

## ACCESS - TO BOLDLY GO?

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James Bryce was MP for Aberdeen South from 1885 to 1906 and Ambassador to the United States from 1906 to 1913. He was also President of the Cairngorm Club for 32 years. During his parliamentary career he several times attempted to get an "Access to Moors and Mountains Bill" passed. This would have established a general right to roam in the Scottish hills and was apparently rather too radical for some of his fellow Club members. Unfortunately it was also too radical for the majority in the House of Commons and a hundred years later hill-goers are still confronted by the same issues Bryce sought to resolve.

Although some landowners still seek to exclude hill-goers from their estates on the pretext of disturbance to game and livestock as they did in Bryce's time, the problem has assumed a greater degree of complexity in the 1990s with the perception of a possible need to limit access to certain areas in the interests of conservation. There have been suggestions recently that European legislation to protect sensitive species and environments could result in substantial areas of wild land becoming no-go areas to climbers and hill-walkers. A couple of years ago, controversy over access to the Letterewe estate led to conservation and recreation bodies negotiating the Letterewe Accord with landowner Paul van Vlissingen. Both sides committed themselves to mutual toleration and environmentally sensitive practices. More recently, the chairman of Scottish Natural Heritage has masterminded an Access Concordat in which landowners and hill-goers agree to be nice to each other. Landowners will not exclude hill-goers unreasonably from their estates. Hill-goers will accept the need not to get in the way of necessary estate work. A further twist has come with the Cairngorm Chairlift Company's proposal to build a visitor centre high on the side of Cairngorm. In the interests of securing Scottish Natural Heritage's approval for their misconceived scheme, the Chairlift Company has now undertaken to prevent its visitors from venturing onto the mountain itself. An interesting slant on the "quality mountain experience".

On the face of it, there is not much wrong with the principles of the Letterewe Accord or of the Access Concordat. Landowners and other users of wild land have come together and negotiated agreements which preserve the essential interests of both sides - presumably gaining in the process some greater degree of appreciation of each other's point of view. Surely the stuff of which civilised societies are made. There is, however, a fundamental weakness in these agreements - their voluntary nature. While not doubting Mr van Vlissingen's sincerity, there is nothing, as far as I can see, to prevent him from repudiating the Accord if he feels in years to come that it is in his interests to do so. If he decides in future to sell the estate, how likely is it that

adherence to the Accord will be a condition of sale? Can the Scottish Landowners Federation guarantee that all their members will adhere to the principles of the Access Concordat? And what of landowners who are not even members of the Federation? There seems to me to be a real danger that landowners who wish to prevent hill-goers from exercising their traditional and legitimate right of access to wild land, will in future seek to use the pretext of environmental protection as they have previously used the risk of disturbance to game. In the past we have had some protection from the fact that trespass under Scots law is a civil and not a criminal offence. Today we have the Criminal Justice Act, born of paranoia about those who choose to follow a lifestyle different from the majority. Although we have been assured that the Act will not be used against hill-goers, can we be completely confident that this will never be the case?

In addition to the traditional economy of the post-Clearances Highland estate - resting on permutations of shooting, fishing, stalking and sheep-farming, we have also today to contend with the possibility that conservation organisations might seek to prevent access to estates in order to pursue their own particular mission. So far most of the bodies which have bought estates for conservation purposes - John Muir Trust, RSPB, National Trust for Scotland - are membership organisations who have either an explicit or implicit commitment to responsible public access. The possibility exists, however, that a less accountable body which secured ownership of such an estate - funded perhaps by the whim of a wealthy individual with little understanding of Highland needs or customs - might seek to exclude hill-goers. If this were to happen in an area which had previously enjoyed relatively unrestricted access, the resulting conflict would benefit neither the recreational hill-goer nor the estate's environmental objectives.

It seems to me that the only long-term solution to the problem is the one which James Bryce sought to introduce, the route which has been followed in the Scandinavian countries - statutory right of access to wild land. Let's not forget that under the regime of land ownership which was brought into place after the Jacobite rebellions, the ecological condition of the Highlands has been reduced to such an extent that a leading ecologist described the region as "a devastated countryside", and that the indigenous population was largely removed in circumstances of great brutality. We have no need to feel defensive in advancing the right of access proposition. On both moral and economic grounds, the case for statutory right of access can be readily defended. "The Economic Impacts of Hillwalking, Mountaineering and Associated Activities in the Highlands and Islands of Scotland", a recent study carried out for Highlands and Islands Enterprise, has demonstrated what many of us have suspected - that our activities now make a very substantial contribution indeed to the economic well-being of the Highlands. (Interestingly enough this study seems to have come as such a shock to HIE that they sat on it for several months before releasing it. Perhaps because it

detracted from their arguments for the economic necessity of the Cairngorm funicular?)

With a statutory right of access to wild land established, hill-goers could enter the debate about the needs of sensitive environments and estate management without having to worry about landowners' hidden agendas. The Highland economy would continue to benefit from the economic inputs of "Hillwalking, Mountaineering and Associated Activities" and at least one of the historic injustices of the Clearances would have been redressed. Will we finally see the vision of James Bryce realised in the Scotland of the twenty-first century?

