

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2016–17

Middle Level Bill

Against – 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 Nigel Moore.

SHEWETH as follows:-

1. A Bill (hereinafter referred to as “the Bill”) has been introduced and is now pending in your honourable House intituled “Middle Level Bill”.

2. The Bill is promoted by the Middle Level Commissioners (hereinafter referred to as “the Commissioners”). The Preamble to the Bill amongst other things recites that an Act of Parliament passed in 1810 established a body of Commissioners called the Middle Level Drainage Commissioners with power and jurisdiction to improve the drainage of the rivers, drains, lands and grounds, and that further Acts of Parliament amended the functions and reconstituted the body as Commissioners of drainage and navigation and transferred to them functions relating to navigation in the waterways of the Middle Level. The Preamble also claims that it is expedient to update the Commissioners' powers to regulate navigation; to confer further powers to regulate other activities affecting the use of the waterways for navigation; to confer powers to levy charges in respect of vessels using the waterways; to confer powers requiring the registration of vessels using the waterways; to revise provision in relation to the auditing of the Commissioners' accounts; to enact other provisions and that the objects of this Act cannot be attained without the authority of Parliament.

3. Your Petitioner objects to the following Clauses:

Clause 1, which interprets the term “the waterways”.

Clause 8, which would empower the Commissioners to remove vessels.

4. Your Petitioner is a boat owner and manager of other people's boats on various navigations, is an adviser on nationwide legal issues relating to boating, and is currently an approved lay advocate for a boater in a High Court action wherein issues arise over the interpretation of similar clauses to that proposed in this Bill.

5. Your Petitioner's rights, interests and possessions are injuriously affected by the Bill, to which your Petitioner objects for reasons amongst others, hereinafter appearing.

6. Your Petitioner objects because the Bill entails clear abolition of private and public rights to no justifiable purpose, and will lead to unnecessary future litigation over ambiguities.

7. Your Petitioner objects to Clause 1(2) because the interpretation of "the waterways" seeks to extend the Commissioners' powers to all adjacent waters including private waters outwith the Commissioners' jurisdiction. This has been a contentious point in related litigation.

8. Your Petitioner also objects to Clause 8(3) because the wording follows that of the contentious British Waterways Act of 1983, section (8), which has led to years of litigation as to its effect, whereas the wording of the similar clause in the Environment Agency (Inland Waterways) Order 2012 section (16) is far superior, and allows for no such ambiguity and potential attempted and unwarranted extension of powers. The wording "without lawful authority" is also wholly inapplicable to refer to boats on public navigable waters, when the right to be on the waterways derives from the public right, and the proposed provisions for registration of boats does not change that. This was the burden of Environment Agency submissions in a recent case on the Thames, which was, in my submission, correct. As worded, the proposed clause would be unenforceable and ineffectual in law, contrary to the expectation of the Commissioners, and prejudicial to the rights of boaters.

28. There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and his rights, interests and possessions and for which no adequate provision is made to protect your Petitioner.

29. The Preamble to the Bill, in so far as it relates to the matters aforesaid, is untrue and incapable of proof.

YOUR PETITIONER therefore humbly prays your Honourable House that the Bill may not be allowed to pass into law as it now stands and that he may be heard in support of the allegations of this Petition against so much of the Bill as affects the property, rights and interests of your Petitioner 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 Petitioner will ever pray, &c.