

1. Environmental Protection Act 1990

1.1 Second Reading

Second reading of the Environmental Protection Bill was on 15 January 1990. The full transcript of the debate is available here:

http://hansard.millbanksystems.com/commons/1990/jan/15/environmental-protection-bill#column_28

The then Secretary of State for the Environment (Chris Patten MP) made the following statements in regards to Part IV of the Bill:

Part IV deals with an issue which has rightly risen up the list of national concerns... Litter is an issue which causes mounting public anger, and we are determined to act decisively to deal with litter and filth on our streets.

Our first concern must be to persuade people not to drop litter in the first place. If we cannot do that, we shall always be fighting a losing battle. A concerted programme of education should help convince people of the virtues of keeping their neighbourhoods clean. That is why we have given the Tidy Britain Group £33 million this year. We have promised further substantial funds for next year.

For those who ignore their responsibilities as good citizens and good neighbours, we intend to increase dramatically the maximum penalty for littering, from £400 to £1,000. If arguments fail to convince them, perhaps an assault on their wallets will do the job. I have considerable sympathy with those of my correspondents who despair when they read of convicted litterers escaping with derisory fines. I hope that magistrates will take into account the growing public concern when they impose penalties for littering. Paltry fines are unlikely to deter.

However, I fear that litter will continue to be dropped; once dropped, it must be efficiently cleared up, and it is here that local authorities are in the front line. One aspect that is apparent is the disparity between the standards of cleanliness achieved by different local authorities. Some do their ratepayers proud; others satisfy themselves with at best indifferent standards and at worst, appalling ones. So we intend to place all local authorities under a new duty to keep their open-air public streets and land free of litter. I will shortly publish a code of practice on litter clearance. It will describe the standards that should be met and advise on the best ways of achieving them.

[...]

Those who pay for their neighbourhood to be cleaned should be able to call their local authority to account if it neglects to discharge its duty. We shall therefore give citizens the right to apply to the magistrates court for a litter abatement order compelling a defaulting authority to clear up litter.

A similar duty will also fall on certain statutory undertakers such as British Rail and the owners of other land. In addition we shall give local authorities the power to extend the duty to certain types of land in other ownership, such as supermarket car parks, by designating them litter control areas.

Finally, we look to commercial operators, especially retailers and take-away food shop owners, to take their responsibilities seriously, as a great many already do. As a powerful back-up to moral persuasion we propose—we shall add this to the Bill in Committee—that local authorities should be able to serve on businesses which fall down on the job of litter abatement notice requiring them to keep their frontages clear of litter. I hope that all

businesses will behave responsibly; after all, that is in their own interests—filthy frontages are bad for business.¹

1.2 Report Stage and Third Reading

The Report stage and Third Reading of the Environmental Protection Bill were on 30 April and 2 May 1990 respectively. A full transcript of the debates are available here:

<http://www.publications.parliament.uk/pa/cm198990/cmhansrd/1990-04-30/Debate-5.html>

<http://www.publications.parliament.uk/pa/cm198990/cmhansrd/1990-05-02/Debate-13.html>

The then Minister for Environment and Countryside, Mr Trippier, made the following references to Part IV and litter during Report stage:

In parts III and IV we have specifically provided for individual citizens to take direct action in the courts if they are aggrieved by nuisance or by defacement by litter. In the latter case, there will be clear, publicly available guidance concerning the standards that local authorities and others can be expected to reach in carrying out their litter duties.²

In response to a proposed amendment which addressed the associated costs of the duty for local authorities to deal with litter, Mr Trippier stated

I must have told the hon. Member for Burnley (Mr. Pike) a hundred times in Committee that we will provide additional resources through the revenue support grant, as soon as we have ascertained from the consultants' study how much money will be required to provide for that new facility. It is not as easy as the hon. Gentleman makes it sound. A number of local authorities manage to do the job perfectly well within their existing resources. We are sitting in the middle of one--the City of Westminster. There is also Canterbury and, to name one that is not controlled by the Conservatives, the London borough of Sutton. It is under Liberal control, but it somehow manages miraculously to work well within its existing resources and keep the streets remarkably clean.

With the new duties imposed by this legislation, my right hon. Friend the Secretary of State and I have said many times that we are certainly prepared to consider providing additional resources as soon as the consultants' study is completed, which I hope will be within the next few months. We hope then to announce the formula that will be used for calculating those additional resources.³

2. Clean Neighbourhoods and Environment Act 2005

2.1 Second Reading

Second reading of the Clean Neighbourhoods and Environment Bill was on 10 January 2005. The full transcript is available here:

http://www.publications.parliament.uk/pa/cm200405/cmhansrd/vo050110/debtext/50110-08.htm#50110-08_head1

The then Secretary of State for Defra (Margaret Beckett MP) made the following statements regarding the litter provisions during the debate:

¹ [HC Deb 15 Jan 1990 vol 165 cc40-41](#)

² [HC Deb April 30 1990, vol 171 col 752](#)

³ [HC Deb 2 May 1990 vol 171 col 1162](#)

Everywhere, litter is a growing problem, and the Bill contains a range of measures to help to tackle it. Under current law, littering on a footpath is an offence but littering in a private garden or in a river is not. We will close that loophole by making it an offence to drop litter anywhere, including on private land and rivers, lakes and ponds. That will make it clear once and for all that dropping litter anywhere is unacceptable.

All hon. Members will probably be familiar with the particular problem of littering on patches of open land. We will give local authorities a new power to require the owner or occupier of land that is heavily defaced with litter to clear it and to prevent it from becoming heavily littered again. That will replace the current system of litter control areas, which local authorities tell us they find burdensome, which they rarely use and which applies only to specific types of land.⁴

...

On the streets, litter control notices can help in dealing with litter generated by businesses such as fast food outlets. However, they, too, are difficult to enforce, with local authorities currently required to seek a court order. We will dispense with that step to make such notices easier to use.

We will also give local authorities new powers to control the distribution of flyers and leaflets, both of which can contribute to street litter, although I say at once to ease anyone's anxiety that political leafleting will not be affected. The Bill confirms once and for all that discarded cigarette butts and chewing gum are litter, and that it is an offence to discard them in the street. That makes the law explicit and should remove any lingering doubts, whether among local authorities or others.⁵

2.2 Standing Committee G

Relevant clauses were discussed on 20 January 2005 in the 3rd sitting of Standing Committee G on the Clean Neighbourhoods and Environment Bill. All stages of the Committee stage are available on parliament.uk here:

<http://www.publications.parliament.uk/pa/cm200405/cmstand/cmclean.htm>

Some relevant extracts from the then Minister for Rural Affairs and Local Environmental Quality (Alun Michael MP) relating to amending the litter provisions in the Environmental Protection Act 1990 to extend the offence to all open spaces are included below (see Clause 18 onwards) from the [3rd sitting of the Standing Committee](#) onwards. For detailed discussion of all relevant litter clauses, the Standing Committee debates should be referred to.

Alun Michael: The clause extends the offence of dropping litter, contained in section 87 of the Environmental Protection Act 1990, so that it applies to all local land to which the public have access, and to all uncovered land to which the public do not have access, regardless of ownership. That includes land covered by water. So the offence extends to dropping litter into bodies of water, such as rivers or lakes, and coastal areas down to the low water mark. There will continue to be an exemption for people dropping litter on their own land or with the permission of either the owner-occupier or the authority controlling the land. The clause will remove an anomaly that the public have wanted to be removed, and will simplify the work of local authorities and others in relation to litter, which can be a problem in many areas.

The question might be asked: why is this change necessary? The answer is that the current law sends mixed messages. For example, although it is an offence to drop litter on a public footpath, it is not an offence to throw it into a neighbouring garden. We want to close the loophole, thereby making it an offence to drop litter anywhere and sending a clear message

⁴ [HC Deb 10 Jan 2005](#): Column 45

⁵ [HC Deb 10 Jan 2005](#): Column 46

that dropping litter is unacceptable. That message is strongly supported by local authorities, the police, companies affected by litter and the general public.

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Alun Michael: The hon. Gentleman highlights something that is not specific to the clause but underlies a lot of what we are doing in the Bill. We are providing legislation that enables local authorities and others to undertake the enforcement that is necessary when other things fail. He is right to suggest that members of the public must use litter bins responsibly. As he said, where litter bins are not available—sometimes it is not because the local authority has not provided them, but because of security reasons—individuals have to play their part by taking their litter home.

We have a sense of the public distaste for the way in which the environment is degraded by petty incidences of people chucking away cigarette packets or sandwich packaging, and of the way in which a place becomes dirtier and feels more abandoned in those circumstances. The Bill therefore strengthens, extends and simplifies what can happen so that local authorities are much less constrained by bureaucracy when they carry out their current powers and duties. We spent quite a lot of time preparing the way for the legislation and consulted the organisations that want to make a difference.

The hon. Gentleman is also right about how we need to encourage people to behave responsibly. We sponsor ENCAMS specifically because it develops campaigns that can be used by local authorities and voluntary organisations to engage the community. I spent time recently with Thames21, the charity that was encouraged, as part of national initiatives, to look at the Thames. I can endorse the hon. Gentleman's experience. I have done litter picks with young people on the banks of the Taff in Cardiff. Seeing the extraordinary range of detritus and rubbish that is found in the Thames brings home just how much stuff ordinary members of the public dispose of in a way that degrades the environment for the rest of the population. He rightly raises that point as an underlying theme that runs through much of the Bill. However, we will probably not have time to speak about it at any great length.

2.3 Report stage and Third reading

The Report stage and Third Reading of the Clean Neighbourhoods and Environment Bill was on 21 February 2005. A full transcript of the debate is available here:

<http://www.publications.parliament.uk/pa/cm200405/cmhansrd/vo050221/debtext/50221-12.htm>

Some relevant extracts relating to litter clauses from then Minister Alun Michael are included below:

The maximum fine for other environmental offences, such as abandoning a vehicle or littering, is level 4, so they are appropriate.⁶

...

It is unnecessary because section 89(7) of the Environmental Protection Act 1990 already requires a code of practice to be issued on the discharge of the litter clearance duties. That has been achieved through the code of practice on litter and refuse of 1999. Subsection (9) allows the code to be modified or withdrawn and reissued. We plan to consult on a new version of the code in the summer to take into account the changes for which the Bill provides. I assure hon. Members that we will cover standards for litter involving gum and smoking-related products in that code.⁷

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⁶ [HC Deb 21 Feb 2005](#): Column 48

⁷ [HC Deb 21 Feb 2005](#): Column 59

Clause 18 will make it an offence to drop litter anywhere in the open air, including on land beside railways, railway carriages and buses. It will cover structures such as bus shelters and railway platforms that are covered but accessible to the public. It will also cover land to which the public does not have access, such as boarded or fenced-off land adjacent to railways where dropped litter can easily accumulate.

Subsection (3), by virtue of section 86(13) of the Environmental Protection Act 1990, will exempt land that is both covered—albeit open to the air on at least one side—and not accessible to the public. Littering in such areas is really a matter for the occupier to deal with, as it does not impact on the quality of the local environment. The amount of litter likely to end up in such areas when thrown from a railway, railway carriage or bus is minimal.

I must point out to the hon. Member for Vale of York that, when she was talking about transport undertakers, she confused clause 18, which deals with the offence of dropping litter, with clause 20, which is about litter cleansing notices. Amendment No. 3 does not affect the latter. Railways are under a statutory duty to keep their relevant land clear of litter, and that is not affected by the Bill. Litter cleansing notices could be issued in respect of other railway land, but we will issue guidance to ensure that they take account of operational needs after full consultation with the relevant operators. I therefore ask the hon. Members not to press their amendment and new clauses to a vote.⁸

⁸ [HC Deb 21 Feb 2005](#): Column 60