

## COUNCIL FOR BRITISH ARCHAEOLOGY

74 ONSLOW GARDENS, LONDON, S.W.7

### MEMORANDUM ON THE ANCIENT MONUMENTS ACTS

#### INTRODUCTION

1. As a result of the destruction of a scheduled earthwork in the West Country which only came to light recently after a long interval of time, the Executive of the Council for British Archaeology has been considering ways and means of strengthening the position. It is thought likely that there are throughout the country many people who would collaborate with the Ministry of Works in this difficult task of protecting antiquities; and the Committee has therefore decided to issue this Memorandum, which summarizes the essential provisions of the Acts of 1913 and 1931 and makes one or two suggestions as to ways in which archaeologists and others interested can be of assistance. The Executive is glad to acknowledge the help and advice of the Chief Inspector of Ancient Monuments in the preparation of the Memorandum.

#### THE ANCIENT MONUMENTS ACTS

2. Among the duties laid upon the Ministry of Works by the Ancient Monuments Acts 1913 and 1931 is that of preparing and issuing lists of ancient monuments which are subject to Sections 12 and 6 respectively of those Acts.<sup>1</sup> The ancient monuments contained in those lists are those which have been recommended for inclusion by the Ancient Monuments Boards for England, Scotland and Wales (as appropriate). The Ministry must include those so recommended. In cases of urgency it may add others to the schedule, as these lists are termed, without reference to the Ancient Monuments Board. No building for the time being used

<sup>1</sup> The last complete published list of scheduled monuments appeared in 1938. It is understood that up-to-date lists on a somewhat different pattern are now being prepared for publication.

for ecclesiastical purposes or as a residence by more than a caretaker may be included in the schedule.<sup>1</sup>

3. Before the inclusion of any ancient monument in a published schedule a notice is served on the owner thereof, acquainting him of the proposed inclusion. The owner has not the right of appeal against inclusion. A notice is also served on the tenant, and the fact of scheduling is a charge on the land in question in the appropriate part of the Land Register, which is kept by the Clerk of the local authority in whose area the land lies. Change of ownership or tenant does not alter the fact that the ancient monument is scheduled under the Act, and all wise persons nowadays who intend purchasing property take the precaution of searching the Land Register in case there is any charge upon that which they intend to buy. Not all persons are wise, and some will be found who deny all knowledge of the fact that they own a scheduled ancient monument; but ignorance of the law is no defence.

4. The owner of a scheduled ancient monument or any other person legally entitled to do work to it is under the obligation of giving to the Ministry three months' notice of his intention to alter it in any way. If he does alter it without giving such notice or within the three months but without the Ministry's permission, he renders himself liable to prosecution. The maximum penalty is £100 fine or 6 months imprisonment or both. A threat of prosecution has been known to have a useful effect.

5. Upon receipt of the statutory three months' notice the Ministry has to decide upon its course of action. If it cannot dissuade the owner from his purpose and the case seems to merit it, the Ministry may ask the advice of the appropriate Ancient Monuments Board. If the Board so recommends, the Ministry may issue a Preservation Order which has the effect of total prohibition of work without consent. The owner may oppose the Order, in which case the Preservation Order is not valid beyond a period of 21 months unless it is confirmed by Act of Parliament, promoted by the Ministry. A number of Preservation Orders are in force, but once again a threat of one can be useful.

<sup>1</sup> Buildings of architectural or historic interest, whether in use or not but not already scheduled as ancient monuments are listed by the Ministry of Local Government and Planning in three categories with a view to the guidance of Planning Authorities in the performance of their duties under the Town and Country Planning Acts. Owners and occupiers of those properties appearing in the first two categories are obliged to notify the local Planning Authority of any proposal to demolish or alter their character. The position with regard to these buildings is likely to change when the Government takes action on the Gowers Report.

6. On the other hand it may seem to the Ministry that in all the circumstances preservation of the ancient monument for all time would be unreasonable, *e.g.* unduly repressive. It may then arrange for an adequate record to be made before the ancient monument or a part of it is destroyed. In the case of an earthwork or the like this means scientific excavation, in order to preserve the information therein instead of the actual site. Such an excavation is normally carried out by the Ministry.

#### THE MACHINERY FOR OPERATING THE ACTS

7. The Ancient Monuments Acts like other laws may be infringed through ignorance or alleged ignorance; and although, as already stated, ignorance is no defence, damage once done to an Ancient Monument is normally irreparable. Furthermore, it is a fact that for a prosecution under the Ancient Monuments Acts to be valid it is necessary for proceedings to be begun within six months of the committing of the offence. It follows that the greatest need of the Ministry in connection with this part of its duties in the sphere of preservation of ancient monuments is speedy information. It needs news of damage or expected damage to scheduled (and unscheduled) ancient monuments as quickly as possible.

8. For this and for other purposes the Ministry has a system of correspondents. Normally in England there is a Chief Correspondent in each county, who is asked to help by obtaining information by any means available and passing it on to the Chief Inspector of Ancient Monuments (Ministry of Works, Lambeth Bridge House, S.E.1).

9. The work of the correspondents is entirely voluntary and is much appreciated by all concerned. But with the varied threats in modern conditions that may assail ancient monuments a small body of already heavily pressed officers cannot hope to cover the whole field; and much must therefore depend on the creation of an efficient system of liaison between the Ministry on the one hand and local archaeologists on the other.

#### RECOMMENDATIONS

10. The Executive Committee believes that the C.B.A. can materially assist the Ministry in this important branch of its work. The obvious requirement is that local archaeologists who are in a position to learn quickly about developments in their areas should report at once any threat to an antiquity, whether scheduled or not. At best the result of such action might be to prevent or

arrest damage ; at worst it might be possible to take action against those responsible and thus provide a salutary warning to others.

11. The Executive therefore urges Constituent Societies and the Group organizations to consider this matter with a view to drawing the attention of their members to the weapons which they have at hand for the protection of antiquities ; and to seeing that an effective contact is maintained, both with the Ministry and with the central office of the C.B.A. itself, so that the Executive may provide backing if it is considered desirable. Information may be sent either directly or through the local correspondent to the Ministry. A list of the local correspondents is appended. In Scotland, where, owing to geographical conditions and other reasons, no definite organization of correspondents exists, information should be sent direct to the Inspector of Ancient Monuments, 21 Castle Terrace, Edinburgh 1. In Wales, information may be passed to the Keeper, Department of Archaeology, National Museum of Wales, Cardiff, or it may be sent direct to the Inspector of Ancient Monuments for Wales, Ministry of Works, Lambeth Bridge House, London, S.E.1. It must be emphasized once again that prompt action is essential if any result is to be achieved, and that while this Memorandum is the outcome of unreported damage to a scheduled site, reports on sites at present unscheduled are also sought.

12. As practical steps towards the creation of a closer co-ordination than at present exists, Groups may wish to consider the desirability of inviting the Ministry's correspondents in their area to join their organization where they have not already done so. Some Societies already print the lists of scheduled monuments in their area, with supplements and additions annually or as required. It is suggested that others should adopt this practice. The Ministry is prepared to supply the necessary information to societies. Both Societies and Groups might also consider the possibility of making arrangements for the periodical inspection of ancient monuments by volunteers. In many districts, at any rate, this should not present much difficulty, though the need for a tactful approach to owners and/or tenants will be appreciated. It is realized that in some places arrangements of this sort may already exist. If so, the Executive would be glad to know of them and to receive any comments or proposals that may be suggested by the experience of local organizations.

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