

# the Countryside and Wildlife Bill

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The existing UK legislation for wildlife protection is complex, widely dispersed and largely inadequate. Recognising the need for expanding and consolidating this legislation into a coherent and effective whole, the Department of the Environment is sponsoring a new Wildlife and Countryside Bill. Although I shall be critical of its contents, I should state at the outset that they are to be congratulated on this initiative. DoE has circulated a series of six discussion papers outlining the proposed contents of the Bill which is expected to receive its first reading, probably in the House of Lords, sometime early in 1980. These papers have been sent to a commendably large number of interested parties, and it is on these that the article is based. I must stress that my summary of the proposed contents of the Bill is just that; it is not a definitive statement of what the Bill will contain.

The first two consultation papers deal with Bulls and Public Rights of Way and are not considered here. The remainder, however, are all relevant to wildlife conservation and shall be discussed section by section.

## PAPER 3: SPECIES PROTECTION

This proposes amendments to three pieces of legislation. The Protection of Birds Acts (1954 to 1967)

Apart from pest species all birds are to be given greater protection during the breeding season, and it will become an offence not only to take, damage or destroy their nests or eggs, but also to attempt to do so. It will also be an offence to disturb any nesting bird, with the usual exceptions for 'reasonable activities' such as agriculture or forestry. The proposals provide for the establishment of bird reserves without prohibiting activities such as wildfowling or water-skiing. Methods of killing will also be further restricted, and the number of bird species that may be legally offered for sale has been substantially reduced, although two species of goose, greylag and whitefront, both of which were removed from the legal sale list in 1967, have been brought back in.

COMMENT: Most of the proposals seem to me to be reasonable, and the recognition of intent to damage nests or eggs is long overdue; although hard to prove, it is likely to afford the birds as much protection as does the punishment of culprits. The recognition of multiple use on nature reserves is also welcome, although it needs to be sensitively handled. I doubt if bringing the two species of geese back into legal sale will have any real effect on their UK populations, but there will be a need for careful monitoring. Incidentally, I wonder why whitefront are mentioned but not pinkfeet.

## The Conservation of Wild Creatures and Wild Plants Act 1975

The major proposal is to create a new category of 'vulnerable' species of animals and plants which will supplement the existing schedules. The additions include one species of spider, nine insect species, three snail species and one fish species. It also seems likely that the Scottish population of the otter will be added to the list. Methods of killing will be restricted, except for pest species (which include, for example, wild cats and pine martens). The maximum fine for offences under the Act will be increased to £500, and both categories of species will be protected against disturbance (with the usual exceptions for the farmer and the householder).

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COMMENT: Animals and plants are still under-protected, especially compared to birds. The large blue butterfly remains on Schedule I as a monument to the fact that legislation does not solve everything. Although plants are afforded protection in so far as uprooting is an offence, only three species of British mammal have any legal protection at all. This is a breach of the recently signed EEC Convention on the Conservation of European Wildlife and Natural Habitats which states, among other things, that all bat species apart from the pipistrelle should be strictly protected.

#### The Endangered Species Act 1976

Further controls are proposed for parts and derivatives of listed species for which the importer already has to declare their species of origin. There will be powers to inspect live shipments of animals even where this is not a condition of the licence, and the period of validity of licences will be extended to more than twelve months to speed up the processing of applications.

COMMENT: These are weak amendments to weak legislation. Considerable illegal trade in endangered species and their parts and derivatives goes on in the UK at present, and I suspect that these proposals will do little to improve the situation. There is still no real control over the trade of species that are considered vulnerable by the International Union for the Conservation of Nature and Natural Resources (IUCN). For example, in 1978 29,000 skins of small spotted cats such as the ocelot and Geoffroy's cat, 71,000 monitor lizard skins and over 21,000 reticulated python skins were imported into the UK. What is more, parts and derivatives of species designated as endangered by IUCN are only partly controlled because Customs claim that some of them are unrecognisable. It is therefore particularly unfortunate that the Bill does not propose legislation for restricted ports of entry and exit with trained Customs officials.

#### PAPER 4: CONSERVATION OF HABITATS

The intentions of the new legislation are made clear by the following quote from the consultation paper;

"The intention is to provide the Government with a legislative power that will ensure that a limited number of habitats which it has acknowledged as being of vital importance either nationally or internationally cannot be legally destroyed without the Government being first given the chance to intervene."

The paper recognises that in addition to its international obligations under, for example, the Ramsar Convention the Government has a duty to protect valuable wildlife resources for the nation.

The paper proposes that the Secretary of State for the Environment should designate a small number of sites where the owners would be required to give twelve months notice of intent to NCC before undertaking projects that might be detrimental to the identified scientific interest and where such practices are not subject to existing planning controls. It would, says the paper, "be unrealistic for such designations to encompass every hectare of land possessing any, or even a high degree of, scientific interest." Such sites would have to be existing Sites of Special Scientific Interest (SSSIs), and they will be selected on one of three criteria. They must be sites where a change of land use practice would imperil the future of one or more native species; or second, they must be sites which the Government is internationally obliged to protect; or third, they may be sites which constitute exceptional cases, such as the Ribble estuary. This last category would require positive affirmation of exceptional status from Parliament. If NCC considered that the proposed practices were likely to be detrimental, they would be able to negotiate with the owner in order to reach an acceptable compromise. In the event of negotiations failing NCC would be able to use its powers of compulsory purchase.

COMMENT: This legislation could have filled a glaring gap in our present provisions by providing effective safeguards for a wide range of sites in the UK. In my view it has failed to do so. There is some consolation in that the word 'habitat' has reached the ear of Government, but the proposals are weak in that the legislation is merely an enabling provision, with the implication that it will be used on rare occasions to allow NCC to make more extensive use of Compulsory Purchase Orders. Unless the legislation is supported by a real increase in the resources available for site acquisition by NCC, then it will be yet another paper tiger. There is certainly no foretaste in these proposals of a badly needed rural land use policy.

The criteria for the selection of these sites raise certain problems. The first one is based essentially on the preservation of single species. Arguably, a species whose future is genuinely imperilled by the destruction of one site is already so 'fragile' that its preservation, particularly at a time when resources are limited, is of less importance than the conservation of larger and more diverse assemblages of species. The use of Compulsory Purchase Orders as a last resort also raises problems; even if money was available I would prefer to see it used as compensation to land owners for the maintenance of ecologically beneficial land use techniques, rather than for the acquisition of more National Nature Reserves. Finally, the upgrading of a few sites to special status may well mean the degrading of the remainder by default, thereby actually reducing the present level of site protection.

#### PAPER 5: COUNTRYSIDE PROVISIONS

Amongst other provisions, this paper proposes that NCC should be given complete discretion over which voluntary bodies it gives grants to and it will also enable NCC to make loans. The paper also provides for the protection of limestone pavements by enabling the Secretary of State and Local Authorities to establish Limestone Pavement Preservation Orders. These would prohibit the removal of limestone where it is judged that the geological or botanical interest would be adversely affected.

COMMENT: The proposals for the NCC's use of funds are welcome, especially given the cost effectiveness of funding voluntary bodies. The proposal is a little toothless, however, given NCC's current financial circumstances. The idea of Limestone Pavement Preservation Orders seems totally laudable.

#### PAPER 6: MOORLAND CONSERVATION IN NATIONAL PARKS

These proposals stem largely from the controversy over Exmoor. The concept of a last resort power of compulsory Moorland Conservation Orders as proposed by the last Government is abandoned, DoE believing that voluntary controls will be adequate and less likely to bring farmers and Government into conflict. However, the period of notice for agricultural improvement of moorland which has only been subject to rough grazing for the last twenty years or more (under Section 14 of the Countryside Act 1968) is to be increased from six months to a year.

COMMENT: The increased period of notice seems sensible, although there are some National Parks which have extensive tracts of moorland which are too high and exposed to be worth improving. There seems little sense in not retaining the option of making last resort Moorland Conservation Orders - like NCC's compulsory purchase powers it may never be used but would be an ultimate safeguard in cases of major threat in National Parks such as Exmoor and the North York Moors. Again I feel that a compensation scheme would be preferable, but it would need to have the potential to be compulsorily enforced.

# Book R

by John Lister

John Lister-Kaye's the environmental seal cull debate, the ethical and attempting to pre

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