but I simply do not accept that there is some broad, wide-ranging discretion, if you like.

95. LORD HOPE OF CRAIGHEAD: Thank you very much for explaining yourself very clearly. We will have to consider it.

96. MR KATKOWSKI KC: Indeed. To be quite straightforward about this, my submission is as it has been made, and I hope that I have explained it. I have certainly explained it as clearly as I can. Anything beyond that is my responsibility, so to speak, for not having explained it as clearly as needs be.

97. LORD HOPE OF CRAIGHEAD: Thank you very much.

98. THE CHAIR: Yes, Baroness Finlay.

99. BARONESS FINLAY OF LLANDAFF: I was just going to point out that there are a lot of parliamentarians who own flats in Westminster Gardens, Marsham Court, and some of the areas. There are also a lot of parliamentarians who stay in the hotel opposite where Burberry's offices have been, and none of them have been surveyed or asked for their opinion. We have a very good residents' committee in Marsham Court. That has, I do not think, even been aware of the workings of this committee.

100. I am not on our residents' committee, but if you wanted to really know the opinions of the residents, it would have seemed appropriate to ask the residents' committee in these blocks of flats to ask their residents, because, in informal conversations I have had with people, I have had nobody take a different view to mine, but that is informal conversation, so I could not give you chapter and verse on time, date, and I would not disclose names anyway, because that would not be appropriate.

101. THE CHAIR: I think that covers Baroness Finlay.

102. LORD FAULKNER OF WORCESTER: Could I just ask Mr Katkowski a question relating to Baroness Finlay's submission? We heard her refer to the risk of violent demonstrations possibly taking place in the gardens, centred on the memorial. Is this something which the promoters considered when they were drawing up their plans?

103. MR KATKOWSKI KC: Yes, very much so, my Lord, and it featured large at the planning inquiry. Unsurprisingly, all of these points were considered at the planning inquiry, including the argument that you should not locate a memorial to the Holocaust in Victoria Tower Gardens, because it would attract terrorists, it would attract demonstrations and so on and so forth. The gardens are too small, if you like, to accommodate all of that. All of these arguments were made.

104. We explained the security approach that would be adopted to the memorial and the learning centre in the gardens—basically, an extension of the security that applies to this building. An entirely independent inspector considered the arguments for and against and decided there was not a good case against the proposals on the basis of security concerns, demonstrations and so on and so forth.

105. None of these points, my Lord, are new to this project. All of them have been considered and canvassed extensively through the planning process. You will understand, my Lord, that there are very, very different points of view held about the good sense or the ill sense of this project in this location. All of that was considered and canvassed through the planning inquiry process.

106. LORD FAULKNER OF WORCESTER: We have the planning inspector's report, but it is 400 pages long. I have not got very far with it yet, but I will do by the end of this inquiry. I have one final question on this. Was any consideration given to the possibility of using local bylaws to prohibit a demonstration that was likely to be threatening, in the same way as bylaws that restrict demonstrations in Parliament Square when Parliament is sitting?

107. MR KATKOWSKI KC: My Lord, that is, if I might say, a question that is taxing my memory. I do have a memory of bylaws being referred to through the inquiry process. We would need to check the record.

108. THE CHAIR: I think all these questions are really going to part 2. It is an important question. Perhaps while we are finishing, you can research that point.

109. MR KATKOWSKI KC: It can be researched, of course. What I was going to say, if I might, though, my Lord, just finally and very briefly, is, in relation to reading the inspector's report, that it is a long report, but it is his conclusions at the end of the report, which, from memory, are some 60 pages, I think. I know it is a lot to ask, but the conclusions, even if you skim-read them, show the nature of the issues that were considered through the process.

110. LORD HOPE OF CRAIGHEAD: Can I just mention that if you are going to do research, it is not just bylaws or that kind of thing? There is primary legislation that gives the police powers to make orders in relation to what can be done in given areas. I cannot give you the citation, but have a look at the Public Order Act. You will find something there.

111. MR KATKOWSKI KC: Indeed, my Lord. I do very, very clearly recall that this whole issue of security was addressed extensively through the inquiry process, and there are passages in the inspector's report on this.

112. THE CHAIR: Some of us have seen that. We all now have a copy of the 400-page document, and we are reading it at our own individual pace.

113. MR KATKOWSKI KC: Yes. As I say, you can short-circuit that by going to the inspector's conclusions.

114. THE CHAIR: There were about four pages on security.

115. MR KATKOWSKI KC: Yes, there is a good deal on security.

116. THE CHAIR: Anyway, we have the benefit, no doubt, of the submissions that will come from Lord Carlile, who certainly knows about this area, so I think we will leave that, if I may, as a topic for the time being. Thank you very much, Baroness Finlay. Thank you very much for coming along. We are now going to move to the next person.

117. BARONESS FINLAY OF LLANDAFF: Shall I leave, Lord Chairman?

118. THE CHAIR: You are welcome to stay. It is a public hearing.

119. BARONESS FINLAY OF LLANDAFF: I just have a Select Committee in the room next door that I am meant to be at.

120. THE CHAIR: You can leave or stay, as you wish.

121. BARONESS FINLAY OF LLANDAFF: Thank you. I will make my excuses and go.

122. THE CHAIR: The next petitioner we are going to hear is Lord Hodgson. Good morning to you. I think I saw you yesterday for a short time. Have you been here this morning since the beginning? So you know, in broad terms, the position being taken by counsel for the promoters. We have seen your petition. We would simply like to deal with the question of standing this morning. Why do you say either that you have a right to be heard or that you fall within one of the grounds on which we have a discretion?

Lord Hodgson of Astley Abbotts

Submissions by Lord Hodgson of Astley Abbotts

123. LORD HODGSON OF ASTLEY ABBOTTS: Thank you, Chairman, and thank

you to the committee for hearing me this morning. I have listened carefully to your strictures about the fact that this is about standing. I wish to avoid Standing Order 118 and 119, because it is beyond my competence to determine that at this stage, and work to standing alone and, in such, rebut the assertion that Mr Katkowski made as to my right to be heard.

124. I know that to do this I have to, in the words of the notes circulated by Mr Brian Doctor yesterday—and it appears elsewhere in papers—show that I am directly and specially affected. That is generally understood as meaning a direct and demonstrable impact on property or personal interests. That is the starting point, if I may.

125. My only office in Parliament is in 1 Millbank. It is number G19 on the ground floor. I walk frequently to the House. I walked over this morning, and I walk back and forth a lot. If I may, I would like to just briefly talk the committee through the course that you follow as you do that, because it has relevance to the question of standing.

126. When you leave Millbank, there is a pedestrian crossing opposite you. You use that, unless you wish to chance your life dodging the traffic. When you reach the pavement on the other side, it is about six or eight feet wide. It is a pretty frequently well-used pavement. You turn left and you have about 40 or 50 yards to go before you hit the choke point. The choke point is the point where the House authorities have put down the black anti-crash barriers, with which all the members of the committee will be familiar.

127. At that point, it narrows to about four feet. You can pass by somebody coming the other way, but you will not if the person is in a wheelchair. You will not if it is a mother with a baby or a child at hand, and you will not if people are trying to walk and talk at the same time, so a good deal of congestion builds up there, and in reaching that point you have already had some congestion, because there is a bus stop and a bus shelter, also frequently used, about halfway between the pedestrian crossing and the choke point.

128. When you have gone through the choke point, you have another two or three yards before you turn right into the Victoria Tower Gardens, and you have another 10 yards after that before you get to Black Rod's Garden entrance, which is the main entrance, as the committee will know, for people coming to functions in the House, and who,

therefore, will also come to the choke point earlier. All that leads to a degree of congestion at all times.

129. There is, however, an additional and important point, which is that coaches use that area by the anti-ram barriers as a place to park and to decant people coming to the House—tourists. It is a site for the hop-on, hop-off bus. You very frequently find that the pavement is completely blocked, and you have to walk in the road. How often has that happened? It did not happen this morning, but yesterday, as I was approaching, 50 excitable sixth-formers were decanted on to the pavement and I had to walk around in the road.

130. That is now, and we are going to have, if I read the papers right, several thousand people—I see the words “2,000 or 3,000 people”—coming to the educational centre that forms part of this project. Not only will they be coming, but they will have buses to bring them there and buses to take them away, so if we have that volume of traffic, we are going to have a situation where Black Rod’s Garden entrance, the choke point, will, for large parts of the day, be impassable.

131. That I regard as being a direct impact for me, and that is why I regard as having standing in this particular case. It is not just me, of course. It is the other Members of your Lordships’ House who have offices in Millbank. They may or may not be aware of the proceedings of this committee and the need for them to register their concerns.

132. That, in summary, and in pretty short time, is what my case is for standing.

133. THE CHAIR: Can I ask you a question arising out of that? You are talking about the congestion at the moment. Quite often, it forces you to walk in the road. What I would be interested to know is how often you walk through or otherwise use and enjoy the gardens themselves.

134. LORD HODGSON OF ASTLEY ABBOTTS: I have mentioned the gardens in my submission. I use them infrequently, to be frank. I use them infrequently as part of a place to sit and walk, particularly in the summer, but I would not wish to add that to my petition. My petition is about the access to the Palace of Westminster for me and other people at Millbank, who I think will be adversely affected. It is quite difficult now and will become very difficult.

135. If I could add just two more very quick points, they are that Pinsent Masons' table of petitions and promoter's objections frequently uses the phrase "defeats the principle of the Bill". They have not said that about my petition, I think, but I do want to place it on record before you today that I am not against the Bill. I think a Holocaust Memorial of an appropriate size in Victoria Tower Gardens is a good thing. It is the addition of the education centre and the footfall that follows from that that I regard as changing the nature of the policy.

136. If I could just add one further very quick point, it is this. I have had to think carefully about whether to submit a petition about crowding and difficulty of access on the one hand, when we are talking about a commemoration of many millions of people—Jewish, Roma and others—on the other, as to whether that is an appropriate way to behave. Also, because I am not Jewish, have I failed to understand realistically the existential threat that people have felt and not been able to follow the lived experience?

137. All I would add in that connection is this. I am a war baby. I was born in April 1942. My father was a soldier. He served in the war, came out of the war, went to civvy street, never talked about his war at all. Members of the committee of a certain age will recall that, before television, there used to be magazines of pictures and photographs, which backed the printed news, a leading one of which was the *Illustrated London News*.

138. When I was about 13, I came across a case or trunk belonging to my father, which I opened, and there in it were three or four copies of the *Illustrated London News* covering the liberation of Bergen-Belsen concentration camp by the British Army. They were, for a 13-year-old, a truly shocking set of photographs: trenches of bodies, all mixed up; a British soldier driving a bulldozer, pushing bodies into a pit, with a handkerchief around his face, no doubt because of the terrible smell; and those who were living—barely, probably—with their stick-thin limbs and gaunt faces.

139. I was very worried about this, my Lord Chairman, as to whether I should tell my father that I had gone into his trunk. I decided that I would and, when he came back from work that day, I had a session with him. I thought he might be cross, and he said, "If we don't remember and learn to live together happily, it will all happen again".

When the 82-year-old Robin Hodgson looks back at those photographs, and I think about those terrible, terrible pictures and what those people went through, I think, would they want a memorial for their suffering to be born in controversy? I do not think they would, and I hope very much that this committee can identify, tease out and reconcile the various points of view so we can move forward peacefully. Thank you.

140. THE CHAIR: I am sorry, Mr Katkowski. I should have called on you initially, but you did say you had made your opening submissions for everybody.

141. MR KATKOWSKI KC: Indeed, my Lord. That is right. My submissions at the outset of this morning were designed to and meant to address all three of this morning's petitioners.

142. Plainly, my Lord, you will understand that it is the promoter's submission that nothing that has been said over the course of the last few minutes falls within the established precedents in relation to the right to be heard. In particular, nothing that has been said in any way captures some form of right or interest which would be actionable in private law, were it not for the provisions of the Bill. My Lord, I am afraid that we do continue to challenge the right to be heard of this particular petitioner.

143. THE CHAIR: Yes. Is there anything you want to add, Lord Hodgson? I think you have said your bit. Thank you very much for attending. We are very grateful to you. We will move on to the next petitioner. Please stay or go, as you wish.

144. On that basis, Mr Katkowski, we have Lord Griffiths next, but I take it you do not want to have a further opening or make any particular points.

145. MR KATKOWSKI KC: No, my Lord.

146. THE CHAIR: Obviously, once he is finished, I will let you speak, if you want to.

147. MR KATKOWSKI KC: Thank you, my Lord. That is more than sufficient. Thank you, my Lord.

148. THE CHAIR: Lord Griffiths, I do not know whether you were here this morning when Mr Katkowski made his very broad submissions about everybody. Were you here this morning to hear that?

149. LORD GRIFFITHS OF BURRY PORT: I came one minute late, but I seemed to have missed a lot more than one minute's worth of information.

150. THE CHAIR: If I can broadly summarise it—

151. LORD GRIFFITHS OF BURRY PORT: I am happy to deduce from what has been said what is in scope and what is not.

152. THE CHAIR: Yes. This morning we are just dealing with standing.

153. LORD GRIFFITHS OF BURRY PORT: Yes, I have got that.

154. THE CHAIR: We have read your petition, and, on the question of standing, if you feel you would like to add or emphasise any particular point rather than going through the whole of your petition, that is what I am inviting you to do.

Lord Griffiths of Burry Port

Submissions by Lord Griffiths of Burry Port

155. LORD GRIFFITHS OF BURRY PORT: Thank you very much. I would have to join my companion here, even though it has been said in my absence that I am wholeheartedly in favour of the Bill, but that a Holocaust Memorial in the gardens, proportionate to what is there already, would be part of my thinking, and a re-siting of the education centre would be what I would support. Although that may not be what I am here to say, I feel the need to say it, and have done so.

156. Like my companion, I had an office in Milbank, and so whatever he said about that, I can say too, although recently I have been in Parliament. Like him, I lived in Golders Green for several years and played a prominent part in community life there with Jewish and Christian groups and made enduring friendships, particularly with the rabbi who was a padre in the Second World War when Belsen was liberated, where the commanding officer said to the rabbi, "This one's yours, padre", and so the poor rabbi had to deal with all of that.

157. I have felt the pain. I have associated very deeply with the Jewish community, and I feel I need to say that too, because one of my feelings and my fears for a project such as that proposed now—I will come to my connections, I promise. I am a Methodist

preacher, so I have time. That did not seem to be taken as a joke, but never mind.

158. It is quite simply that I feel that, whilst residents' rights, which have been spelled out so clearly by the proposer, are one body of rights, human rights are another. Just as I did not need to have residents' rights in order to desire fresh air with the ULEZ proposals by the Mayor of London, because the air I breathe has nothing to do with the property I own, so I feel that the green space alongside Parliament contributes to any sense of well-being for people in the community at large and for the incredibly dense populations of people who work here. Therefore, to deny or limit or diminish what is part of establishing a sense of well-being in this part of London would need, I think, to be explained very carefully.

159. I know that lawyers like to get bogged down in precedents. I remember preaching at Gray's Inn on one occasion about a famous judgment by Lord Atwell in earlier years that went beyond precedents to argue that a duty of care needed to be considered too. He challenged theologians to apply that in a theological sense, which I have done several times since, but he was prepared, within the law, to argue that dealing with precedents by means of this invocation to establish a duty of care was an important thing.

160. I think that there is a duty of care that needs to be considered here that goes well beyond the precedents. I am not a lawyer. We have been arguing here in this corner about the need for lawyers to look in detail at phrases and precedents and all the rest of it, and all I can say is that the generality of humankind is enriched and enhanced by its ownership of the totality of what this part of London represents. That is the first thing.

161. The second thing is I have an office here, I work here every day and, therefore, it figures in my understanding of context that we have this green space. I do not own anything, and yet I have rights to everything, and I think that that is an important thing for me to say.

162. The other thing really derives from the fact that I have been and, to some extent still am, a religious leader. I was the head of the Methodist Church, and interfaith work has been very much part of what I have done all my working life. I was instrumental in getting started the Woolf Institute in Cambridge, for example, which has an amazing facility to bring the three Abrahamic faiths together. I was in at the beginning, I found a salary for the start-up, and I felt that was very important. I really do think that, if it is to

combat antisemitism that we might be wanting to do what is before us today, I would feel that the opposite might happen. Resentment would be built up. Tension would be almost impossible to avoid.

163. Whatever is said about security measures, was that said in the minute before I came as well? I do not know, but it is definitely a fact that, since I came into the House of Lords 20 years ago, the security measures taken here are just simply extraordinarily beyond anything that existed then. I cannot believe for one moment that, if this goes ahead in the way that is proposed, the security measures will not be increased very, very seriously and add to all the other things I have said.

164. I am worried about community relations, I am worried about interfaith dialogue and I do feel that there are aspects of this case that would be deleterious to those aspects of the realities we live with.

165. THE CHAIR: Do I understand, Lord Griffiths, that you, in a sense, rely upon your right to be heard as a member of the general public as opposed to your having any specific interest in the area?

166. LORD GRIFFITHS OF BURRY PORT: Yes, absolutely, or even the human race, my Lord.

167. THE CHAIR: Can I also ask you whether you do, in fact, use the park for recreational or any other purpose?

168. LORD GRIFFITHS OF BURRY PORT: Irregularly but frequently. I have, as with Baroness Finlay, networked with children after educational opportunities. In the summer, in the better weather, I have even found it convenient to take lobbying groups or touring groups into the park for us to have our question and answer or whatever it is. I did traverse Victoria Gardens on a fairly regular basis in all the years I had an office in Millbank.

169. THE CHAIR: Do you have an office now here?

170. LORD GRIFFITHS OF BURRY PORT: No. I think I said earlier that I had it for several years, but latterly I have secured an office in Parliament here.

171. THE CHAIR: Your use of the park, I think you said, is infrequent, but you do use it, and you particularly draw attention to where there is lobbying or tours where you have a role, or for educational purposes. Is that right?

172. LORD GRIFFITHS OF BURRY PORT: Yes, or even when I get fed up with everything and need to go out to breathe the fresh air. It does not happen in the Labour Party, now we are in government, by the way, I should say.

173. THE CHAIR: Mr Katkowski, is there anything you want to say?

174. MR KATKOWSKI KC: My Lord, simply for the sake of the record, so to speak, nothing that has been said supports, in my submission, the right to be heard. There would need to be the broadest possible approach to Standing Order 118 for discretion to be exercised. Any question of exercising discretion in relation to use of the gardens, recreational points and such like, as I submitted earlier on, are amply and adequately very well covered by those three petitioners who you have already exercised your discretion to hear in due course. In other words, there really is no need to hear from any others, if you like, in relation to those sorts of points, because they are all covered by those petitioners for whom you have exercised your discretion. Obviously, the question of scope, we will come to later on.

175. I do just note, though, in the particular petition that we are dealing with now of Lord Griffiths, that in paragraph 3 of the petition, he does, in relation to the Bill, say that he would like the Bill to be “defeated”, and you will understand that it is no part of this committee’s remit or ability to defeat the Bill. I do just mention that because, although you might think I am talking about scope, it does surely bear on the question of discretion. Why exercise one’s discretion to hear someone who would, in due course, be asking you to do something which you simply cannot do?

176. THE CHAIR: I understand what you are saying and why you are saying it, but I would rather not muddy the waters in that way. Anything further you would like to add, Lord Griffiths?

177. LORD GRIFFITHS OF BURRY PORT: No. I am just glad to have had the opportunity to have my say. My locus standi has been established here simply by saying what I have said, and I hope that it will be part of the record, and I now go out sentenced

by Article 118. I know my fate, and I shall wear my hairshirt accordingly.

178. THE CHAIR: Thank you very much indeed. Mr Katkowski, I do not think there is anything further this morning.

179. MR KATKOWSKI KC: My Lord, I have exhausted my ability to repeat my submissions.

180. THE CHAIR: Everybody has done very well, and it has proceeded very efficiently, so much so that I think we now have a feel for the speed with which we can get through the rest of the hearings on standing, and we will see whether we can fit some more in earlier on than they have otherwise been scheduled for. Our next public meeting will be tomorrow.

181. MR KATKOWSKI KC: Next week, my Lord. Tuesday the 12th, my Lord.

182. THE CHAIR: Very well. Thank you so much.

183. MR KATKOWSKI KC: Thank you.