

CORRECTED MINUTES OF ORAL EVIDENCE

taken before the

HOLOCAUST MEMORIAL BILL COMMITTEE

PETITIONS AGAINST THE BILL

Thursday, 5 December 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:

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

FOR THE PETITIONERS:

Lord Blencathra
Lord Carlile of Berriew
Viscount Eccles
Lord Sassoon

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(At 9.20 a.m.)

1. THE CHAIR: Good morning, everybody. This is the 10th public meeting of the Select Committee on the Holocaust Memorial Bill, and today we shall continue to hear petitions. As usual, I will repeat the safety information as follows. In case of fire, bells are not used in the Parliamentary Estate. Instead, 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. I want to remind people as well that proceedings will be broadcast and a full transcript taken.

2. Today, we are hearing from Lord Blencathra, Lord Carlile of Berriew, Viscount Eccles and Lord Sassoon. Before I invite Lord Blencathra to make his submissions, I will again state for the benefit of those who have not been present at recent hearings the provisional ruling of the committee on scope, namely that the committee does not wish to hear petitioners on the following matters: one, that the Holocaust Memorial and Learning Centre should not be located in Victoria Tower Gardens; two, that the Holocaust memorial should not be co-located with the learning centre; and, three, that the learning centre should not be located underground.

Lord Blencathra

3. THE CHAIR: Lord Blencathra was not here, I believe, when we heard the argument on scope and subsequently gave those general prohibitions that I have just mentioned, and I did say on behalf of the committee that, if there were any unrepresented petitioners who did not speak on that occasion about scope, then they could do so when they gave their evidence on their petitions, and I believe that, Lord Blencathra, I think I am right in saying, you were not there on that day, were you?

4. LORD BLENATHRA: That is right, yes.

5. THE CHAIR: If you wanted to say something more generally about scope and principle, then you are allowed to do that, if you want, but you are not required to do, but you will have seen from the transcript what we said about that. With that short introduction, I am going to invite you, Lord Blencathra, to make your submissions on your petition.

Submissions by Lord Blencathra

6. LORD BLENCATHRA: My Lords, I am grateful to be able to make this presentation visually. I stress that it is to keep me on message, so as not to digress too much, and it is not a suggestion that your Lordships need a visual presentation in order to understand my viewpoint. My Lord Chairman, I have taken note of and will adhere to your interim ruling that we cannot argue that the learning centre should not be underground or co-located with the monument, and indeed whether or not there should be a monument and learning centre in Victoria Tower Gardens. If it were not for that ruling, I would argue that an appropriate-sized monument in the gardens and a full-scale learning centre at the Imperial War Museum would be best.

7. My Lords, what is my locus standi, as it were? I have a flat about 300 yards away from Victoria Tower Gardens. I have lived in the area for about 30 years. I drive in my chair through Victoria Tower Gardens twice a day, coming to and from the Lords, and if this project is as popular and successful as the promoters claim, then my street and property will be affected.

8. I oppose this project, my Lords, on the following grounds. I believe that the design is a discredited cast-off, which has already been rejected by Canada. I believe that the fins will fail to get across the message of 6 million Jews murdered. I believe that a learning centre is an old-fashioned learning idea, out of sync with the way young people learn things post Covid, and it is far too small for its purpose. It is too large for the gardens, but too small to do a proper job for its purpose, contrary to what the Holocaust Commission recommended. It fails to deliver 24/7 rebuttal information on the calls for a new Holocaust against Jews, and I believe it is an insult to Jews and the Holocaust since the architect, Adjaye, is now discredited.

9. My Lords, I will take these in order, but perhaps I can start with the Adjaye comment first. I have no slides on this. I will be careful what I say. As your Lordships will know, three women formerly employed by Adjaye have accused him and his firm of different forms of exploitation, from alleged sexual assault and sexual harassment by him to a toxic work culture that had gone unchecked for years. Working at the London office of Adjaye meant being immersed in a “culture of bullying, oppression and fear”, built around “the cult of David”, a former worker, speaking anonymously, told *The*

Architects' Journal. “There was a reverential tone towards Adjaye. It was very messianic”. Also, negative feedback for Adjaye Associates appeared on Glassdoor, an anonymous review site for business employees, and that was even more explicit. Posts there include complaints of chaos in the work structure and that management is “inhumane, toxic, racist”. “Don’t expect to learn anything new, get sleep, or get paid”.

10. David Adjaye strongly denied the sexual assault allegations, but he said, “I am ashamed to say that I entered into relationships which, though entirely consensual, blurred the boundaries between my professional and personal lives. I am deeply sorry. To restore trust and accountability, I will be immediately seeking professional help in order to learn from these mistakes, to ensure that they never happen again”. My Lords, I will say no more about him, since these allegations could possibly end up in court, but I am intrigued by those comments from his staff which talk of “the cult of Adjaye”.

11. That probably explains a lot, and I am certain that this design was chosen not on artistic merit but based on a politically correct motive of who he was. In other words, any old rubbish will do, so long as it is Adjaye rubbish. However, as I said, it is quite unacceptable and an insult to Holocaust victims and survivors that the UK monument should be designed by a person with those allegations hanging over him, his admitted failings and his need for professional help. Of course, my Lords, the Government now pretend that they have never heard of Adjaye and that the design is not his, despite having praised him to the rafters dozens of times before the allegations emerged.

12. Now, my Lords, on to perhaps more substantial matters. This is the Adjaye design for Ottawa, my Lords. Does it look rather familiar? It is the same 23 fins, but this time they are called foils and made from concrete, and this time the wiggly bits are supposed to represent scars. I cannot find any explanation as to why the fins proposed for Victoria Tower Gardens are flat, but I suppose it is a blessing that they are not wiggly like the ones he had for Ottawa.

13. This is what Canada actually built, a memorial covering 0.8 of an acre next to the Canadian War Museum, and shaped like the Star of David from above. The Holocaust Commission recommended something uniquely British, and instead Adjaye has given us a copy of his failed Canadian offer. I believe the UK and Holocaust victims deserve better.

14. The justification for the ugliness of the fins by the architect, Mr Adjaye – he said, and this was on the BBC on 12 February 2019, “Disrupting the pleasure of being in a park is the key to the thinking of the memorial”. What an appalling justification for a bad design in the wrong place. Everyone knows that these 23 giant bronze fins are a grotesque and ugly monstrosity, and Adjaye justifies them on the grounds that the gaps between the fins symbolise the 22 countries affected by the Holocaust and other specious architectural gobbledegook, but he cannot claim that they enhance the visual beauty of this Grade II listed park. The key to thinking about the Holocaust should be educating people on the evils of National Socialism as practised by Hitler and the Nazi regime, and the murder of 6 million Jews, not making a park look ugly.

15. However, as I say, my main criticism is that the 23 fins completely fail to get across the message of 6 million Jews slaughtered. Why is that figure important? Because, my Lords, never before has education about the eradication of 6 million Jews been more essential, as we see frightening calls for a new Holocaust.

16. Here are some key results from an Ofcom report of July 2022. I find this rather worrying. You will see, my Lords, that for teenagers, Instagram at 29%, TikTok at 28%, and YouTube at 28%, are the main sources of news for young people, with ITV and the BBC in fourth and fifth place.

17. The Ofcom report also goes on to state that users of TikTok for news claim to get more of their news on the platform from “other people they follow”, that is 44%, than getting it from “news organisations”, only 24%. It says teenagers today are increasingly unlikely to pick up a newspaper or tune into TV news, instead preferring to keep up to date by scrolling through their social feeds.

18. My Lords, if those social media outlets were accurate then we would have little to concern ourselves about, but also in July 2022, we had this report from the United Nations. “UN report: Oxford analysis reveals up to half of Holocaust-related content on Telegram denies or distorts facts”. They said, “Distortion and Holocaust denial is present on all social media platforms, but moderation and education can significantly reduce this, according to a landmark report today from UNESCO and the United Nations, supported by analysis by researchers from the Oxford Internet Institute”.

19. It went on to say, “UNESCO and the UN sought to measure the extent of this

phenomena on social media networks and commissioned OII researchers to identify and analyse almost 4,000 posts related to the Holocaust on five major platforms”. That is Facebook, Instagram, Telegram, TikTok and Twitter. The findings of the analysis of the posts shows that, on the social media site Telegram, there was 50% distortion and denial in English messages. On Twitter, there was 19% distortion and denial, on TikTok 17%, on Facebook 8%, and on Instagram 13%, and with many of them totally anti-Semitic.

20. Here is another frightening finding of the United Nations report. The researchers identified that perpetrators have learned to evade content moderation through the use of humorous and parodic memes, as a strategy intended to normalise anti-Semitic ideas and make them appear mainstream. My Lords, I had no idea what anti-Semitic memes were, but I found hundreds on the internet. For example, this suggests here that the Jews launched a missile attack on a US warship and destroyed the Twin Towers. It is absolutely scurrilous lies and it is hate filled, but that has been seen by millions of our young people and they seem to be lapping it up.

21. Commenting on the UN report, the Secretary-General, António Guterres, said, “The report shows how intimately linked its denial is to other forms of online violence, including those rooted in racism, misogyny or xenophobia. Antisemitism, Holocaust denial and distortion, and other forms of religious bigotry and hatred are a seismograph. This report is an urgent wake-up call that must jolt us into action to pursue truth, remembrance and education, and together build a world of peace, dignity and justice for all”.

22. My Lords, even up to 12 months or possibly even 18 months ago, I thought that education of the Holocaust of 80 years ago, the Shoah, was all we needed to do, but now that we’ve seen hundreds of thousands on our streets calling for a new Holocaust, the destruction of Israel and the extermination of the Jews, I have not tried to do the sums, but looking at those last slides, if we have millions of teenagers getting their news and views from these social media platforms, and those platforms have an average 20% Holocaust denial and distortion of the facts, then we should not be surprised at the current levels of Jewish hate we are seeing in the country.

23. Whatever criticism I may have had of the BBC’s refusal to call Hamas a terrorist organisation, it is nevertheless a more accurate source of news than Instagram and

TikTok. Indeed, in 2019, the BBC published a poll of more than 2,000 people, which was carried out by OpinionMatters, for the Holocaust Memorial Day Trust. This is what the BBC published. “Holocaust Memorial Day: ‘shocking’ levels of denial remain”. 5% of UK adults, out of 45 million people, do not believe the Holocaust took place at all, and one in 12 believe its scale has been exaggerated. 45% of those polled, representing 20 million people, said they did not know how many people were killed in the Holocaust. 19%, 8.5 million people, believe that fewer than 2 million Jews were murdered, and 5%, 2.2 million people, believe there was no Holocaust at all. My Lords, that’s why the 6 million figure should be stressed time and time again.

24. This is how it is relevant. The 22 gaps between the 23 fins apparently represent the countries from which Jews were taken to be exterminated. I submit, my Lords, that that is completely irrelevant and a confusing number. Why not one fin representing the country that did it, Nazi Germany? Why not 20 fins, the number of concentration camps, or why not six fins, the number of large extermination camps? Many numbers could be chosen, my Lords, but all are irrelevant except, in my opinion, 6 million. 6 million Jews murdered, and I repeat, over 2 million people in this country denying that it ever happened, and over 8 million believing that only 2 million were murdered. Any physical memorial, I strongly believe, needs to represent that 6 million figure time and time again, and not some other obscure number no one has heard of before. Six million Jews murdered.

25. How can that be done? We all saw the magnificent memorial to the First World War at the Tower of London, and it was extraordinary: 888,246 ceramic poppies at the Tower of London, commemorating the dead of the First World War. That certainly got the message across about that extraordinary loss of life. Is that a concept we can represent symbolically in a Holocaust memorial? I don’t know. The most moving and simple one I ever saw was in Budapest on the banks of the Danube. It is 60 pairs of iron shoes, depicting where up to 15,000 Jews stood when they were shot in the back of the head to then fall into the river.

26. I am not an architect, but I saw this building online. It is in Gorlice in Poland, and I think it is quite a magnificent memorial. As colleagues will see, it is in a Star of David shape, which makes it relevant to Jewry. My Lords, I would ask you to imagine this in Victoria Tower Gardens, possibly as a 15-foot-high bronze, and say about 40 feet wide.

That is in keeping with the size of the Buxton memorial. It would give 12 faces, on which each one could have, say, half a million small bumps or indentations, each representing a murdered Jew. That is 6 million all told. Alternatively each of these 12 bronze pages could tell the story of the Holocaust, the concept by Hitler, how it started, the gathering of the Jews, the countries they came from, the list of extermination and concentration camps, and how it all ended. Alternatively, my Lords, I would settle for just six fins, where each side of the fins could have the same story I have outlined above, or bumps or indentations symbolising 6 million.

27. My Lords, where will children or people, when they come to this memorial, take their selfies? Like every other monument in the world, they will not do it in the learning centre but outside at the monument, so if this proposed structure goes ahead, then people and children will go back with a photograph and a key message about 23 fins, and I submit that is utterly irrelevant. Unless everyone gets the message about 6 million Jews murdered and the calls for a new Holocaust, then this project in Victoria Tower Gardens will fail.

28. That is why, my Lords, I believe an amendment is needed, and I would seek to move an amendment that any design for a monument in Victoria Tower Gardens must illustrate somehow 6 million Jews slaughtered in the Shoah, and a symbol of Jewishness like the Star of David.

29. I also submit, my Lords, that a bigger, better 24/7 learning centre is essential. A centre for learning is essential, but this one is an out-of-date idea not in keeping with the way young people learn things now. It is also about a third of the size suggested by the Holocaust Commission. It falls between two stools. It is far too big for the little gardens, but it is far too small to do a proper job as a learning centre. Way back in 2015, the eminent members of the committee believed that only a physical building could undertake the learning role. However, it is an irrelevant, old-fashioned concept, which will fail in its objective of teaching young people about the Holocaust.

30. Covid changed the whole way we work and learn. During Covid, almost 90% of school lessons were online. Even after Covid, we still have online learning, and that is increasing exponentially. Learning things visually from computers and iPads is a whole new way of education, and if we are to make any impact on anti-Jewish hatred, then we

have to fight back using the same technology that is spawning it.

31. I will give an estimate of the number of young people who might visit an underground learning centre, or any learning centre, in Victoria Tower Gardens. My Lords, there are approximately 12 million schoolchildren aged five to 18 in the UK. If each child were to make one visit in their school life, that is 1 million per annum. In 2019, 40,000 schoolchildren visited our parliamentary learning centre in the gardens. Even if that increased to 100,000, then only 8% of all schoolchildren would visit the centre. Statistics suggest of course that children closer to London are more likely to make the journey to London, and a physical centre in London will not reach over 90% of our schoolchildren, especially those far from London.

32. That is why I suggest an old-fashioned, physical building will fail, because the proposed underground learning centre will not be high on the list of places children and tourists will want to visit. It will not have any physical artefacts, unlike the Imperial War Museum which I visited last year. That has physical things worth going to a museum to see, but I understand that the learning centre here will just have posters and the same videos which are all online and the kids can see better on their iPads. Of course, some schools in places where the Jewish hate may be the greatest may never visit in any case. Therefore, I suggest that only virtual and online education can get across the message to millions of children, rather than just the tens of thousands who might visit London.

33. What will the learning centre show? This is from slide 38, which the promoters showed to the Commons committee, and which said the exhibition would be “a powerful audiovisual exhibition which will set out the events of the Holocaust from British perspectives, historically, politically and”—I cannot remember what else it said. My Lords, why would young people, or anyone else for that matter, want to visit a building and see the things they can get better on their mobile phones or on their iPads? How many busloads of children will come from Scotland or Wales, or even the regions of England, to look at a video show with nothing new on it? How many would visit the Natural History Museum, the British Museum, the Churchill War Rooms, or even this august establishment if all they could see in our magnificent buildings were some posters and videos?

34. I believe that we need more funding and education for all, in addition to whatever

may be built underground in Victoria Tower Gardens. I believe it is vital to extend education on the evils of the Holocaust and the calls for a new Holocaust far beyond the thousands of schoolchildren – I am concentrating on schoolchildren – or other people as well who may visit in any year. That is why I will seek another amendment to the Bill to increase funding starting at about £50 million per annum, for 24/7 online education about the Holocaust and a constant rebuttal of Jewish hate messages.

35. As the UN Secretary General said, we need education. He did not quite emulate Tony Blair’s “education, education, education”, but he did stress that education on the Holocaust was essential.

36. My Lords, let us also build something better which will work. The limited proposal for the video learning centre was out of date in 2015. Why should anyone visit a building with nothing more to show than what is online? I submit it is utterly irrelevant now, since the future of Holocaust education is digital, virtual and online, and it has to be able to address continually this new phenomenon of the huge rise in Jewish hate.

37. This is from *The Times* of Friday, December 29, 2023. “Antisemitic hate crime soars since the start of Israel-Hamas war. The British Transport Police recorded an almost 1,000% increase in antisemitic offences in the month after 7 October, freedom of information data has revealed, and Islamophobic offences have also risen since the Hamas attacks. The figures obtained by the PA news agency show that Greater Manchester Police recorded 74 antisemitic offences in the month following the Hamas attacks, compared with 15 for the same period last year”.

38. My Lords, the summary of my proposals to the committee are that we need a uniquely British monument in Victoria Tower Gardens, which incorporates a message about 6 million Jews murdered and has a Jewish element to it, and that would require an amendment. I also want to see an annual index-linked budget, starting at about £50 million, for continuous and updated teaching on the 1940s Holocaust—well, starting in 1938—and countering current anti-Semitism sweeping the United Kingdom, and I think that annual budget would require an amendment to the Bill as it currently stands.

39. The benefits of online learning cannot be overstressed, my Lords. Most young people, as the statistics I have shown you show, get their news and views from social

media. I find that appalling, but that is the world in which we live, and only a fraction of schoolchildren would visit a physical building in London. The physical building will have nothing new to see which cannot be better seen online. Online can reach every person in the UK 24/7. Online can be updated daily, counteracting new lies about the Holocaust and Jews, and thousands of schools in the UK would not be able to make the journey to London.

40. I am almost finished, you will be pleased to know. All of us in this United Kingdom Parliament, my Lords, have a duty to get this right. It was British soldiers who found and liberated Belsen, and here is the sign they erected: “100,000 unburied dead were found here. Another 13,000 have since died, all of them victims of the German new order in Europe, and an example of Nazi Kultur”.

41. My Lords, this was a prophetic message from a military observer in 1945. He said, “Why did I visit Belsen? Given the opportunity, I went because I know that in a few years’ time only, clever people will say, ‘Nonsense! Don’t you realise that was just wartime propaganda?’ I shall know how to reply. And the more who do the better for the peace of the world”. My Lords, that was his letter, *Belsen Concentration Camp, the Final Degradation, by a Military Observer, April 1945*, and was he not absolutely right, when we now see the current levels of Holocaust denial?

42. My Lords, this is the result of hatred of Jews in 1945 in Germany, and, my Lords, if you think that photo is bad, then you ought to see the film of them dragging the bodies into the pit and listen to Richard Dimbleby’s account on the wireless. I should say just as an aside, Lord Hope, that the famous Bill Millin, piper at Normandy beaches, is quoted as saying that the Highland Division were amongst the first in there at Belsen, and it was Gordon Highlanders who were there, not the Seaforth on this occasion.

43. My Lords, I conclude, this is the hatred of Jews in 2023. My Lords, we need something better than what is proposed by Mr Adjaye if we are to educate our people to stop it. Finally, my proposals, I believe, will tackle both the original Holocaust and the calls for a new one, and I commend them to the committee, my Lords. Thank you.

44. THE CHAIR: Thank you very much indeed, Lord Blencathra, for that series of slides. We do have those in written form as well, so we will be able to study them. I believe Lord Hope has a question.

45. LORD HOPE OF CRAIGHEAD: Can I take you back to slide number one, please? Could you tell us a little bit more about your journey to work from your house to the House of Lords? Which gate do you come through, which path do you use, and which gate do you come out of?

46. LORD BLENCATHRA: Thank you very much, Lord Hope. I do it every day. I did it this morning, and hopefully going home this afternoon, not in darkness, I will cut through it again. I come down Page Street on to Horseferry Road, and I have to come up Millbank for about 50/60 yards, and then cut in the very first gate into Victoria Tower Gardens near the Lambeth Bridge end. I use that because the park is infinitely nicer to go through than up Millbank up the pavement, and because my wife taught me this going through the park one day. She said, "Stop and listen". I said, "What? What?" She said, "Can't you hear the birds here? The blackbirds call louder than up in Penrith, because of the noise of London", and because there is a bit of nature in the park, I like cutting through it. I drive up in my chair through the park every day and come out the gate at the top by the monument there.

47. LORD HOPE OF CRAIGHEAD: The north gate.

48. LORD BLENCATHRA: The north gate. I do it every time, except on occasions when the gates may be shut for some event or whatever.

49. LORD HOPE OF CRAIGHEAD: I think I am right in saying, and I will be corrected if I am wrong, that the path that you use from the south gate to the north gate in the gardens itself may not be accessible, at least during construction.

50. LORD BLENCATHRA: That is correct. I anticipate that will be the case. From the plans I have seen, they may try to have some route for people to get through, but I do not think that path will be available. It may not be available in my wheelchair. I never go round by the Buxton monument. That is a detour round by the riverside, which I do not need to do. I just enjoy using that shortcut. Well, it is not a shortcut. It is probably five or six yards longer, but it is an infinitely more pleasant journey.

51. LORD HOPE OF CRAIGHEAD: You could use that route as an alternative during construction, because we have been assured that the riverside path will be kept open.

52. LORD BLENCATHRA: Yes, I think that has level access along the riverside path, but that is a huge detour round, which I would resent doing because the riverside path does not take one past all the bushes and the wildlife on the Millbank side of the park. It is a small point.

53. LORD HOPE OF CRAIGHEAD: Forgive me for interrupting you. What about using the Millbank pavement instead of going into the garden?

54. LORD BLENCATHRA: Yes, that can be done. Yes, I am not denying I will be capable of getting to the Lords. Of course I could use the Millbank pavement either side. Well, on the northern side at the moment there is construction, and with all the bicycles parked there it is very difficult, but, yes, one could use the Millbank pavement as an alternative route. It is just infinitely less pleasant. That is not an overwhelming reason to reject the proposal, of course, but it is just a small justification for coming through the park.

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

56. THE CHAIR: Does anybody else have any questions?

57. BARONESS SCOTT OF NEEDHAM MARKET: Yes, just very briefly. Obviously, the purpose of this committee is to look at the private interests of people affected, and we agreed that you had a private interest as a local resident. You did not put anything in your petition as to any mitigating measures which this committee should consider if this proposal is to go ahead as planned. Is there anything you wanted to say on that?

58. LORD BLENCATHRA: I think it would be difficult to put in mitigating measures. As I said in my submission, if this thing turns out to be a damp squib and hardly anybody goes to it, it will not affect me. If it turns out to be a marauding success so we have dozens of buses every day, then the parking will not be on Millbank. The parking will likely be possibly on Horseferry Road or in my street, where even through the week there are some vehicles parked there, but there are still spaces. That street will become crowded out.

59. If then the centre becomes controversial and demonstrations arise, that will also

affect the property values in the area, and I think with parking, my street packed full of parked cars and buses, and with the possible threat of violence, then solicitors are going to advise against purchase, so I could be affected that way. That is, if it becomes as successful or as possibly frightening as people suggest. As I say, if it is a damp squib, I will not be affected.

60. I am not sure how you could make an order that buses could not drop. Where would buses stay if they drop off their schoolkids and others at the gardens? They would have to drive quite a long way away to park. I am not sure what you can do to mitigate measures if the place turns out to be a centre of great controversy and demonstrations and riots. I am not sure how you can mitigate against that.

61. BARONESS SCOTT OF NEEDHAM MARKET: For clarity, the amendments to which you referred in your presentation, which are – if I may describe them as – public policy focused, are amendments you would intend to table when the Bill goes into its public Bill stages.

62. LORD BLENCATHRA: I would seek to do so if they are in order. Yes, I would seek to do so. I have no amendments relating to my property or the street. I have none at all on that.

63. BARONESS SCOTT OF NEEDHAM MARKET: Thank you.

64. THE CHAIR: Anyone else? Thank you very much. Mr Katkowski, do you want to respond to that?

Submissions by Mr Katkowski

65. CHRISTOPHER KATKOWSKI KC: Thank you, my Lord. If I may, leaving aside the matter of Sir David and who is and who isn't the architect and designer of the memorial, which I will come back to later on, the key themes of Lord Blencathra's submissions to you and case made to you are reflected virtually word for word in the record of the evidence he gave to the planning inspector at the planning inquiry. For your note, in appendix 4 to the inspector's report, as you might or might not have seen already, the inspector faithfully – it is not really a summary – sets out in full the evidence given by various parties including Lord Blencathra at the inquiry.

66. Lord Blencathra's pages in the inspector's report are pages 337 through to 341 inclusive. All of the points about the design being inappropriate, the design recycling Ottawa, the design not being properly representative of the Holocaust and so on and so forth, all of those points were made at the inquiry. They were all put to the designer and architect of the memorial who, for the umpteenth time and for the record, was not Sir David. The architect and designer of the memorial was Mr Bruno, now deceased, an Israeli-Jewish architect who gave evidence at the inquiry and who was cross-examined literally for days on all of these various points, all as recorded in the inspector's report.

67. Moving on, plainly, if we look at the petition, if you would be so kind in due course, it is petition 18, and paragraph 69 draws together the points that Lord Blencathra wishes you to take on board potentially by way of amendments, and at the bottom of page 10, paragraph 69, Lord Blencathra indicates first of all that there should be a physical monument in a different location. Plainly, out of scope. Secondly, top of page 11, that there should be an online learning centre, in other words in place of the physical learning centre that is proposed. Plainly, out of scope. Then we come to items about budgetary matters, spoken to very eloquently and passionately by Lord Blencathra, that there should be an annual budget starting at £50 million a year for online learning in relation to the Holocaust and, at item (d) in paragraph 69 of his petition, he says only that that would require an amendment to the Bill as it currently stands.

68. As has rightly been pointed out, plainly these are all matters of public policy. They would require an amendment to Clause 1, which is the expenditure clause of the Bill. You will have seen that Clause 1 is set out in italics in the Bill. You will understand why that is. It is italicised because of the custom and practice that one italicises clauses which are required to be supported by a money resolution. This is plainly all public policy. It is nothing to do with the private aspects of the Bill. It is nothing to do with this committee's business looking into the hybrid nature of the Bill. It is plainly completely not a matter, with great respect, for this committee.

69. In fact, it is not a matter for this House either, by custom and practice. It may very well be that the committee has considerable sympathy with the very eloquent and passionate exposition that has been given, and you might or might not want to say something in your report about this idea of having money made available for online learning in relation to the Holocaust, but it is not a matter which this committee can

progress by way of any form of amendment to Clause 1, nor in any other way, because it involves matters which would need to be supported by a money resolution.

70. Another amendment has been added, so it is not in the petition but has been added in the slides. I question the ability, frankly, for such matters to be added in this way, but in any event the point has been made by Lord Blencathra that there should be a different design for the memorial. Plainly, that matter is entirely for the planning process. It is not a matter for this committee at all, and with great respect, it really is not for this committee to seek to lay down design rules or parameters or principles for a new and different memorial. So, my Lord, those are the submissions I wish to address you on and make to you.

71. THE CHAIR: Thank you very much. Lord Blencathra, do you want to come back on anything?

72. LORD BLENCATHRA: No, my Lords. No.

73. THE CHAIR: Do members of the committee have any questions of anyone? We are extremely grateful to you, Lord Blencathra. As you know, this is a public hearing. You can stay or go as you please.

74. LORD BLENCATHRA: Thank you, my Lord.

Lord Carlile of Berriew

75. THE CHAIR: The next person we are going to hear will be Lord Carlile. Lord Carlile, since you last gave evidence to us, which was in relation to general scope and before that on right to be heard, you put in a new petition, and you have heard from the committee clerks about that, which leaves the only other new issue, in addition to what is in your original petition, of the Ram doctrine. We are reserving our position on whether the Ram doctrine is itself a new ground within Standing Order 111, and we have not made up our mind about that, so we would like you to proceed at this stage with your submissions on that without prejudice to our ultimate decision on whether it is admissible or not.

Submissions by Lord Carlile of Berriew

76. LORD CARLILE OF BERRIEW: Thank you, Lord Chairman. I apologise for trying the patience of the committee by making an additional legal submission since the last meeting. I was not aware of the potential point when I last addressed the committee. It was drawn to my attention by a colleague and, as a result, I felt that it was right to place it before the committee, and I will try to deal with it as briefly as is reasonable. Also, my Lords, I am aware of the position with my petition, and I will not address matters which were not included in the original petition, though I did offer an amended petition because I thought it might develop the points I was making helpfully. I will also, if I may, make a submission in relation to security issues, as set out in my original petition.

77. THE CHAIR: Yes, and we are very grateful to you, may I say, for the work you did on preparing an amendment.

78. LORD CARLILE OF BERRIEW: I also supplied to the committee, at your request, Lord Chairman, an example of possible amendments to the Bill relating to security. I did not run those past the Public Bill Office because it did not seem to me opportune to do so, but at least that gives an indication of the sort of amendments that I believe could be tabled and would be permitted to be tabled in relation to security. If I may, I will start with the Ram doctrine submission, and I should say that I received a response from the promoters, albeit at about 4.30 yesterday afternoon, but I have taken it into account and I will comment on it, and Mr Katkowski may have some responses.

79. My Lords, Clause 1 of this Bill does not provide authority for payment for a Holocaust Memorial and Learning Centre. The legal authority for payment, at least for payment which would have to be made in another Session or another financial year, can only come from the relevant appropriation Act. That may well be why parliamentary counsel, when drafting the Holocaust Memorial Bill, did not call it the Holocaust memorial (Victoria Tower Gardens) Bill, or the Victoria Tower Gardens (Holocaust memorial) Bill, or something of that kind. Indeed, I would submit to your Lordships that that is why Clause 1 refers to “any land”, not the land referred to in Clause 2.

80. I submit also that Clause 1(2), “expenditure incurred under this section is to be paid out of money provided by Parliament”, states the obvious but it cannot bind a Government, the Government or a future Government, for future years. If you look at

paragraph 12 of the response to my submission, which I hope you have available, it is the penultimate paragraph: “Furthermore, and in any event, the promoter submits that if Lord Carlile’s submissions on this issue were to be accepted by the committee, this would in effect be allowing petitioners to attack the principle of Clause 2 of the Bill—which clearly envisages the construction of a HMLC specifically in VTG, not simply on ‘any land’—by the back door”.

81. I am left perplexed, I think is a fairly neutral word, by that response because the Bill refers to “any land”. I do not believe that your Lordships’ House generally will understand why this committee, if that is what it does, does not allow a representation such as some of those made by my noble friend in relation to the design and nature of the establishment to be provided. I do not absolutely agree with Lord Blencathra on every point he made, I have a slightly different view, but I think that is out of the scope of the submissions I can make today. Paragraph 12 of the response contradicts Clause 1 of the Bill. It claims that “any land” means only Victoria Tower Gardens. What is the House to make of that assertion in relation to Clause 1?

82. Also, the response wholly fails to address the point made in paragraph 4 of my submission. Paragraph 4: “The effect of the provisions quoted purports and appears to allow the SoS to incur the expenditure at any time after the coming into force of the Act, as provided by Clause 3(2).” My argument is not merely founded on the Ram doctrine. I will come back to the Ram doctrine specifically in a moment. The response totally ignores the helpful explanation at least of persuasive authority contained in the *Cabinet Manual* of 2011, which I attached to my submission.

83. My understanding is the *Cabinet Manual*, I think drafted by Lord O’Donnell, is still in force at the present time. It is the current *Cabinet Manual* and it explains the propositions in my submission at paragraph 6, when I recognise that the Ram doctrine does not have a force of law, but in practice and in the present context it provides a continuing and clear principle that the inclusion in a Bill of the power to incur expenditure in the future does not form the statutory authority for the payment of the expenditure concerned and that legally they amount to no more than an expression of intention, because no Parliament is able to bind its successors or even itself to vote money in future years. Statutory authority for the payment of expenditure out of moneys provided by Parliament must be and can only be given year by year by means of the

votes and appropriation Act or Acts.

84. What I mean by that is, and I use an analogy, that Clause 2 of the Bill, the clause that deals with Victoria Tower Gardens specifically, is the equivalent of a letter of wishes in a will. It may express the hopes and details of the testator, as it were of the promoter, but the executors, the Government later, are not obliged by law to follow it, and I draw your Lordships' attention to paragraph 9.3 of the response in which the promoters very concisely summarise the point I was making, that the expenditure concerned amounts to no more than an expression of intention, though I would say an expression of a wish.

85. I noted when I was here last that the committee had the advantage of the presence of a very well-regarded and senior counsel, who presumably is involved in advising the committee in some way, and I would strongly hope that the committee would seek advice, either from him or from someone who has similar knowledge and experience in relation to the matters I am referring to.

86. I turn next to the *Cabinet Manual* of 2011, paragraphs 3.24 to 3.32, which make clear why I say that the Ram doctrine is applicable. If your Lordships turn to paragraph 3.25, if you have it, it demonstrates what I mean. Paragraph 3.25 is headed "Powers granted by Parliament".

87. THE CHAIR: Could you just wait one moment while I locate the *Cabinet Manual* document?

88. LORD CARLILE OF BERRIEW: Yes, of course. I did attach it to my submission.

89. THE CHAIR: I probably printed it. Do you have this?

90. LORD HOPE OF CRAIGHEAD: I do not have that.

91. LORD CARLILE OF BERRIEW: I was going to read out the relevant part anyway.

92. THE CHAIR: Does anybody have this document? For some reason or other, I cannot explain why, none of us has the document, so I think it would be useful, if you are going to rely on it, to send it in subsequently.

93. LORD CARLILE OF BERRIEW: I am sorry; I did not hear you, your Lordship.

94. THE CHAIR: None of us has this document you are currently referring to. I cannot explain why. I think if you are going to rely upon it, it would be helpful if you could just send the appropriate page to us.

95. LORD CARLILE OF BERRIEW: Of course.

96. THE CHAIR: Thank you.

97. LORD HOPE OF CRAIGHEAD: If you can read it out, it will go into Hansard also, and we can pick it up there as well.

98. LORD CARLILE OF BERRIEW: Yes, and it was enclosed with my submission in the same file, so it is there. What I will do is I will read, slowly but not too slowly, the relevant parts. I know your Lordships will follow it very clearly and I am not going to read large parts of it, and then refer back to why it is important. Paragraph 3.25 on page 24 of the *Cabinet Manual*, which was approved by David Cameron, incidentally – he wrote the foreword – and it was, as I said, written by Lord O'Donnell, Gus O'Donnell as he was then, reads as follows, paragraph 3.25, page 24: “Many Acts of Parliament grant powers to Ministers or place statutory duties on Ministers. Normal practice is that the powers and duties involved in exercising continuing functions of Ministers (particularly those involving financial liabilities extending beyond a given year) should be identified in legislation”, and there is a footnote referred to, footnote 15, which refers to HM Treasury (2011), *Managing Public Money*, annexe 2.1, Public Accounts Committee concordat 1932, and that is available online.

99. Paragraph 3.31 is headed “Inherent or common law powers”: “Ministers’ functions are not limited to those authorised by statute. A Minister may, as an agent of the Crown, exercise any powers which the Crown may exercise, except in so far as Ministers are precluded from doing so by statute and subject to the fact that a Minister will only be able to pay for what he or she does if Parliament votes him or her the money”. This is a summary of what is known as the Ram doctrine. If I may say so, it is a perfect summary of the Ram doctrine, because it is a great deal shorter than the Ram doctrine and says it very clearly. It is of course entirely consistent with the Ram doctrine. Do your Lordships have a copy of the Ram doctrine? That was included too.

100. THE CHAIR: No. It is possible, for some reason or another, the clerks did not receive the attachment, so the answer to that is no.

101. LORD CARLILE OF BERRIEW: They were not attachments. It all came in one file.

102. THE CHAIR: Anyway, we do not have them.

103. LORD CARLILE OF BERRIEW: Sorry, I was being pedantic in saying that, but if the submission arrived, so should everything else. Anyway, I would simply draw your Lordships' attention to the last paragraph on the first page, which continues on to the second page, of the Ram doctrine, and as you do not have it in front of you, I think I should read a small extract from it. "For reasons explained below in paragraphs 3 to 7 of this memorandum, this question"—which is about the legal position of Ministers—"has become bound up with that of expenditure and it is sometimes thought that a Minister's functions are limited to those for which he has been expressly authorised by statute to incur expenditure".

104. Now a very important statement. "This is an inversion of the true position, which is that although a Minister may do anything which he is not precluded from doing, he will only be able to pay for what he does if Parliament votes him the money". I emphasise those words. "Nevertheless in statutes conferring statutory powers on a Minister it is common to find provisions to the effect that the expenses incurred by him in exercising them shall be defrayed out of moneys provided by Parliament". Exactly what happens here.

105. "Such provisions are inserted for two reasons. First, for the purpose of making plain the intention that such expenses shall be paid out of voted money and not out of the consolidated fund and, secondly, for the purpose of showing that what is contemplated is a permanent annual charge. Moreover, it is also convenient to insert such words in a Bill so that they may be italicised in order to show what portions of the Bill are required to be supported by a money resolution. It is, however, important to appreciate that such provisions as these do not form the statutory authority for the payment of the expenditure concerned and that legally they amount to no more than an expression of intention, because no Parliament is able to bind its successors, or even to bind itself to vote money in future years. Statutory authority for the payment of

expenditure out of moneys provided by Parliament must be, and can only be, given year by year by means of the votes and the Appropriation Act”.

106. So there we have, in my submission, a clear declaration that Clause 2 of this Bill does not have the effect which the promoters think it has, because they cannot bind Parliament to provide the money which the Secretary of State is allowed to spend under Clause 1(1). That dramatically, in my submission, changes the scope of this committee, because if that is an otiose provision, albeit one that is added as a piece of statutory tautology but nothing more, then it does not really take the Bill any further, because there still has to be a vote under the relevant appropriation Act for the money to be paid at a later stage. It is a wish.

107. What is left in scope? Well, what is left in scope is the issue of whether that money should be paid, not necessarily for the specific locus in quo, Victoria Tower Gardens, but whether the money should be paid for a Holocaust Memorial and Learning Centre. If so, that brings all the issues raised by my noble friend, Lord Blencathra, all the issues raised by my noble friend Baroness Deech, sitting to my left over there, and all the issues raised by me in my original and supplemental petition. Those, my Lords, I would respectfully submit are exactly the issues that Parliament is interested in hearing the Select Committee’s view about on the basis of the evidence you have heard.

108. Going back to the response by the promoters to my submission, the reference to the Baldwin concordat is puzzling. The Baldwin concordat predates the Ram doctrine and greatly predates the *Cabinet Manual* of 2011. The Baldwin concordat, in any event, does not, I would suggest, contradict my proposition. The promoter’s failure to address my point’s inclusion in the *Cabinet Manual* seems to me to either have avoided a point that needed to be answered or a tacit recognition that there is a basis to what I am contending.

109. As a result, what I do contend is that Clause 2, though your Lordships may decide it is in scope, is only part of what should be in scope and what should be included is a consideration of whether other land is more appropriate and also in scope, and indeed, though I am sure your Lordships will have realised that this was a little bit of a device that I used, the point about whether it should be underground or not, because, if the learning centre was on one of the other sites which I and others have in mind, there

would be no need to go underground at all. There would be different physical characteristics. I would submit that the response to paragraph 10 fails to address the appropriation Act point.

110. I draw your attention to the last sentence of paragraph 10. “Whilst it is true that the flow of money will come from the appropriation Acts, without the statutory spending authority provided by Clause 1 the Government would not be acting consistently with this important and accepted rule on managing public money”. I am slightly puzzled by what is meant by that sentence, but it does seem to me to recognise that this Bill does not have the power to provide the money without further provision through the appropriation Act procedure and therefore consistent with the Ram doctrine and the *Cabinet Manual*, particularly the sections which I have extracted.

111. I turn then back to the response, paragraph 12, to repeat that the reference to VTG being the only land on which this centre could be built is just incorrect in relation to the approach that this committee should take to what is in scope in this proposed statute.

112. Let us put this, my Lords, into the real-world context. When this committee has finished its deliberations and reports to your Lordships’ House, my noble friends present here today, I and many others will be tabling amendments which go way beyond what has been discussed and ruled in scope so far in this committee, and that cannot be controlled. I think I heard Mr Katkowski grunting, if you will forgive me for using that term, in acceptance that that will happen, and of course it will happen, but the House needs the help of this committee. If I am correct about the Ram doctrine and the *Cabinet Manual*’s consequences, it will have that help from this committee, because there will be a broader consideration of Clause 1 of this Bill, including location. I would suggest to your Lordships that the House will be perplexed by the attitude of the promoters and also by the decisions of the committee if any other conclusion is reached.

113. I am now going to turn, if I may, unless your Lordships wish to ask me any questions on that submission, to the security aspects.

114. THE CHAIR: I think I will ask the members of the committee if they do have any point they want to raise on what you have said so far. Does anybody want to ask questions on what has been said on this issue so far by Lord Carlile? We will wait to hear what Mr Katkowski has to say.

115. LORD CARLILE OF BERRIEW: I will now turn to my petition. My petition explains the basis of my interests, and I absolutely confess to having a very strong emotional and personal connection with this proposal through my family's past, but I have tried to be as objective as I can be in all the circumstances. The approach I am taking, for today's purposes anyway, is as a person who happens to be—and I hope this is not a boast—reasonably expert on relevant national security issues. I would point out that, in my nearly 10 years as the Independent Reviewer of Terrorism Legislation, I was DV vetted and continued to be so vetted for several years after I ceased to be the independent reviewer in 2011. Nobody has done as long a period as independent reviewer, so far at least, as I did.

116. After 2011, I was consulted on several issues by government and was for a time the independent reviewer of national security in Northern Ireland, after 2011 and into the mid-teens. Also, in my professional life, I have kept up my knowledge on relevant issues. I act as a private sector consultant on matters relating to security, notably and relevantly, I think, arising from events in the Middle East.

117. The security threat, in my time, spending a great deal of my working life looking at these issues, shifted. When I was first telephoned by the then Home Secretary on actually the day of 9/11, but earlier in the morning, I was told by Mr Blunkett that it would take me about 10 days a year and it was all about Northern Ireland and things were getting better. It changed at approximately lunchtime that day. That afternoon, I was told by his private secretary that they thought it might take me 40 days in the coming year. In that first year, it took me 186 days and a similar commitment for the rest of the 10-plus years that I did.

118. Also, in my private sector life, in which I started a consultancy with the former chief of MI6, Sir John Scarlett, I have been heavily imbued in advising on security matters, including in the Middle East. I believe that I have a sound knowledge of the dangers presented by the many terrorist groups emanating from the region.

119. What has happened since 9/11 is that we started with Northern Ireland. Then we went on to al-Qaeda. We had barely heard of ISIS. Then we went on to ISIS. Then we went on to all the allies of ISIS and the offshoots of ISIS, and then we had what is now, I believe, being called 7/10, the terrorist outrage committed by Hamas in Israel, and the

responses by the Israeli Government. This is a developing picture and what was said about security at the planning appeal is now well, well out of date.

120. I am aware of the frustration, in particular, of those who have attempted valiantly to mediate the situation in the Middle East. We had here a speech two days ago to both Houses by the Emir of Qatar and I am very closely aware of the extraordinary mediation work that he and his Government have attempted to do and the understanding that they have in relation to the Middle East and terrorism. My interests, which include doing some work with the Qatar Government, are declared in the register.

121. I also hope that I am fully informed, but more I hope that the committee is fully informed, of the proposed new security measures for the curtilage of the Palace of Westminster and beyond. They illustrate the risks. What I was told in a briefing that I was generously given through the good offices of Lord Khan of Burnley, the relevant Minister in the House of Lords, is that half of Parliament Square will be closed, that the only way into the Palace of Westminster will be from the Lambeth Bridge end, that from Great Peter Street to the House will be closed, except for a lane that will allow Members and staff to enter Parliament from that end, and all traffic will have to come along that lane and enter Black Rod's garden, the Peers' car park, or the carriage gates, which will have to be approached from that end.

122. I do not claim that those security arrangements are all a result of the Holocaust memorial proposal, but it is part of the picture. What we are going to have is, first of all, the illustration of the security risks that those, no doubt to be well-publicised, traffic arrangements will produce when they occur in three years' time, as I am told the timescale is. Also we will see that the belief of the need for the extent of security required by this building has increased enormously. My submission is that anybody who knows this world, this part of the world, this part of the political world internationally, will recognise that what has happened since 7/10 has greatly increased the security risks of placing particularly a building, whether it is underground or overground, in Victoria Tower Gardens.

123. My own opinion is that, if a sculpture was placed in Victoria Tower Gardens, that would not present such a risk because it would not contain people. It would only contain passing visitors, rather like the Burghers of Calais. If there were a Holocaust Memorial

and Learning Centre there, whether it contained the very limited provisions of the proposed centre, or the much more extensive provisions of one that could be created, in my view that would present great risks to the public visiting it and also to Parliament because of its juxtaposition.

124. My noble friend Lord Blencathra mentioned an example in Budapest. I would strongly recommend looking at the extraordinary—just looking online; it takes two seconds to see it—centre which has been built in Warsaw, in the so-called POLIN centre, as a memorial and learning centre to the Jews who died in the Holocaust, who sadly included some of my very close relations, including one pair of grandparents and my beloved sister's birth mother.

125. I submit that recent events in Israel/Palestine simply cannot be ignored, for the reasons given by Lord Blencathra when he showed photographs of the demonstrations which we have all encountered if we have tried to move around London at the weekends. They have heightened the danger of action against Jewish interests in London and, sadly, may have diluted public support, in my view, for placing the proposed centre so close to the Palace of Westminster. The promoter, in their recent evidence, has merely referred to security guidance provided before the planning inquiry. I suggest that the committee should insist, if you have not already seen it, on an up-to-date assessment from all the security interests involved. I met seven officials in Lord Khan's room in the Home Office. I request the committee to obtain evidence from the various relevant security authorities including, but not exclusively, the director of security in Parliament who is, by the way, very good, very able and represents Parliament in that context.

126. THE CHAIR: Are you suggesting we have power to do that, to call for witnesses?

127. LORD CARLILE OF BERRIEW: I cannot answer your Lordship's question. I do not know if you have power, but you can certainly ask. The way I obtained that briefing was I asked Lord Khan in a short letter and I was immediately facilitated such a meeting within 10 days. I would say that, if the committee has not received or does not receive such a briefing, then it is a matter for real concern, because this will be raised. I will raise it, but others too. This will be raised when this Bill goes back on the Floor of the House.

128. THE CHAIR: That is fair enough, but I ought to point out that we do not have

power independently to call for evidence. All the evidence for the committee must come through those who appear before us, either as petitioners or promoters.

129. LORD CARLILE OF BERRIEW: I am very happy to hear that, if you will forgive me putting it that way, because I am giving evidence which you are hearing from a petitioner. I was merely saying that I would be more confident that you were hearing all sides of the argument if you were to have the same opportunity that I was given. I am frankly astonished that the department responsible for this Bill has not thought of that. It is extraordinary, absolutely extraordinary in my view.

130. LORD HOPE OF CRAIGHEAD: You could have brought witnesses to support you.

131. LORD CARLILE OF BERRIEW: I could, but let us be realistic, if I may say so, to Lord Hope. I do not think witnesses are going to come here if a Back-Bench Member, even of the Cross Benches in your Lordships' House, seeks to call officials from, for example, the Secret Intelligence Service, to give evidence. This is a responsibility of government, not me, and not, if I may say so, Lord Hope, of you either.

132. THE CHAIR: Just to give you chapter and verse on this, Standing Order 124 is headed "Limits of committee's power to hear evidence". It says, "A committee on a private bill shall not, without express authority from the House, hear evidence other than that which may be tendered by any parties entitled to be heard".

133. LORD CARLILE OF BERRIEW: I do not want to sound like a magistrates' court lawyer, but what I would say is, if I am the only witness on this, my Lords, that is the evidence you have heard, and I think that is actually a sound point in this context. My Lords, I believe that all those entering and leaving Victoria Tower Gardens, from the opening of the centre, or very soon thereafter, would have to be subjected—this is my evidence—to electronic and intrusive personal searches, which could not be done quickly.

134. LORD HOPE OF CRAIGHEAD: I am sorry; I am just trying to draw you out a little bit more. When you mention those searches, are these for people who are just walking through to admire the view from the embankment?

135. LORD CARLILE OF BERRIEW: It may be. I am specifically talking about people visiting the centre.

136. LORD HOPE OF CRAIGHEAD: Of course, yes, but they come in through the north entrance, we are told.

137. LORD CARLILE OF BERRIEW: They go into the pavilion, security pavilion.

138. LORD HOPE OF CRAIGHEAD: Yes. The line of route, which we have been told about, is through the north gate for all those who are going to visit the centre, as well as people just wanting to admire the view over the embankment.

139. LORD CARLILE OF BERRIEW: There is a two-tier answer to your Lordship's question. At what let us call happy times, calm times, I would not expect people entering Victoria Tower Gardens to have to be searched personally, but they would have to be searched in the pavilion. The time that would be taken for those searches would be akin to the time it takes in an airport to be searched, because the searches would have to be at least as thorough as at an airport. We all have experience in airports, I guess. Last week, I think because I was wearing my hearing aid, I was required to undergo a detailed search, standing with my arms out, under an archway on the entrance into Heathrow Airport, and holding up the queue behind me.

140. LORD HOPE OF CRAIGHEAD: It is quite important to envisage the movement of people, but you have cleared my mind. You are imagining this queue of people, gathering of people, at the entrance at the pavilion end. Presumably, you are saying that that will expand, because of the crowds, a little wider than just the entrance itself. Is that what you are saying?

141. LORD CARLILE OF BERRIEW: It would. I want to be fair about this, my Lords. We are told that entry would only be by booking in advance, but one has experience of booking in advance. I, for example, went to see some sites in Prague. It was actually during Covid, when there were not so many people about, but Prague did not have any strong Covid rules, but we had to go through queues, nevertheless, to get into some of the main sites in Prague. It would be the same in London.

142. Of course, because they would want to have a reasonable throughput of people,

the numbers are very high, as Lord Blencathra mentioned. The buses would not all arrive just on time. Those of us who spend our lives going to court are notorious for our punctuality, but I suspect that people who are going to see a tourist attraction for which they have a ticket, rather like going to the theatre, do not turn up at the last minute. There are bound to be logjams of people.

143. That is one of the things that will attract terrorists—this goes to the root of my point. They do not want to kill anyone in particular. They want to kill people. When they killed people in the Manchester Arena bombing, they did not go for targeted Members of Parliament or members of the Royal Family. They want to kill people in numbers. That is what they do. All the vile material that is on the internet that prospective terrorists can pick up at the click of a few fingers, if they know what they are doing, raises, in part at least, the idea that what you do is kill people at some symbolic site or other, so there is a real risk that people going to this site could include people who wish to carry out terrorist acts.

144. If it is not such a happy time, if there is reason to believe that there are particular problems that might attract bigger demonstrations and more malign actors, then I do believe that, from time to time, people will have to be searched as they enter Victoria Tower Gardens through any gate at all. I have mentioned the roads partly because this involves an extension of the parliamentary curtilage, effectively, to include Victoria Tower Gardens.

145. LORD JAMIESON: You have actually strayed on to the area I was going to ask you about, because I was slightly confused. The picture you are painting is basically that people who enter the memorial will have to be searched. I will take your expert view on that. As you say, that will probably lead to queues outside that particular area. We can have some issues about crowding and all that. If you are saying that, from your expert opinion, a terrorist would target people—and I cannot really understand why they would be keener to get them just inside the memorial than just outside, so I am trying to work out how far back you go, because at that point you say, “Well, actually we have to check people before they go into Victoria Tower Gardens”, but then you have queues on the pavement just outside Westminster. I am just trying to envisage—where do we stop?

146. LORD CARLILE OF BERRIEW: It is a very sound question, if I may say so, but

the answer is that we stop where the crowds stop. People who wish to commit vile terrorist acts go where there is a crowd, first of all, so they can kill or damage as many people as possible. Secondly, they go where there is a site that may add something to the notoriety—I use the word in its most literal sense—of what they have done. Why do you bomb a pub in Birmingham? Because you can kill a lot of people. You go inside because that is where the people are concentrated. If there is a queue of 50 people waiting for the bouncer to let them into the pub, you might as well explode your bomb where the bouncer is. The psychology of the terrorist is looking for the most dramatic result of their actions. I do happen to know that organisations that have dealings, through necessity, with such people do quite a lot of psychological profiling of them and what I am saying is, I think, supported by such psychological profiling.

147. BARONESS SCOTT OF NEEDHAM MARKET: I understand that the park has been closed for a few days for Holocaust Memorial Day and I am wondering what lessons you have learned, because that could have been a focus. I just wondered if there is anything that we can learn from the experience of having a large number of people for that sort of event.

148. LORD CARLILE OF BERRIEW: I do not think we can learn anything from that particular event because, unfortunately, there is no science predicting where these events will take place. You can take many examples of what may properly or not properly be described as terrorist acts. The incel attack in the West Country was completely unexpected and unpredictable. The London Bridge, the Fishmongers' Hall event—again, not predicted, even though there were significant numbers of people interested in extremism in Fishmongers' Hall at the time.

149. BARONESS SCOTT OF NEEDHAM MARKET: I understand that and perhaps I did not express myself very clearly. I was not in London at the time of that event. I do not know whether it was ticketed or not. I do not know what security measures were in place and I do not know what impact those security measures had, whether people had to queue and so on. That is really what I meant by lessons, if you like, a more practical idea of what happens as a sort of foretaste of what might happen when the memorial and learning centre is there.

150. LORD CARLILE OF BERRIEW: Lessons are learned all the time. I think it was

Judge Mark Lucraft, but I may have the identity of the coroner wrong, but somebody conducted an inquest into the Fishmongers' Hall. Mr Justice Saunders, Sir John Saunders, a retired High Court judge, conducted an absolutely magnificent inquiry into the Manchester Arena attack, which issued three reports, a series, which have no doubt offered many lessons. Every time a terrible event attacks, it usually brings something new on to the scenario list, so it is very difficult to predict these events, particularly since, as is well documented, an awful lot of people who are ideated towards terrorism build their ideation on material they find on the internet and it is very difficult to spot. That is why there is such controversy about legislation about the internet.

151. THE CHAIR: We need to move on, because we still have at least two other petitioners to hear this morning. We have your own qualifications in relation to providing us with evidence on counterterrorism and obviously before that your personal connection, through your family history, with the Holocaust. You have now told us about some of the issues that are likely to arise. I wonder whether we should go to your proposed amendment, if there is anything else you want to say about this, or whether you are content for it to stand. We have all seen it. We have all read it.

152. LORD CARLILE OF BERRIEW: I have just found it again. Yes, the committee asked me if I would prepare an example of a proposed amendment, or examples of proposed amendments. I sat down and started conceptualising the form the amendments would take. It seemed to me that one way in which the matter could be dealt with would be by placing a requirement on the Secretary of State to obtain a suitable report, which would be published before the Act could ever become law.

153. The way I have designed it is that the Secretary of State should provide a report, which he could commission if he wished from the current Independent Reviewer of Terrorism Legislation, currently Jonathan Hall KC, but he might wish to go elsewhere. He would have to provide a copy of the report suitably redacted for national security reasons, which I am afraid is inevitable. One can never have full transparency on issues involving national security, unfortunately, and one has to recognise that as a reality. Something could be produced that met the requirements and, no doubt on Privy Council terms or whatever, senior parliamentarians briefed on the redacted parts, as is common.

154. The Bill would then not be allowed to come into force without a resolution from

both Houses, which would be required to approve the bringing of the Act into force following the report referred to. That would mean that there could be a debate in both Houses in which the contents of the report could be discussed and debated and the Act could not be brought into force until resolutions in both Houses. It did occur to me that there were more specific amendments that might be made, but this seemed to me to be a tidy way of dealing with the problem, whilst leaving the decision as to whether the security provisions were adequate in the hands of Members of both Houses of Parliament, which is certainly what most parliamentarians would like. The resolution would have to be approved in both Houses.

155. THE CHAIR: We have seen this. You may not be able to give an answer to this question, but was this a proposal that you made in your meeting with Ministers, with Lord Khan and with other experts?

156. LORD CARLILE OF BERRIEW: No.

157. THE CHAIR: They have not had any prior notice of this.

158. LORD CARLILE OF BERRIEW: No. I went to the meeting without knowing what they were going to say. Most of the meeting was taken up with what I have described. Maps and images were produced to me and I was given an explanation of the security measures which it was now being proposed should be taken.

159. THE CHAIR: That is when you learned about Parliament Square closing and so on and so forth.

160. LORD CARLILE OF BERRIEW: That was the first time I was given a very clear explanation that two parts of Parliament Square would be closed to traffic and that the traffic in the other two parts would be two-way traffic. I am not an expert on traffic—I do not claim that—but it sounds chaotic to me.

161. THE CHAIR: I think the amendment is clear enough. You want us to amend the Bill in this committee, or is your view that you are going to have to raise it with supporters in the forthcoming formal stages, public hearings, of the Bill?

162. LORD CARLILE OF BERRIEW: I would suffer transports of delight if the committee were to suggest that there should be an amendment of the Bill in this form. If

the committee does not put me into that wonderful state of mind, I will certainly table amendments on the lines of this. I wanted to reply to your Lordship very quickly, so I sat down on, I think, a Sunday morning and did it, and I did not consult other people.

163. THE CHAIR: I think what we might do, and I cannot give any guarantees because it is up to the entire committee to decide, is recommend that the Secretary of State takes note of what is in this amendment, something along those lines, so we at least indicate that we have heard it and that we obviously will highlight the issue of security.

164. You have already, in a sense, dealt with the question of the importance of security before, because the transcript contains from before your analysis of why security has been so important and why things have changed. We have elaborated on that now. We will note that, and we can include that in the report—that matters have changed unrecognisably since 7/10. We can put all of that in. I think you are wise to assume that we would be a pretty bold committee just to take this and put it into the Bill, but we can certainly highlight it, emphasise the issue of security, and say that not enough has been done so far.

165. LORD CARLILE OF BERRIEW: That would dilute transports of delight to a measure of pleasure.

166. THE CHAIR: Alright. Is there anything anybody else wants to say before I turn to Mr Katkowski? Mr Katkowski, you have two—

167. MR KATKOWSKI KC: Indeed, my Lord, yes.

168. THE CHAIR: You have the Ram doctrine and anything you want to say on this proposed amendment.

Submissions by Mr Katkowski

169. MR KATKOWSKI KC: Indeed, my Lord, yes. I was going to say that I will divide my submissions into two parts: first, in relation to scope, in parenthesis, the Ram doctrine, relevant or irrelevant; and, secondly, the security-related issues. Beginning with Lord Carlile's submissions in relation to scope, you have our short note. To put this in a very few words, it seems to us, certainly, that the Ram doctrine is completely irrelevant to the question of scope. The Baldwin concordat or convention does seem to

be more on point in a way which I will explain in a few moments' time, if I may.

170. I want to preface all of this by just saying that the Bill is extraordinarily straightforward, and I must say I am extraordinarily perplexed that it has been so extraordinarily misunderstood by the petitioner. Clause 1, when read with Clause 3, seeks to provide for money to be spent on a Holocaust Memorial and Learning Centre, and for that money to be spent, Clause 3(1), anywhere in England and Wales. Clause 2 is doing something completely different. Clause 2 is seeking to remove the obstruction in two subsections of Section 8 of the 1900 Act, which stand in the way of building, well, anything really, but building the proposed Holocaust Memorial and Learning Centre in Victoria Tower Gardens. Clause 2 only relates to Victoria Tower Gardens, because Victoria Tower Gardens is the only area that is subject to Section 8 of the 1900 Act. I have explained this before and it is all crystal clear from the face of the Bill.

171. With that preface made, the Ram doctrine, as our note explains, does not appear to us to be on point. I will come to the Baldwin convention or concordat in a few moments' time. In footnote 2 on the first page of our note, we refer to this House's Constitution Committee's 13th report of Session 2012-13, which was all about the Ram doctrine. In chapter 3 of that report—we have given you the link, but obviously if you would like us to submit a hard copy, or chapter 3, of the report so that it can be printed off for you, obviously we would do that, but I will just give you some brief paragraph references.

172. These are the conclusions of this House's Constitution Committee in its report on this very doctrine. Paragraph 52, on page 16: the Ram memorandum, as they described it, is "not a source of law, and should not be considered one". You might think that is a pretty straightforward and obvious point. Paragraph 54 on page 17: the Ram memorandum is "not an accurate reflection of the law today", and that is then all explained. Paragraph 60 on page 18: "The description of the common law powers of the Crown encapsulated by the phrase 'the Ram doctrine' is inaccurate, and should no longer be used". Then, at paragraph 65 on page 20 of that report, there is a recommendation that, where government publications refer to the Crown's common law powers, they need to do so, if you like, accurately reflecting modern-day constraints on those powers.

173. I would, with great respect, say one needs to be extremely careful in attaching any significance to the Ram doctrine in relation to matters pertaining to this Bill. I have to say, I do not actually see the relevance of the Ram doctrine in any shape or form to the Bill.

174. I do though, as our note explains, see the relevance of what is called the Baldwin concordat from 1932. That concordat is actually referred to in the Ram memorandum. Once you receive a copy of that, you will see that. That is Baldwin as in the time when he was Lord President of the Council, which preceded him becoming Prime Minister. The Baldwin concordat, as summarised in paragraph 8 of our note, is simply an undertaking—importantly, forgive me, an undertaking given by government, which has been followed ever since, as I understand it—that new heads of significant expenditure that are to be financed out of money to be provided by Parliament through the annual appropriation Acts should be authorised by a specific Act supported by a financial resolution, hence Clauses 1 and 3 of this Bill. It is all very, very simple indeed.

175. One reading of the Ram doctrine—when you get the memorandum you will see this set out there—is that, because of what were then regarded as extensive common law powers of the Crown, the only need one had, if one was a Minister, for authority to spend money was through one of the annual appropriation Acts. The Baldwin concordat or convention adds an undertaking, which has been followed ever since, that, if one intends to spend money, that not only needs to have the authority of an appropriation Act annually, but the ground needs to be laid, if you like, by a specific parliamentary authority through a money resolution, hence Clause 1 and extended to all of England and Wales by Clause 3 of this Bill. That is it. It is extremely straightforward.

176. Nothing in relation to that enables the petitioners to say that, because of the Ram doctrine or anything else, we can then retrofit into Clause 2 some submission that has been made that it is therefore open to you as a matter of scope to say that the memorial and learning centre should be removed from Victoria Tower Gardens and dealt with separately or together somewhere else, because that, of course, is out of scope as it completely counters the principle of Clause 2 of the Bill, which is seeking to remove a statutory obstruction that stands in the way of the project located in Victoria Tower Gardens. That is what I wanted to say in relation to scope.

177. THE CHAIR: Paragraph 12, is that, of your note?

178. MR KATKOWSKI KC: Paragraph 12 of the note is this submission that what is actually happening here, and it is very transparent, really, is an argument relating to the—well, largely discredited, by this House no less—Ram memorandum, to seek to argue in some way that, because the money clause relates to the expenditure of money anywhere in England and Wales, that therefore, in some way, enables you through Clause 2 to examine potential alternative locations, or for this committee to amend the Bill in some way so that the memorial and learning centre are not to be in the gardens. I have to say that it is just a series of non sequiturs. It really is.

179. THE CHAIR: I think you also say—is this right?—that it is a matter of public policy rather than private interest.

180. MR KATKOWSKI KC: Anything to do with the expenditure of money is, of course, pure public policy, nothing to do with the private aspects of this Bill and completely out of scope for this committee. As I have explained on several occasions, because Clause 1 is italicised, that indicates that it needs to be supported by a money resolution. The custom and practice, as you will very well know, is that this House in no way seeks to interfere with such matters, but certainly it is not for this committee.

181. THE CHAIR: Can I just ask you this question? In addition to the annual appropriation Act, there needs to be authorisation by a specific Act, supported by a financial resolution.

182. MR KATKOWSKI KC: Yes.

183. THE CHAIR: When is that resolution given? It has not happened yet.

184. MR KATKOWSKI KC: No, it is done in the Commons, my Lord. It is a matter for the Commons. Because it is a money resolution, it is a matter for the other House.

185. THE CHAIR: I understand from what you are saying—is this right?—that if and when the Bill is passed by both Houses—is this what you are saying?—by Clause 1 that will incorporate a financial resolution. Is that something you have or something you will get?

186. MR KATKOWSKI KC: We will get it in the other House, my Lord, yes.

187. THE CHAIR: If it is passed.

188. MR KATKOWSKI KC: If it is passed, yes, of course.

189. THE CHAIR: I see.

190. MR KATKOWSKI KC: Indeed, sir. The point put very shortly is this. It is as in paragraph 8 of our note, and indeed picked up again in the last sentence of paragraph 10 of our note. One needs to bear in mind that of course, in order to spend money, one needs to have that authorised by one of the annual appropriation Acts, or a succession of them, but, because of the Baldwin concordat, it has long been recognised by government that there needs to be specific statutory authority for the specific expenditure on the specific project, hence Clause 1 and Clause 3. It is as simple as that.

191. THE CHAIR: Thank you very much.

192. MR KATKOWSKI KC: My Lord, that is it on scope. In relation to security matters, I will divide this into two parts: what has happened already and what is to come. What has happened already is that, of course, security matters were raised at the planning inquiry as a matter of national planning policy. As the inspector's report records, security is relevant as, to use planning legislation speak, a material consideration in considering projects. Evidence was given, not only by those who have opposed the project on security grounds, including Lord Carlile, of course, and others, but by our side of the equation, if you like. We had a security expert who gave evidence.

193. As the evidence recorded, and as the inspector's report notes, of course, in relation to security, all relevant authorities were consulted. None of them, in due course, had any objections to the proposals. They were all satisfied, and I will just list them. That included the counterterrorism security adviser of the Metropolitan Police Service. It included what was then the Centre for the Protection of National Infrastructure, which is now the National Protective Security Authority, and the Community Security Trust, which has a particular role in ensuring the security of memorials and institutions related to Jewish history.

194. LORD HOPE OF CRAIGHEAD: Are you able to provide dates as to when they

gave that advice?

195. MR KATKOWSKI KC: I am sure we will be able to. This was all in the evidence that was submitted to the inquiry, and so obviously it will all predate that inquiry. Yes, I am sure we can give dates.

196. LORD HOPE OF CRAIGHEAD: I think that is good enough if we understand it was before the inspector produced his report.

197. MR KATKOWSKI KC: Yes, this is all as part of the evidence that went to the inspector. In the inspector's report, if I may, at paragraph 15.3 on page 146, that is where, at item D, the inspector lists security as one of the main issues that he had to grapple with in his report. Then he produced many paragraphs in his conclusions on the subject. They are paragraphs 15.234 through to 15.253 at pages 202 through to 206 of his report. Those are his conclusions. If you glance, speed read, or read slowly—whatever you want to do—those paragraphs, you will find more than echoes of the points that have been made to you by the petitioner today. There is nothing new in the world.

198. THE CHAIR: But his evidence, it is quite clear, is that whatever—

199. MR KATKOWSKI KC: I am coming to that, my Lord, yes.

200. THE CHAIR: Things have changed, is what he said.

201. MR KATKOWSKI KC: I am coming to that in one moment, if I may, but I needed to lay the ground in a way that helps, I hope, one to understand that security is very much a matter of the planning process. I will move on.

202. Our planning permission has been quashed by the High Court. We need to get a new planning permission. If, as and when, it is decided what process would be followed in order to thrash out all the issues, it is quite obvious that, again, security will be a matter for that reactivated planning process.

203. Of course the point will be made that things have changed since the time of the last inquiry and the inspector's report, and of course the promoter of the project will need to update and refresh all that evidence and all its engagement with the various

authorities, so that the up-to-date position is in place for that reactivated planning process

204. LORD HOPE OF CRAIGHEAD: Is there not a problem? We do not know exactly what form the future planning process is going to take. For various reasons, it could be very much abbreviated in view, no doubt, of the Government's wish to make progress to produce this memorial as soon as possible. That raises a serious issue as to whether there is a responsibility on this committee to put something in to reassure the House, both Houses, that the matter has been fully addressed. To say it is going to be in the future planning process seems to me to be far too woolly, to be perfectly frank.

205. MR KATKOWSKI KC: You will understand that I would not assent to that proposition, my Lord. The future planning process will take one of two forms, as I have previously explained. Whichever form it takes, security will be a matter that will have to be considered in relation to changes of circumstances, the up-to-date position, through that process.

206. LORD HOPE OF CRAIGHEAD: Are you in a position to give an undertaking?

207. MR KATKOWSKI KC: In relation to what, the security?

208. LORD HOPE OF CRAIGHEAD: Yes.

209. MR KATKOWSKI KC: I can take instructions, but it will have to happen. There is no getting away from this. When the planning process is reactivated—sorry, you will appreciate that I am only able to speak for the promoter of the project—because of the ethical wall that is in place, I cannot speak for the other side of the wall, and we cannot say who would decide whether it is going to be written representations or a new inquiry. I have nothing to do with that side of the equation.

210. LORD HOPE OF CRAIGHEAD: I do not want to rush this too much because it is so important, but I think an undertaking from the promoter would provide some reassurance. I understand that you can only go so far, but could you take instructions as to how far you can go?

211. MR KATKOWSKI KC: Yes, absolutely, and I will, of course, my Lord. In any event, that is all in this context and against this background that the up-to-date security

position will have to be dealt with by the project promoter and, of course, will be referred to by objectors, whatever process is followed, whether it is in writing or whether it is a second public inquiry.

212. I should just say that, for the note, this was all dealt with in public session at the inquiry that was previously held. At that time, there was no process set in train to rely on a special statutory provision, which is in the Town and Country Planning Act 1990, at Section 321, in which matters relating, for example, to security can be dealt with in-camera because of the obvious issues involved—national security—and the Attorney-General has the ability to appoint special counsel to represent anyone who might be excluded from those not public but rather in-camera meetings. It was not seen to be appropriate at the time of the previous inquiry to do that, but if, for example, voices are ringing loud that things have changed so dramatically now, there is always that procedure that can be followed. Yes.

213. BARONESS SCOTT OF NEEDHAM MARKET: I just wanted to be sure that I recalled correctly something you said some weeks ago, which is that the exact form the future planning process will take will be determined by what you described as the other side of the ethical wall. In other words, it is not you as a promoter.

214. MR KATKOWSKI KC: No.

215. BARONESS SCOTT OF NEEDHAM MARKET: Therefore, even if you were to give certain undertakings, they would not be binding on the other side of the ethical wall, and therefore the committee would need—

216. MR KATKOWSKI KC: Forgive me, my Lady, that is not quite right. I appreciate the problem, if you like, that my Lady is seeking to address. The other side of the ethical wall is simply the Minister, who will, in due course, determine a) what the process should be, and b) whether permission should be granted or not after whatever process is followed. As the promoter of the project—obviously, I will take instructions on this, but the promoter of the project will obviously have to refresh and update all its evidence relating to security in whatever shape that reactivated planning process takes.

217. Security is a material consideration. As a matter of law, there is no getting away from the fact that the other side of the ethical wall will have to deal with security in the

new decision. It is a material consideration. It cannot be avoided, suspended or circumvented. My Lady, you can, I would say, rest absolutely assured that security will have to be addressed.

218. BARONESS SCOTT OF NEEDHAM MARKET: The inspector's report made specific mention of how security-related issues would have to be considered on the basis of the most up-to-date information. Now, quite a lot of time has passed—and events, as we all know. I am just wanting to make sure that we are addressing our queries at the person who will make the decision about the exact form of the next stage of the planning process.

219. MR KATKOWSKI KC: Plainly, whatever is written in your report in due course will be read, I am sure, by both sides of the ethical wall, but I can only speak for the promoter of the project, as my Lady understands. The point I am seeking to make is that, whatever process is followed in that reactivated planning process and whichever form it takes, security will have to be dealt with. There is no getting away from it. If any party addresses those matters in their representations, whether they are simply written representations or whether there is another inquiry and so they are addressed in evidence at the inquiry, any party who raises that, plainly, the Minister will have to deal with. If there is an inspector, he or she will have to deal with it and the Minister will have to deal with it in any event. The point I am seeking to make is simply that this has all happened before. It will all have to happen again, but through the planning process.

220. THE CHAIR: Mr Katkowski, can we just pause for a moment?

221. MR KATKOWSKI KC: Of course.

222. THE CHAIR: I am really concerned with the proposed amendment. One way in which that differs from the planning process is that it places Parliament in the position of saying that we are satisfied or we are not satisfied with security, on the basis that security is something that all members of the House will want to know about. It is a big issue, and this will provide for a report to be prepared. Some parts of it may have to be covered over or omitted or redacted for security reasons. I am not saying that what it sets out is good or bad, but at least we should be concentrating on what is proposed rather than in a generality. Are you in a position to say that the Houses of Parliament should not be consulted, or that a report of the kind proposed should not be prepared? Is

that what you are saying?

223. MR KATKOWSKI KC: Well, certainly the promoter does not accept that this amendment should be made, not least because, as I have submitted on numerous occasions, Clause 2 of the Bill simply seeks to remove a statutory obstruction. It in no way grants consent for the project. Following that logic through, if, as and when the issue of granting consent to the project is looked at again, security will have to be dealt with properly through that process. It is all very straightforward.

224. I do not accept, on behalf of the promoter, that this project—a memorial to the mass murder of millions of Jewish men, women and children—should be subject to some special rule under which both Houses would have to approve by positive resolution the bringing into force of this Act, if it is passed, after a reporting stage in relation to security.

225. If one thinks this through for a few moments, if the Minister—the other side of the ethical wall—decides to reopen a public inquiry, witnesses will be called and cross-examined. There is no giving evidence or cross-examination through parliamentary processes that would take place in the later stages of this Bill.

226. Forgive me. I was listening with great respect to your submissions, Lord Carlile, if you would care not to laugh during mine.

227. LORD CARLILE OF BERRIEW: I was merely reflecting on the parliamentary process and its rigour.

228. THE CHAIR: We will come back to you, Lord Carlile. You believe that your instructions extend to the extent that Parliament should not have a final say in relation to the adequacy of security arrangements.

229. MR KATKOWSKI KC: My Lord, I have taken instructions on this because we have had this amendment for however long. We have had it for a little while. My instructions are that the promoter does not accept that this committee should amend the Bill to insert a stage where there needs to be some form of report to both Houses and, in particular, that, if the Bill is passed, Clause 2 should not come into force unless and until there is a positive resolution of both Houses of Parliament. My instructions and my

submissions to you are that security matters will be dealt with properly through the planning process, which is their rightful home, just as they were dealt with before, but they will need to be dealt with again, as I have explained, taking into account everything that has changed since the last time this was all examined.

230. That process, if the inquiry is reopened or a new inquiry is held, would involve evidence and cross-examination. It could even involve the appointment by the Attorney-General of independent special counsel to represent those who wish to be heard on this matter.

231. LORD JAMIESON: I always like the word “if”, because an “if” is not an affirmative.

232. MR KATKOWSKI KC: It cannot be.

233. LORD JAMIESON: It is “maybe”, “possible” or “might be”. We do not know that there will be cross-examination and all those things. You are not able to offer us an assurance on that, are you?

234. MR KATKOWSKI KC: My Lord, no, because the promoter of this Bill is not the person who would decide what process should be followed, but, as I have sought to stress, whatever process is followed, security will have to be dealt with through that new process, so it must.

235. LORD JAMIESON: Your contention—and I am just doing this for clarity—is that, as far as security is concerned, you, representing the promoter, are saying that we should only rely on the planning process for security. As a renowned expert in this area, Lord Carlile’s contention is that that is not sufficient, and we need more. I am not saying which of you is right or wrong. That is a matter for debate for us. I did hear Lord Etherton’s suggestion earlier, which, if I may use the word “hybrid”, is a hybrid alternative to the two.

236. MR KATKOWSKI KC: Indeed, which is to say something in the report. Plainly, this committee writing something in its report about the importance of this issue, and their expectations or otherwise in relation to it, would be, in my submission, an extremely apt and fair way of proceeding. Amending the Bill to subject this project,

bearing in mind the nature of the project, to some special hurdle that will apply only to this project is something that I simply do not accept.

237. THE CHAIR: We could be here for a long time debating both sides of that argument, because, of course, people do work here. There are visitors and residents coming to the park. There are children there. Parliamentarians, it could be said, have a particular interest in whether or not there is a security risk from a bomb going off next door.

238. MR KATKOWSKI KC: Of course, my Lord, and I am not seeking in any way to say otherwise, and I have indicated that, certainly in my submission, it would be an entirely fair and appropriate way forward for this committee to make all those points, and others besides, doubtless, in its report. What I am resisting, on instructions, plainly, is the thought of an amendment.

239. THE CHAIR: I totally understand.

240. MR KATKOWSKI KC: In a nutshell, that is it. My Lord, of course you have a deep interest in these matters. I am in no way seeking to question or challenge that. It is the way in which this is all taken forward. What happens next is what I am concerned about on behalf of the promoter.

241. THE CHAIR: I totally understand. Is there anything further?

242. LORD HOPE OF CRAIGHEAD: I beg your pardon. Just to go back to my request about an undertaking, it would be easier for us to accept your submission that we should not recommend an amendment if we had a clear undertaking, as far as you can press it. You have made it perfectly clear that this will happen anyway, so the more you can express that in an undertaking, the better it would be. It would reassure Members of both Houses in a way that would not come out of just a reference to it in the report. The undertaking is really very important to get this nailed down in a way that we would all understand.

243. MR KATKOWSKI KC: Forgive me. Because of my heritage, I am very expressive in my body language. I entirely understand the point, my Lord. I can see exactly what it is that my Lord and the committee is indicating, and I shall emphasise

this as strongly as I can—and I am a creature of my instructions—to those from whom I take my instructions. I will emphasise this as clearly as I can to them, my Lord.

244. I note the time. A number of factual points were made by Lord Carlile which I simply do not accept on behalf of the promoter. I do not know whether this committee is at all interested in hearing me on those matters or not.

245. THE CHAIR: Can you deal with them quickly?

246. MR KATKOWSKI: Yes, I can.

247. THE CHAIR: Let us deal with them. I think it is very important that all sides feel that they have had a fair hearing.

248. MR KATKOWSKI KC: There are only two points, my Lord, so very quickly indeed. First of all, in relation to the closure or part closure of Parliament Square, and the various other closures that were referred to by Lord Carlile—matters that he has drawn from the briefing that he received and that he has referred to—my instructions are that those closures are not linked, in any shape or form, to this project. They have nothing to do with this project whatsoever. That is point 1.

249. Point 2 is in relation to security checks. There is no plan, intention or otherwise—again, this was all dealt with previously and, as I understand it, it is still the position—to have any form of security checks on people entering the gardens. All security checks would take place in the entrance pavilion. Detailed evidence was given to the inquiry about exactly how long it would take to process each person, the impact of that on queues, and so on and so forth. It is all in the inspector's report. There is no plan whatsoever to have security checks on people entering the gardens.

250. LORD JAMIESON: I have just a quick question. Your first comment that additional security around the Palace of Westminster is nothing to do with this project is fine, but you are not disputing that those security measures may take place—the closing of half of Parliament Square and things like that.

251. MR KATKOWSKI KC: As I understand it, there are, indeed, matters relating to the potential closure of parts of Parliament Square. The only point that I am seeking to stress is that they have nothing to do with this project.

252. LORD JAMIESON: That is fine. You are not disagreeing—

253. MR KATKOWSKI: No. I am not disputing that these various things have been mentioned in the briefing as potential things.

254. LORD FAULKNER OF WORCESTER: They have been around for years too. Ever since I have been here, we have been talking about closing the streets.

255. MR KATKOWSKI KC: Yes, indeed. How choate or otherwise these ideas are is another matter.

256. BARONESS SCOTT OF NEEDHAM MARKET: Very briefly, one important detail is that, under current timings, the memorial and visitor centre will be completed and, at some time after that, Parliament will take about 25% of Victoria Tower Gardens for the restoration and renewal work, which will take quite some time. Whilst that is not a matter for you directly, the fact is that, from a security point of view, it would seem to me that any assessment of security would need to take into account the fact that that piece of work will be ongoing and all the constrictions on space and so on, at a time when the memorial and learning centre would be up and running.

257. MR KATKOWSKI KC: I understand the point, my Lady, and I am sure it has been heard by those who instruct me. I listened to the tape of the other sessions I was unable to attend, and the session where this was all dealt with in some detail. Patently, one of the issues about the R&R project is its extremely inchoate nature. At least we actually have a project.

258. THE CHAIR: Was that point 1?

259. MR KATKOWSKI KC: Those were my two points, my Lord. That is it.

260. THE CHAIR: So you had two points.

261. MR KATKOWSKI KC: I have made them both, my Lord.

262. THE CHAIR: One was closure of—

263. MR KATKOWSKI KC: Closure is nothing to do with this project, and, secondly, no security checks at the entrances to the gardens. It is all through the pavilion. That is

what it is there for.

264. THE CHAIR: Thank you very much, Mr Katkowski. Do you wish to reply, Lord Carlile?

265. LORD CARLILE OF BERRIEW: Very briefly, if I may. On the last points, the extension of the curtilage of Parliament for security reasons, for that is what it is, from Great Peter Street to two sides of Parliament Square, is, as I understand it, based on all considerations of security for the Houses of Parliament. Even if it was not predicated, in any way, on the Victoria Tower Gardens memorial centre, it demonstrates how significantly risky this part of our national infrastructure is, with or without the addition of those premises.

266. The second point is about security checks. I am afraid, if I may say so to my learned friend, with great respect, he is ignoring the obvious. If there is a security concern, even if it is received secretly by the authorities, they do what is reasonably necessary. What I am saying to your Lordships is that that could obviously include, at bad times, carrying out searches of people going into Victoria Tower Gardens.

267. Next point. Mr Katkowski uttered these words—I noted them as he said it—that security, he said, will have to be dealt with. “There is no getting away from it”. That is not an enthusiastic endorsement of the need to focus on security. It sounds more like a nuisance that has to be dealt with at the planning inquiry.

268. I could have made an application to build a Holocaust memorial centre somewhere in London, and it would have been an ordinary planning application that would have gone to, let us say, the Westminster planning committee. In those circumstances, the planning committee and any planning inquiry are an appropriate way of dealing with it, but we are in completely different territory here. There is a parliamentary Bill for the creation of this centre, so it is in the hands of Parliament. The evidence that was presented to the planning inspector is now at least three years out of date and, I think, getting on for four years out of date now, although I have not been able to check the date as we sit here.

269. If we have a planning inquiry, the planning inquiry will be heard, and Parliament will still have to be satisfied on the basis of up-to-date information. Otherwise, we, as

parliamentarians, would not be doing our job, so I would respectfully suggest that using something like my amendment is a much more satisfactory way of dealing with a parliamentary Bill and the security issues that arise from the parliamentary Bill. Those are the points I wanted to make about the planning side of it, and the security.

270. On the convention, in their note, the promoters refer, in footnote two, as we saw, to the House of Lords Constitution Committee's 13th report of Session 2012-13. The reality of the situation is that the Cabinet memorandum, which was not dealt with at any point in this morning's hearings by Mr Katkowski, still applies. The Cabinet memorandum document quotes from the Ram doctrine. Although the Ram doctrine is not law, the practical position is exactly as set out in the extracts from the Cabinet document that I read out.

271. The fact that there was a Select Committee report on which it is not suggested any considerable action was taken does not take us anywhere. The situation in which Ministers act is set out in that Cabinet memorandum founded on the Ram doctrine. I do not think I need to add anything else. It has all been dealt with, unless your Lordships have any questions.

272. THE CHAIR: Are there any questions from anybody? It has been an important session, this, because we all know that security is critical. Of course, we will have to think about the Ram doctrine and the extent to which we will take it into account, but that is another important point. We are very grateful to you, Lord Carlile, and to you, Mr Katkowski, for dealing with those issues. I am afraid we are going to have to move on pretty smartly. Does anybody want a break?

273. LORD JAMIESON: I need to leave at 12.30, so I would rather leave at 12.30 than have a break.

274. MR KATKOWSKI KC: My Lord, if I may just say, because of other matters, I am afraid I am going to have to go. Please do not take this as any disrespect to the committee or to the other petitioners. I was here, in effect, for a cameo appearance for Lord Carlile.

275. LORD CARLILE OF BERRIEW: I can be here until 12.00, but then I have other things to attend to.

Viscount Eccles

276. THE CHAIR: Viscount Eccles is next. Lord Eccles, you are appearing for yourself. You do not have any representation. As you know, there was a discussion. Submissions were made by both Mr Doctor and Mr Katkowski about principle and scope of the Bill, and we did say that, if there was any unrepresented petitioner who wanted to say something about that technical aspect by way of introduction to the specific points in their petitions, and they had not had the opportunity to make them earlier, they should be allowed to do so now. If you wish to say anything more generally about the principle of the Bill and the policy behind that, or the scope of the legislation of the Bill, please feel free to do so.

Submissions by Viscount Eccles

277. VISCOUNT ECCLES: Thank you, Chairman. I suppose I feel rather like a fish out of water, because I cannot claim to understand this long process whereby the proposer is trying to dot a few “i”s and cross a few “t”s. Of course, I come at it from a completely different position. I come at it from the point of view of somebody who has managed projects.

278. As I said to you in my written submission, which I am not intending to read or take a lot of time on, the proposer’s HMLC project, as described, needs revision. It is controversial, underfunded and incomplete. Of course, if I might come to my conclusion, which I have not before put forward to you but I have come to this morning, listening to the discussions, my position will be that this Bill is entirely premature.

279. I say that, because I think that the state of this project is deeply worrying. On the discussions about security, what are my conclusions? My conclusions are that, as a local resident, I do not think that whoever lives in my wife’s and my flat, if and when this project is completed, will want to go walking in Victoria Tower Gardens.

280. I think the way the world is going, to argue that what was thought about the situation in 2020 is the right way to think about it just before 2025 seems to me not to take any account of reality and the whole temperature of the geopolitical situation, not just the Middle East but Russia and Ukraine. You look around, and I think we all know that the risks have multiplied.

281. When I look at this project as it is now, can I just say, in parenthesis, that I am not sure that anybody has ever said that they are no longer accepting the recommendations of the Holocaust Commission? If you look at this project as it is now, it is in very bad order. I have set out some of the reasons, and I will not go over all of them, but I might just make one comment.

282. For the proposer not to have already had quite extensive discussions with the parks on how they are going to split their responsibilities—. We have had reference to the paths in the park. As you know, at the moment, unfortunately, the riverside park is closed at the point, because the Buxton memorial is under repair. I walk in the park very frequently. The riverside park is not the side of the gardens that is most frequently used by people on a day-to-day basis. We have heard that from Lord Blencathra. As far as I understand it, the roadside part of the park will just cease to be there. It seems to me that the local interests are deeply affected by the proposer's proposal, and there are likely to be more.

283. If I could come to my petition and my proposed way forward, I thought when I put in my petition, I thought again when I sent you a memorandum in mid-November, and I say again in this document that the safest and most sensible thing to do in current circumstances is to say that the centre of learning—it will have a staff, and they will learn how they think they work best. I hope they will have funds, including, I would hope, funds raised by the Holocaust memorial charity, as well as grants from the Government.

284. They should work with all the other people in the country but not have these amazing activities where 500,000 people are supposed to go through this underground facility and, in some way, be educated in how to reduce the amount of anti-Semitism. It just seems to me complete pie in the sky.

285. If they were working with all the institutions in the kingdom—that is to say, with the universities, the charities, the Wiener library—you would get out to a very great number of people and, of course, you could have a mixture of ordinary, physical-type education, with properly constructed learning centres, and digital applications. I suppose that, in essence, Chairman, that is where I am. I am sure the committee does not want me to go on for too long. I have written what I have written, and I think I have been

consistent. My Second Reading speech refers. My memos to you refer.

286. If I may make just one last short paragraph, I do not understand Clause 1 of this Bill. I cannot see why, at this stage in the process, the promoter is seeking to get the Secretary of State's permission to raise more money. I thought we had some sort of scheme for raising the money. If we go back to the Holocaust Commission, they said 50:50. Half the money should be raised philanthropically—incidentally, they said that should be in the lead—and the other half would come in grants. At the moment, we have been promised £100 million in total—that is the £75 million, and £25 million from charitable sources—and the proposer is saying that he needs £138 million. I admit he has put in a big contingency, but that is because his project is hopelessly badly prepared.

287. I think, frankly, this Bill is being put in front of Parliament before its time. It should be withdrawn, and the whole matter should be properly reconsidered. We should not be faced with this “i” dotting and “t” crossing process, which, if I may say so, is completely unconvincing to anybody who has thought about this situation seriously.

288. THE CHAIR: Thank you very much. Does any member of the committee want to ask any questions?

289. LORD FAULKNER OF WORCESTER: It is a very clear paper, I think.

290. THE CHAIR: I have read the paper. Ms Lean?

Submissions by Ms Lean

291. MS LEAN: My Lord, I am grateful. Perhaps if I could just focus on the asks, I am conscious that a number of points are made in the written submission and today. I think it is probably fair for me to put on record that the promoter would not accept the criticism that is being made of the project, but I do not think it is helpful for me to take the committee's time in going through those.

292. If I can just touch on the asks, essentially, as I understand it, it is that the current proposal should not go ahead and, in particular, that there should not be a learning centre; rather, that the learning aspect should be supporting existing institutions and suchlike.

293. In terms of this committee's remit and consideration, in my respectful submission those seem to run up against at least points 1 and 2 of the matters that were ruled out of scope about whether there should be a Holocaust memorial and learning centre in Victoria Tower Gardens, and whether there should be a Holocaust memorial co-located with a learning centre, because the thrust of it seems to be that what is proposed should not happen and that you should not have a learning centre of the type that is proposed; instead, money should be used to support other projects.

294. That would be my brief response in terms of what I understand the key ask to be in respect of this Bill by reference to what is in Section 3 of the petition, and what has been fairly said to you today.

295. If I can just touch on two brief points, as a matter of fact, the first is in terms of the relationship between the Royal Parks and the memorial and learning centre, or any body that may be established in that regard. We provided a brief response on that in our letter of 25 November 2024, which is at PRO 11. If I could just note that for the record, that was in response to a question that had been raised in earlier hearings about how it was envisaged whoever was responsible for the memorial might interact with whoever was responsible for the gardens more generally.

296. The second was just a note of the reference particularly made to the Wiener library and other educational organisations more generally and the work they do. Mr Katkowski referred earlier to appendix 4 of the inspector's report, where an account of evidence was given by various petitioners who have appeared before you and the concerns they had raised about the Bill.

297. You also have in appendix 4 representations made from—and this is using the inspector's subheadings—academics and Holocaust educators. They include, for example, Dr Toby Simpson, the director of the Wiener Holocaust Library—at page 265—who was speaking in favour of the proposal. I just wanted to flag the points about whether there should be a separate learning centre or what the position of such other bodies concerned with that might be. That was touched on in the planning process, and in appendix 4 of the inspector's report you have the views of some of those bodies and persons as to what they think about the proposals for the learning centre.

298. THE CHAIR: Let me just take you back to the point about separate management

of the Holocaust Memorial and Learning Centre on the one hand, and the gardens on the other hand. We know that the gardens are currently under the management of Royal Parks, which is a DCMS sub-body within the remit of DCMS. Has an institution yet been appointed to look after the Holocaust Memorial and Learning Centre?

299. MS LEAN: No, my Lord.

300. THE CHAIR: When will that be done?

301. MS LEAN: My Lord, I am just trying to put my hand on the copy of the letter, because I know there was something about that in there.

302. LORD HOPE OF CRAIGHEAD: This is the letter of 25 November, is it not?

303. MS LEAN: The letter of 25 November, my Lord. My apologies, my Lord. It is one document I do not have printed out in hard copy in my file today.

304. BARONESS SCOTT OF NEEDHAM MARKET: If it helps, it does say here, “The Secretary of State for Culture, Media and Sport is currently considering options for the contract to manage the parks after contract expiry”. That is from your letter.

305. VISCOUNT ECCLES: If I may make a very short comment, that is another of the uncertainties that face us. I think that, by now, if I may speak as a project manager, there should be in front of us a very full risk assessment report. I do not think the inspector’s report of four years ago will do any more. Life moves on. The project moves on.

306. THE CHAIR: Viscount Eccles, can the promoter’s counsel finish, and then we will come back to you to respond?

307. VISCOUNT ECCLES: I apologise, Chair.

308. THE CHAIR: Not at all. Are you able to give us, Ms Lean, on behalf of the promoter, any undertaking or assurance confining the remit of the body that will be managing the Holocaust centre solely to the perimeter of the Holocaust centre?

309. MS LEAN: My Lord, I do not have any instructions about an undertaking today. I can take that away. My apologies for the delay. I have found what was said in the letter of 25 November, which is that, “The Prime Minister’s Holocaust Commission proposed

that a permanent independent body should be established to operate and run the Holocaust Memorial and Learning Centre. Decisions on the precise form and function of the operating body have not yet been taken. It should be noted there are no plans for the operating body to take on responsibility for the management and maintenance of Victoria Tower Gardens beyond that part of Victoria Tower Gardens occupied by the Holocaust Memorial and Learning Centre, and that the promoter fully recognises the importance of close co-operation between the two bodies. The promoter and the Secretary of State for Culture, Media and Sport will seek to ensure that the two bodies, whatever their form and function, co-operate within a framework that enables each to pursue their distinct objectives unimpeded”.

310. THE CHAIR: Instead of that statement of intentions or desire, we would like that to be incorporated in an undertaking or an assurance. At the moment, it is simply that they have no intention to do this and no intention to do that. We are getting into the nitty-gritty now at the Select Committee as part of the legislative process, so we want to see what is thought to be desirable or is intentional embodied in something more than that.

311. MS LEAN: My Lord, I will take that away. I am conscious that we are due to provide you with a composite document, I think, with responses to proposed amendments and suchlike by close tomorrow, so we are mindful of that timescale and I will certainly take that away as a matter of urgency.

312. THE CHAIR: Thank you very much. Do you have anything else you want to say?

313. MS LEAN: My Lord, that was all I had on my note.

314. THE CHAIR: Viscount Eccles.

315. VISCOUNT ECCLES: Chairman, I really do not think I have much to add. My position, as I have expressed it, is really not on the same piece of ground as the proposer's. I believe that this is time for a real rethink, and I would support, as you know from my submission to you, a reduced approach to what should be done now. If I may go into French, it would be a sort of reculer pour mieux sauter. I think we are just simply not ready for the proposal that is in front of us at the present time. I must say that, when I first read this Bill, I did not understand—one lives and learns—that there

was no suggestion that the present project should in any way be altered.

316. If I may end with just one thought, I wonder how many armed metropolitan policemen will be somewhere near this Holocaust memorial if it is built. If we were to defer the arrival of 500,000 people a year, we could always go back to that when we knew more where we were with the project that we have. I think that to go as far as it is proposed to go now is just a mistake, and I am afraid there will be so many upsets along the way that I will not see it, and I am not sure who will.

317. THE CHAIR: Thank you very much. Are there any questions from the committee? We are extremely grateful to you, Viscount Eccles, for the care with which you have prepared your written statement and the clarity of your submissions to us. Thank you very much. The last person we are going to hear from this morning is Lord Sassoon.

Lord Sassoon

Submissions by Lord Sassoon

318. LORD SASSOON: Thank you. I would like to first of all thank the committee for permitting me to appear before you today. It seems a long time ago that I was here to argue my case for being heard. I have been genuinely shocked and rather upset by the bludgeoning approach when I first received the promoter's solicitor's letter trying to rule me out of coming here, so I am genuinely grateful that you have heard me. Again, like Viscount Eccles, I do not come with a long history of engagement with the planning process for this project, or legal or other expertise.

319. I wanted to start with the question of private rights, because, after all, that is what the committee is considering. It is the private rights, as I understand it, attaching to the use and enjoyment of Victoria Tower Gardens by me and others.

320. THE CHAIR: I can help you a bit on that. This will be explained in our report when we go through why we have allowed some people to make representations and some people not to. We did not feel this was because you are local, but it is rather because of your peculiarly close contact with the history of the Holocaust through members of your family. I just wanted to explain that that would be the basis for you

being here.

321. LORD SASSOON: I am grateful, Lord Etherton, for that explanation, and that is very good to hear. I also look out daily on the gardens, but you may not have considered that relevant, even though I thought it made me local. Anyway, I am here and I am grateful.

322. I was not going to say any more about private rights than what is already in my written petition, what I said at Second Reading, and what I think was expanded on very fully and rather movingly in Nina Grunfeld's evidence before the committee. Unless the committee has questions for me about the nature of the private rights that I assert, I was proposing to take that as read, because the committee has heard a lot about that.

323. Leading on from that point, I am not quite sure whether the promoter now concedes that there are private rights, but whether the promoter does or does not concede such rights, all I hear is that, "These were all considered through the planning process. We have a proposal. Take it or leave it". There seems to be a complete dismissal of the whole question of the import of the 1900 Act. Mr Katkowski said it again today. He said the position was crystal clear and simple, and he described the relevant provisions of the Act as being an obstruction that stands in the way of the memorial and the learning centre.

324. I find this deeply depressing, because, the way I see the 1900 Act, it is a classic example of legislation put forward between interests of local and central government and Members of Parliament, and local interests, to enshrine very particular and positive benefits for those who were going to use, and did use, Victoria Tower Gardens. I find it genuinely puzzling and very depressing that, even at this late stage, the promoter, having either dismissed or not recognised for years the importance of the 1900 Act, still comes to this committee, this deep into your hearings, and describes the provisions of the Act simply as an obstruction and something standing in the way, whereas the way I read the Act is as a classic and rather wonderful piece of legislation to enshrine the best of civic planning.

325. It could be perfectly possible, even at this late hour, for the promoter to say, "I have come rather late to it, but it is a rather wonderful thing, and let us work within the grain of it rather than against it". Since the promoter chooses not to take that course,

they have another 24 hours or so to recant and put something in, I think, to the committee, but I am not optimistic.

326. They also continually assert that we are in some sort of normal planning situation, which I cannot get my mind around, because nobody can show me another example, such as the 1900 Act, which places such extraordinary restrictions on planning outside properties with royal connections. I am sure there are such other examples, but they are vanishingly small, I suggest, which, I think, puts a particular onus on this committee and on Parliament to reflect the purposes of the 1900 Act, which were entirely compatible with a Holocaust Memorial and Learning Centre, in a way that the proposal at the moment simply does not do.

327. The point I was going to come on to—I have been pre-empted, perhaps needless to say, by Lord Hope of Craighead, because a lot of this turns on the appropriate planning process going forward to pick up the critical strands—is the private rights or the particular protections of the 1900 Act. If the promoter wants those swept away, you would think that the trade on the other side is that they would come forward with some plan to properly reflect the spirit of the 1900 Act in a way that has not happened to date.

328. I heard the promoter's counsel this morning talking about a reactivated planning process, and going on to talk at some length about things that the reactivated planning process, whatever that might be, would take account of. Then, I think, in answer to Lord Hope's questions, he had to admit that the promoter could make no commitments about the future planning process, because that was all for another part of government.

329. I merely double-underline what is obviously the committee's concern—and you are well ahead of me—that we have no assurance from the promoter that they are in any way going to recognise that the 1900 Act should cause them to pause for a second and think about whether its purposes were and should be combined into the planning of this estimable process that the country must have a suitable national Holocaust Memorial and Learning Centre. So we have a problem, I think.

330. THE CHAIR: I think you have expressed that extremely well, if I may say so. I wonder if we could turn to what you particularly want in the Bill by way of amendment.

331. LORD SASSOON: Let me come almost straight to that. If you will let me, Lord

Etherton, I will just remind you of the UNESCO objections, because, again, I think it is Parliament's duty to look outside the planning process. I certainly feel very uncomfortable about being part of a legislative process. I am not here as part of a legislative process today. I am here to make my case, but I would suggest that the House of Lords ought to think very, very carefully before facilitating a proposal that has met such extraordinary opposition from a UN body, UNESCO.

332. Having said that, what am I suggesting? That is what we need to move on to. What I am suggesting, my Lords, is that the things that need protecting are the open space and the views. I think that would be generally accepted, if there is anything that needs protecting.

333. Others, particularly Lord Carlile of Berriew, have talked about the implied limits on the use and enjoyment of the gardens by the numbers of people who come, and the security concerns. I think that is for others to talk about. In what I am suggesting, I just want to concentrate on protecting the open space and the views. Again, I make the point, which the committee is only too well aware of but I think is worth restating, that, whilst I was disappointed at First Reading of the committee's scope, the examples of the three monuments in the gardens show that it is perfectly possible to have world-class monuments of extraordinary importance, which, over the years, have enhanced rather than detracted from what I would say are the private rights I enjoy in the gardens.

334. You know all about the Burghers of Calais, the Pankhurst statue and the Buxton memorial. I think, in a way, that if this process brings more attention to what is de facto the national slavery abolition memorial, that will be an important side achievement of this process. I say that the gardens have been enhanced by appropriate monuments of world-class importance for very, very important subjects, and all I am seeking to suggest is that the committee should propose amendments that enshrine that. Again I think a lot of it is common ground.

335. The level open ground is very, very important to this. A monument on the scale of existing monuments is very important. I, first of all, did not believe that it would be possible to combine that with something that is of sufficient scale and gravity to commemorate the Holocaust, but I now believe that it can be done.

336. What has not, I think, been picked up in the other amendments is that the siting of

the memorial should be on the periphery of the gardens, encroaching no further from the perimeter on to the lawn than the present monuments. I have not heard any talk about that in front of this committee. I think what is brilliant about the way the three present memorials have been sited is that they each, in themselves, have space and presence, but, crucially, they are close to the perimeter with Parliament or to the side perimeters, in a way that entirely maintains the open grass and the critical view of the south facade of the Palace. For me, that is where the amendment should focus.

337. I appreciate the difficult question about the access to the underground learning centre, because I do not think many of us in this room are experts on planning or thinking cleverly about how ramps can go down. Again, if the access is confined to the periphery of the site—clever ramps—some of which is hinted at, or designed into some of the alternative proposals, it is clearly, in my view, achievable. I know that, in Berlin, the access to the underground part of the main memorial there is not large. I do not know how many people they get, but they get a lot.

338. I hope it is clear enough that what I am thinking would be entirely achievable to achieve what the promoter wants out of this and to have it sited in Victoria Tower Gardens.

339. My final thoughts on this are that a solution along these lines in the gardens would get such enormous immediate support, just because it would sweep away all the objections of so many people. I accept that there are still the questions of numbers of people and security, but the rest of the objections would, very largely, fall away. I think it could be constructed at lower cost, more quickly than the original proposal, so I do not think it would stand in the way of any of that.

340. I look back at the 1900 Act. This may not be possible these days, but what happened in 1900? There were debates in Parliament. People went away, they looked at plans, they came back and something sensible was cooked up fairly quickly. I am sure there are plenty of people who would be willing to go away and roll up their sleeves and work something out. Lord Faulkner is looking at me as if to say, “Dream on, dear boy”. I say that in the nicest way to him, but I know I may be hopelessly optimistic.

341. LORD FAULKER OF WORCESTER: It is the rolling up the sleeves bit that I found slightly amusing, but I take your point, Lord Sassoon, certainly.

342. LORD SASSOON: I am serious that, if there is any way of this committee encouraging people to go away and, in the spirit of the 1900 Act, having a go at this, that would be much better, frankly, than putting in a clause that restricts the memorial to something more in line with the other three great memorials and does not intrude on the centre of the space.

343. THE CHAIR: If I can summarise what you have said, you think the preservation of the views to the south of Parliament, maintenance of as much open space as possible, enhancing the existing memorials and, for those reasons, having to move the Holocaust memorial in its size and bulk as far to the periphery of the gardens is what is desirable. Have I summarised that?

344. LORD SASSOON: I wish I could have done it as succinctly.

345. THE CHAIR: That is fine.

346. LORD SASSOON: I think you have summarised it admirably.

347. THE CHAIR: Ms Lean, do you have any questions?

348. MS LEAN: I have no questions, my Lord.

349. THE CHAIR: Does anybody around the table have any questions? You have expressed yourself sufficiently clearly that nobody has any questions. I mean submissions. When I said, “Do you want to speak?” I meant—

350. MS LEAN: My apologies, my Lord. I misheard it as “questions”.

351. THE CHAIR: I am sorry. I should have said, “Do you want to make any comment?”

Submissions by Ms Lean

352. MS LEAN: If I could make a brief response, I would be grateful, my Lord. I have three points. First, with regards to the amendment or the recommendation that Lord Sassoon, in substance, asked you to make, clearly we do not currently have draft wording for that or what that might look like, but it is of a similar nature to ones that were advanced by other petitioners—for example, about limiting the size, height or

bulk, or prescribing distances.

353. In my submission, much as has previously been submitted to you when that has been raised, those run up against the principle that sits behind Clause 2 of the Bill, particularly, as Lord Hope articulated it, I think, on 19 November, about it running up against preventing, restricting or otherwise affecting. If you put constraints or restraints on what exactly can be done, you are necessarily, by implication, placing a restriction on or affecting the provision of a Holocaust Memorial and Learning Centre in the Bill.

354. Secondly, linked to that, clearly the amendments sought would stop the current proposal, which is the only proposal there currently is for a Holocaust Memorial and Learning Centre in Victoria Tower Gardens.

355. Thirdly, I thought it might be helpful for me to touch on the nature of Section 8, and what we have been saying about it and the importance of protecting matters such as open spaces. The language that the promoter has used around removing an obstruction to the Holocaust Memorial and Learning Centre is in no way seeking to downplay the importance of the protections that are in Section 8 of the 1900 Act.

356. Rather, it is that fine legal distinction that Mr Katkowski was drawing earlier in proceedings about what does Clause 2 do. It does not authorise, in itself, the construction or the provision of the memorial here. What it does is disapply a restriction in the 1900 Act that would prevent it being built. I just thought it might be helpful for me to outline that, given what has been said about the 1900 Act today, and to say that, first, the 1900 Act was not an Act to protect Victoria Tower Gardens. It was a works Bill. It was an Act to empower the London City Council to make an extension of the Thames Embankment and street improvements. It was part of a wider project.

357. Section 8 itself does have parallels in more general legislation that post-dated it, particularly the Open Spaces Act of 1906, which says, paraphrasing, that in respect of land that a local authority acquires or holds for open space, it shall be held for those purposes for the benefit of the public and no other purpose. Once again, I do not seek to downplay, in any way, shape or form, the importance of Section 8 and what it provides for, for the use of the garden. It is not a unique or unprecedented provision. It is reflecting something that follows in later legislation, which applies to open space held by local authorities more generally, and for which there are mechanisms for that land to

be used or disposed of that is provided for in later legislation.

358. My apologies if I have veered into territory I did not need to go into, but, in light of the concerns that were raised by Lord Sassoon, I thought it might be helpful for me to briefly provide a little bit of contextualisation around some of those points.

359. Finally, if I may, regarding the asks that are in the petition in Section 3, I think all those asks also appeared in Lord Strathclyde's petition, and I addressed them when Lord Strathclyde was here last week, so I do not propose to go through them again, if that is acceptable.

360. THE CHAIR: Thank you very much. Is there anything you want to say, Lord Sassoon?

361. LORD SASSOON: There is an awful lot I could say about that, but your Lordships will know all the arguments. I would say only that I refute, in the strongest possible terms, any suggestion that what I proposed in any way prevents a Holocaust Memorial and Learning Centre being constructed in Victoria Tower Gardens, but, anyway, that is for the committee to mull over.

362. The only other point does not relate to my evidence, but there was quite a lot of questioning of Lord Eccles about governance, and I do not think any explicit mention was made of the amendment tabled yesterday by the Thorney Island Society. The committee has it in front of it, but there are, clearly, ideas about governance, which I think is a perfectly proper concern of the committee, so the fact that I did not mention them does not mean to say that I do not think they are entirely valid.

363. THE CHAIR: Thank you very much indeed, Lord Sassoon and Ms Lean, for your contributions this morning. We have two further petitioners on Tuesday of next week. You will be producing answers to the requests that we have made on assurances or undertakings so far, and it seems likely that there may be others that have come out of the evidence since we made that request, or we may need to have clarification of the assurances that you are proposing to give, so we will have to build that into the timetable somewhere. We will let you know about how we are going to deal with that. Subject to that, we will look forward to receiving your answers to our requests that we have given tomorrow, and to seeing you again next Tuesday.