



COMMONS REGISTRATION ACT 1965

Reference No 221/U/1

In the Matter of Mountsorrel Hill,
Mountsorrel, Charnwood District,
Leicestershire

DECISION

This reference relates to the question of the ownership of land known as Mountsorrel Hill, Mountsorrel, Charnwood District being the land comprised in the Land Section of Register Unit No CL. 80 in the Register of Common Land maintained by the Leicestershire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

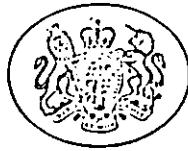
Following upon the public notice of this reference Mr Thomas Taylor Kell (by his solicitors, letter dated 11 August 1974) claimed to be entitled as owner of the land, Mountsorrel Parish Council (by their solicitors, letter dated 4 December 1974) said: they did not claim ownership, they believed the ownership lies or at least did lie with the Lord Lanesborough by virtue of him being Lord of the Manor, and they had no evidence of right of ownership other than that of Lord Lanesborough, and the Earl of Lanesborough (letter 9 December 1974) said: The land had always been part of the Swithland Estate, and he wished to claim ownership. No other person claimed to be the freehold owner of the land in question or to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Leicester on 21 July 1976. At the hearing Mountsorrel Parish Council were represented by Mr P J Tomlinson, solicitor of Messrs Moss Toone and Deane, Solicitors of Loughborough.

Oral evidence was given by (1) Mrs M A Livesey, who is Clerk of the Parish Council, (2) Mr H Newman who has been a member of the Council for 18 years, (3) Mr R H Wilford who is a clerk and assistant to Berry Brothers and Legge, Chartered Surveyors of Kettering, and (4) Mr P J Tomlinson. Mr Wilford produced some documents belonging to the Earl of Lanesborough, saying in effect that although he understood that Lord Lanesborough was agreeable to the documents being so produced, he did not at the hearing represent him.

After some discussion as to whether the non-representation at the hearing of Lord Lanesborough could have been due to an oversight and to the possibility that he might wish to take legal advice as to his position, and upon Mr Tomlinson saying that if Lord Lanesborough applied for the proceedings to be adjourned, the Parish Council would agree to the adjournment, I stated that I would delay my decision so that such an application could be made. In a letter dated 17 August 1976 Moss Toone and Deane said that Lord Lanesborough had consulted them and asked them to request an adjournment.

I held the adjourned hearing at Leicester on 19 April 1977. At this hearing, the Earl of Lanesborough and Mountsorrel Parish Council were represented by Miss L A Brydson solicitor of Moss Toone & Deane (Mr Tomlinson was present some of the time).



The land ("the Unit Land") comprised in this Register Unit is irregularly shaped, having a length of about 1 mile and a width for the most part varying between about 500 and 200 yards. It is a short distance to the west of the main Leicester-Loughborough Road (A6), and is bounded on the west by Mountsorrel Granite Quarries. The Unit Land is all higher than and for the most part very much higher than the A6 Road; part is known as Castle Hill; on the highest part stands the Village War Memorial. The Unit Land, except where there are steep banks or cliffs down to the Village or the Quarry is unfenced and easily accessible either from the motor road which crosses it or on foot from other places; its uneven and hilly nature makes it an attractive and interesting place for a walk. Generally the Unit Land is a valuable amenity for the residents in the numerous dwelling houses which surround it on the north, east and south and for many others.

At the first hearing, Mrs Livesey, in the course of her evidence described the Unit Land (after the hearing I walked over it) and said (among other things and in effect):- The memorial area on the top of the Hill was given by Mountsorrel Granite Company, which was the predecessor of Redland Road Stone. The Unit Land is used by the public as an open space. In the past few years the Unit Land has been grazed particularly by Mr Kell with about 20 goats. No right of grazing has been registered (under the 1965 Act); final consideration of the regularity of this grazing has been postponed pending the determination of the ownership. In conversations with Lord Lanesborough (perhaps he intended informally) she had understood from him that he thought that he had given the Unit Land to the Parish Council, but she could find no documents showing that he had handed it over.

Mr H Newman who is now and has for the last 18 years been a member of the Parish Council (for 2 years he was chairman) said that he was confirmed in the idea that Lord Lanesborough owns the Unit Land because he knew that pieces of the Hill had been sold to cottagers to enlarge their gardens and sold (?or leased) to the County Council as a car park; he also gave some information as to his knowledge of how the Unit Land had been used.

Mr Wilford produced: (1) an old plan entitled "Plan of Swithland Hall Estate, Leicestershire to accompany Valuation & Report: August 1926) on a scale of 6" = 1 mile showing coloured pink a large area west and southwest of Mountsorrel including the Unit Land; (2) another plan entitled "Swithland Hall Estate belonging to Earl of Lanesborough, John German & Son, Estate Offices, Ashby de la Zouche: April 1953 which also shows the Unit Land as part of the Estate; (3) copy lease dated 14 August 1929 by which Equity & Law Life Assurance Society, Mr E C Arden and others and the Rt Hon C J B B Earl of Lanesborough demised to the Mountsorrel Granite Company Limited the Mountsorrel Hinckley Hill Hawcliffe Cocklow Quarries together with other lands for 80 years from 1 April 1929; and (4) copy lease dated 1 July 1974 by which the Rt Hon D A B B Earl of Lanesborough in consideration of the surrender of the 1929 lease demised to Redland Roadstone Limited the said quarries and other land for 60 years from 1 April 1974.

At the second hearing Miss Brydson produced a vesting deed dated 19 March 1941 by which Messrs G A Collins, E R O Gascoigne and J W R Hunt conveyed to the Earl of Lanesborough then and therein described as "Dennis Antony Bryan Butler commonly called Lord Newtown", lands in Swithland, Rothley, Cropston, Thurcaston and Mountsorrel containing 2125.344 acres; such deed recited that C J B B Earl of Lanesborough (he died 18 August 1929) was the owner of the Swithland Estate



(being the lands thereby conveyed), and by such deed the conveyed lands were declared to be held upon the trusts of the compound settlement comprising his will, a disentailing deed and a trust instrument of 19 December 1939.

Mr Keld did not attend and was not represented at either hearing and I have no evidence that he is or ever was the owner of any part of the Unit Land.

The Unit Land is included expressly in the lands dealt with by the 1929 lease, the 1941 vesting deed and the 1975 lease; on these documents and on the other evidence summarised above I am satisfied that Lord Lanesborough is the owner of the Unit Land and I shall accordingly direct the Leicestershire County Council as registration authority to register the Rt Hon Dennis Antony Bryan Butler Earl of Lanesborough as the owner of the land under section 8(2) of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 29th day of April ————— 1977

a. a. Butler Fuller

Commons Commissioner