

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013–14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

Against the Bill – on Merits – Praying to be heard by Counsel, &c.

To the Honourable the Commons of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled.

THE HUMBLE PETITION of the Archbishops' Council of Church House, London SW1P 3AZ.

SHEWETH as follows:-

- 1 A Bill (hereinafter referred to as "the Bill") has been introduced and is now pending in your honourable House intituled "A bill to make provision for a railway between Euston in London and a junction with the West Coast Main Line at Handsacre in Staffordshire, with a spur from Old Oak Common in the London Borough of Hammersmith and Fulham to a junction with the Channel Tunnel Rail Link at York Way in the London Borough of Islington and a spur from Water Orton in Warwickshire to Curzon Street in Birmingham; and for connected purposes."
- 2 The Bill is presented by Mr Secretary McLoughlin.
- 3 Clauses 1 and 2 of the Bill empower the nominated undertaker to construct and maintain the works specified in Schedule 1 to the Bill and make further provision about works. Clauses 4 to 10 of the Bill make provision for the compulsory acquisition of land by the Secretary of State.
- 4 Clause 26(1) provides that nothing in any enactment relating to burial grounds, and no obligation or restriction imposed under ecclesiastical law or otherwise, has effect to prohibit, restrict or impose any condition on the use of any land comprised in a burial ground for the purpose of constructing any of the works to be authorised by the Bill. Clause 26(2) provides that clause 26(1) is not to apply where the use of land would involve disturbing human remains which are buried in it, unless the remains and any monument to the deceased have been dealt with in accordance with Schedule 19. Schedule 19 imposes certain requirements on the removal of remains and monuments
- 5 Your Petitioners are a statutory body whose objects are to co-ordinate, promote, aid and further the work and mission of the Church of England (section 1, National Institutions Measure 1998). The works authorised by the Bill will involve the destruction of three burial grounds consecrated for the

burial of the dead in accordance with the rites of the Church of England and the removal of human remains and monuments from them.

- 6 Your Petitioners and their rights and interests are injuriously affected by the Bill, to which your Petitioners object for reasons amongst others, hereinafter appearing.
- 7 The provisions of clause 26 and Schedule 19 do not make adequate provision to ensure that during and after the removal of human remains they are treated in a decent and reverent manner or that they are subsequently reinterred in consecrated land. Nor do they make adequate provision to ensure that any monuments that are removed are disposed of in a suitable manner.
- 8 This is inconsistent with the approach taken in other legislation which provides for the compulsory acquisition of land and its use for statutory purposes. Clause 26 of the Bill is very similar in its effect to section 239 of the Town and Country Planning Act 1990 ("the 1990 Act") which provides for the use and development of burial grounds that have been acquired under the powers conferred by that and other Acts. Section 239(1) has the effect of overriding any obligations or restrictions imposed by ecclesiastical law so that such land can be used for any statutory purpose for which it has been acquired. Section 239(2) makes that subject to compliance with "the prescribed requirements with respect to the removal and reinterment of human remains, and the disposal of monuments". The "prescribed requirements" are to be set out in Regulations made by the Secretary of State.
- 9 Section 240(1) of the 1990 Act provides that the regulations must (among other things) require compliance with such reasonable conditions (if any) as may be imposed in the case of consecrated land, by the bishop of the diocese, with respect to the manner of removal and the place and manner of reinterment of any human remains and the disposal of any monuments.
- 10 Other Acts of Parliament that provide for the acquisition of land for statutory purposes either apply sections 238 to 240 of the 1990 Act or make equivalent provision themselves; for example the Civil Aviation Act 1982, the Airports Act 1986, the Communications Act 2003, the Housing and Regeneration Act 2008 and the Localism Act 2011.
- 11 By contrast, Schedule 19 to the Bill does not include any provision equivalent to that in section 240 of the 1990 Act with respect to the manner of removal or the place and manner of reinterment of human remains removed from consecrated land, or as to the disposal of associated monuments.
- 12 Human remains that have been interred in consecrated land (and their associated monuments) are, as a matter of law, under the protection of the Church. Such protection is normally provided by the ecclesiastical courts in

their exercise of the faculty jurisdiction. Where that jurisdiction is specifically ousted by statute it is necessary for some ecclesiastical safeguards for human remains buried in consecrated ground to be provided for in its place, as is the case under the 1990 Act and the other Acts mentioned above.

- 13 It is accordingly submitted that the absence of any such provision from the Bill is contrary to general legal principle. It also fails to strike a proportionate balance between the rights of the Church of England to manifest its religion or belief, in practice and observance in relation to the dead, and the general needs of the community that are to be met by the works for which the Bill provides.
- 14 For the foregoing and connected reasons your Petitioners respectfully submit that, unless the Bill is amended as proposed above, clause 26, so far affecting your Petitioners, should not be allowed to pass into law.
- 15 There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioners and their rights, interests and property and for which no adequate provision is made to protect your Petitioners.

YOUR PETITIONERS therefore humbly pray your Honourable House that the Bill may not be allowed to pass into law as it now stands and that they may be heard by their Counsel, Agents and witnesses in support of the allegations of this Petition against so much of the Bill as affects the property, rights and interests of your Petitioners and in support of such other clauses and provisions as may be necessary or expedient for their protection, or that such other relief may be given to your Petitioner in the premises as your Honourable House shall deem meet.

AND your Petitioners will ever pray, &c.

The Common Seal of the Archbishops' Council was affixed on 23rd May 2014



William Fittall
Secretary General

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PETITION OF THE ARCHBISHOPS' COUNCIL

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