

HOLOCAUST MEMORIAL BILL

Statement to the Standing Orders Committee

**TO THE STANDING ORDERS COMMITTEE FOR PRIVATE BILLS IN THE HOUSE
OF LORDS**

SUBMISSION BY

**RICHARD BUXTON, JAMES BUXTON,
JOSEPH BUXTON AND SIR CRISPIN BUXTON
ON BEHALF OF THE BUXTON FAMILY
AND
THOMAS FOWELL BUXTON SOCIETY**

1. This document deals with the Examiners' conclusion that Standing Orders 4, 4A, 10, 11, 38 and 39 apply and have not been complied with for the purposes of the House of Lords Standing Orders Committee.
2. The Buxton family and Society note from the Secretary of State's statement to the House of Commons Standing Orders Committee and submissions to it the claimed compliance with the above Standing Orders. Other than in relation to SO 38 they do not seek to demur from the conclusion of the HoC SOC that compliance be dispensed subject to a condition (a decision which appears to be as much an acknowledgment of de facto compliance rather than dispensation).
3. As to SO 38, they remain concerned. The Buxton submission to the HoC SOC, which was not commented on in its conclusions as to dispensation, was that there is a serious legal error in the way the Bill has been presented to the House and, in relation to SO 38, clear failure to comply.
4. The legal error is that, with regard to SO 38(2), the Bill must be accompanied by a printed memorandum describing the Bill generally and every clause in it. The Bill as presently published indeed contains substantial "Explanatory Notes" which are assumed to be intended to comply with this. Those contain at paragraph 10 this statement:

10 The Secretary of State for Levelling Up, Housing and Communities is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made. (emphasis added)

5. This statement to be erroneous because the definitions of “natural environment”, “environmental protection” and “environmental law” in sections 44 to 46 of the 2021 Act are such that a statement must be made pursuant to section 20. In detail:

- (a) Section 20 sets out the obligation. Sub-section (7) may presumably be complied with by Explanatory Notes to a Bill. If complied with via a separate statement, that must obviously be consistent with the Explanatory Notes.

20 Statements about Bills containing new environmental law

(1) This section applies where a Minister of the Crown in charge of a Bill in either House of Parliament is of the view that the Bill as introduced into that House contains provision which, if enacted, would be environmental law.

(2) The Minister must, before Second Reading of the Bill in the House in question, make—

(a) a statement to the effect that in the Minister’s view the Bill contains provision which, if enacted, would be environmental law, and

(b) a statement under subsection (3) or (4).

(3) A statement under this subsection is a statement to the effect that in the Minister’s view the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law.

(4) A statement under this subsection is a statement to the effect that—

(a) the Minister is unable to make a statement under subsection (3), but

(b) Her Majesty’s Government nevertheless wishes the House to proceed with the Bill.

...

(7) A statement under this section must be in writing and be published in such manner as the Minister considers appropriate.

... (emphasis added)

- (b) Sections 44 to 46 explain that “environmental law” is law mainly concerned with environmental protection, that the latter means the effects of human activity, and that natural environment is very widely construed: and would clearly include Victoria Tower Gardens. As for “law mainly concerned with environmental protection”, that must include law (such as this Bill proposes) which would dispense with the existing environmental protection (ie. that under the 1900 Act which it seeks to disapply)

44 Meaning of “natural environment”

In this Part the “natural environment” means—

(a) plants, wild animals and other living organisms,

(b) their habitats,

(c) land (except buildings or other structures), air and water, and the natural systems, cycles and processes through which they interact.

45 Meaning of “environmental protection”

In this Part “environmental protection” means—

(a) protection of the natural environment from the effects of human activity;

.....

46 Meaning of “environmental law”

(1) In this Part “environmental law” means any legislative provision to the extent that it—

(a) is mainly concerned with environmental protection, and

(b) is not concerned with an excluded matter. ... [this and other provisions are not applicable here]

6. A statement to similar effect must also be made to the House before the Second Reading of the Bill. It is appreciated that is not as such a matter for either SOC, but it is highly relevant if the current Explanatory Notes are intended to be such a statement.
7. Before the HoC SOC the point was made that SO 38 simply does not apply to hybrid bills like this one. Therefore (as indicated by the published advice of counsel) the pragmatic way forward would be to dispense with it rather than ignore it (because the Examiners had found it to apply) and that is what appears to have happened.
8. While it may not be for the SOC to ensure compliance with this provision of the Environment Act 2021 as such, if it has not been complied with (for reasons explained above), it is surely a reason, if not an overriding reason, to require compliance and in any event not dispense with it. With great respect we query whether dispensation is a valid approach given the fact that at the heart of this Bill is the protection, or otherwise, of Victoria Tower Gardens as a park with environment consisting of gardens and trees. It is therefore vital that issues as to environmental protection (specifically, application of the Environment Act 2021) are dealt with properly in the Explanatory Notes and not in a way which plainly states that the law has been complied with when in fact it has not been.

Richard Buxton

15 June 2023

For himself and as authorised agent for:

James Buxton,

Joseph Buxton,

Sir Crispin Buxton,

Dr John Fannon, Treasurer and Trustee, for Sir Thomas Fowell Buxton Society

IN PARLIAMENT
SESSION 2022-23

HOLOCAUST MEMORIAL BILL

STATEMENT RE: STANDING
ORDERS COMPLIANCE

On behalf of

- (1) MEMBERS OF THE
BUXTON FAMILY
 - (2) THE SIR THOMAS
FOWELL BUXTON
SOCIETY
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