COMMONS REGISTRATION ACT 1965   Reference Nos 236/U/63
                                                              236/U/64

> In the Matter of (1) part of Albury
> Downs, Guildford Borough and (2) land
> north of Winterfold Heath, Albury Parish
> and Guildford Borough, Surrey

DECISION

These references relate to the question of the ownership of lands being
(1) part of Albury Downs, Guildford Borough and (2) land north of Winterfold
Heath, Albury Parish and Guildford Borough, comprising (according to the
Register) (1) 1.493 hectares and (2) 3.250 hectares and being the lands
comprised in the Land Section of Register Unit (1) CL. 533 and (2) CL. 537 in
the Register of Common Land maintained by the Surrey 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 the Albury Trustees claimed
to be the freehold owners of the lands in question and no other person claimed
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 Guildford on 13 January 1977. At the hearing (1) Rt Hon the
Earl of Halifax and (2) Most Hon the Marquess of Linlithgow (the present trustee
of the Albury Estate) were represented by Mr H A Lee, Surveyor of the Estate and
their Agent assisted by Miss E I Lowe solicitor with May May & Merrimans,
Solicitors of Grays Inn, London. Mr Lee and Miss Lowe also represented Rt Hon
the Earl Percy in whose favour a vesting deed is in the course of preparation.

Miss Lowe in the course of her evidence produced: (1) an abstract of the title
of the Earl of Halifax and the Marquess of Linlithgow to freehold hereditaments
in Albury beginning with a vesting deed dated 19 February 1927 in favour of
A I 8th Duke of Northumberland (he died 23 August 1930) and ending with the
probate dated 9 August 1965 of the will of H M Duchess of Northumberland (she
died 13 June 1965), (2) the said 1927 vesting deed; (3) a copy of the relevant
part of the plans and schedule therein referred to; (4) probate dated 8 October
1930 of the said 8th Duke; (5) a vesting deed dated 14 December 1931 in favour
of the Duchess and (6) the said 1965 probate.

Mr Lee in the course of his evidence produced agreements dated 19 June 1962,
30 December 1966, 1 May 1970 made between the Albury Trustees and the Surrey
County Council under section 60 of the National Parks and Access to the Countryside
Act 1949 providing for public access to a large area of land including and
around Newlands Corner; he also produced deeds of declaration dated 20 March 1967
and 15 July 1968 made between the Albury Trustees and the Forestry Commissioners

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dedicating lands on Winterfold Heath for forestry purposes. Mr Lee said (in effect): The CL. 533 land is part (being at the west end) of the Newlands Corner area being included in the said 1970 access agreement. The CL. 537 land is self-regenerated Scots pine similar to the surrounding lands and is included in the said 1968 Deed of Dedication.

The CL. 533 land and the CL. 537 land are shown on the 1927 vesting deed plans being part of the land shown in the Schedule as "22.237 (acres) Pt of St Martha's Down" and "143.792 (acres) Winterfold Heath".

On the evidence summarised above I am satisfied that the Earl of Halifax and the Marquess of Linlithgow are the owners of these lands and I shall accordingly direct the Surrey County Council as registration authority to register the Rt Hon Charles Ingram Courtenay Earl of Halifax of Garrowby, Yorkshire and Most Hon Charles William Frederick Marquess of Linlithgow of Hopetown House, Queens Ferry, West Lothian, Scotland as the owners of the lands 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 20th day of January 1977

a .a. Baden Fuller

Commons Commissioner

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