

RICS SCOTLAND RURAL MID-SESSION

SNH BATTLEBY CENTRE, PERTH

27th NOVEMBER 2009

**LAND MANAGEMENT OBJECTIVES – HOW
THEY DIFFER DEPENDING ON OWNERSHIP**

PRIVATE SECTOR PERSPECTIVE

Smith & Garratt

Rural Asset Management

**A.H. Garratt LL.B FRICS
(Hugh)**

Private landowners

- Professionalism and amateurism
- Enthusiasm, innovation and passion; indolence, neglect and vandalism
- Relative freedom to pursue individual goals - no overriding duty to others, no committee
- Resources may, or may not, be a limiting factor
- Individualism and diversity
- Survival or failure ... evolution and progress

Land ownership – what does it mean?

- “The right of using and disposing of a subject as our own, except in so far as we are restrained by law or praction” Erskine, *‘Institute of the Law of Scotland’* 1824
- Freeholder = tenant in fee simple absolute in possession
- “*Quia Emptores*” England 1290
- “*Feudal Reform*” Scotland 2000



Sasine Ceremony (1970)

“At the handing over ceremony, on 22nd April 1970, Mr Dickson passed the symbols of sasine (title) to the Chairman of the Corstorphine Trust, Dr E.A. Cormack, saying, "With this twig, earth, and stone I give you sasine of the Corstorphine sycamore tree". The Trust had the tree treated for a fungal infection and guy-roped in 1989. This would let the tree withstand a push of 500 tonnes during summer, when the tree's canopy would be fully leaved.”

The Corstophine sycamore
after the storm of 26th December 1998



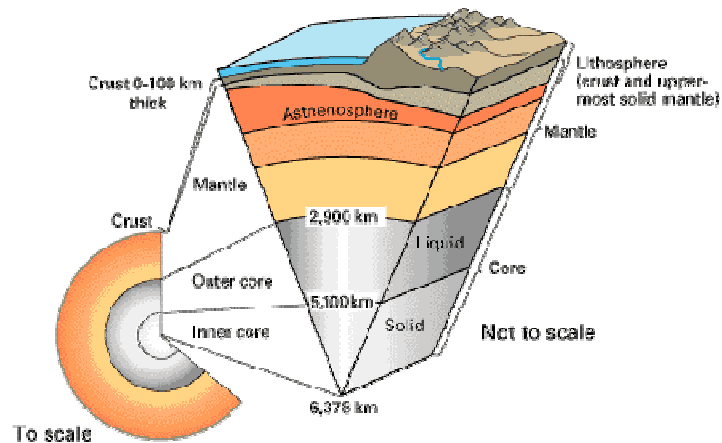
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“Cuius est solum, eius est usque ad coelum et ad inferos”



Except: Gold and silver (belong to the Crown)
Oil and gas (belong to the Crown)
Coal (Nationalised 1937)
'Treasure trove' – stashes of gold or silver with no known owner (belongs to the Crown)
Wild animals (cannot be owned until killed, but then belong to the landowner)
Running water, whether surface or underground (belongs to no-one and is subject to rights in common law, and riparian rights, and subject to statute)

Support and challenges to private ownership

Support

European Convention on Human Rights; Human Rights Act (UK)

Challenges

Statutes – Planning Acts, Rent Acts, Compulsory Purchase Acts, Environment Acts, Land Reform (access), &c.

Common law – neighbours' rights of support; and in water or drainage; rights protected by the law of nuisance, &c.

Case law – eg *Bernstein v Skyviews and General Ltd 1977* (landowners' rights to airspace are limited to that which is required for ordinary use and enjoyment); will there be a similar limitation with regard to mining?

Pracation – servitudes and contracts.

European law – cross compliance and the overlap with legislation concerning animal welfare, agri-environmental matters, country sports, heritage property, probity in applications for agricultural and forestry support, &c.

16 BIGGEST LANDOWNERS (HOLDINGS OVER 75,000 ACRES)

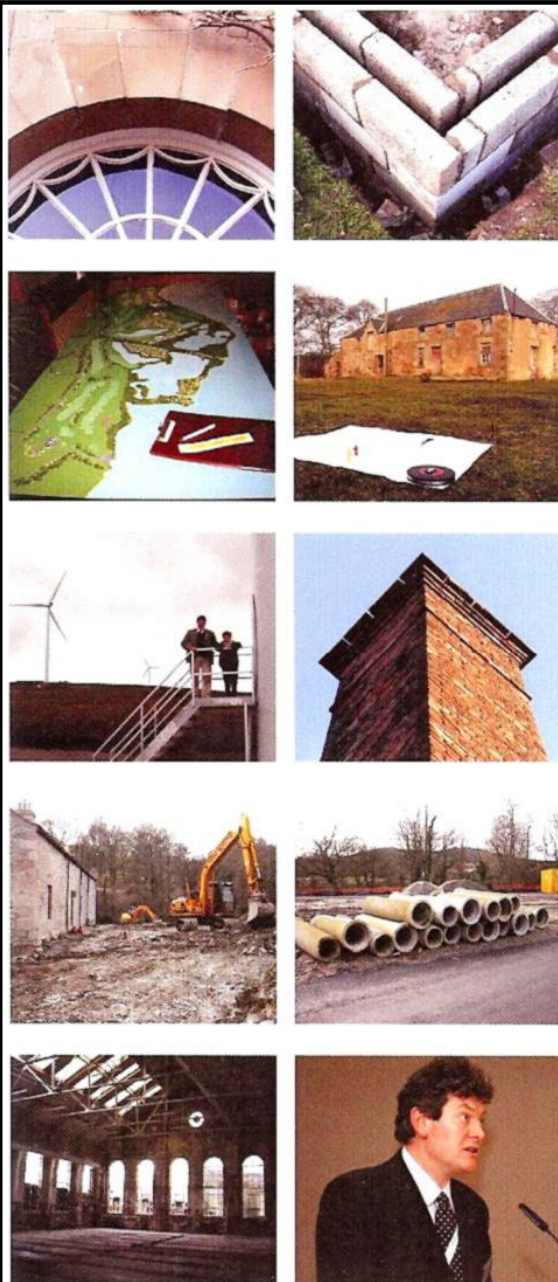
Buccleuch Estates	261,600 acres
National Trust for Scotland	176,827 acres
S. Troughton & Blair Trust	148,000 acres
Invercauld & Torloisk Trusts	120,500 acres
Alcan Highland Estates Ltd.	116,800 acres
Earl of Seafield	101,000 acres
Duke of Westminster	95,100 acres
Crown Estates Commissioners	94,015 acres

South Uist Estates Ltd.	92,000 acres
Robert Fleming & Trusts	88,900 acres
RSPB	87,489 acres
Glencanisp Deer Forest Trust	86,300 acres
Countess of Sutherland	83,239 acres
Clyde Properties & UBMC BV	81,000 acres
Viscount Cowdray & Trusts	76,600 acres
Lochiel Estates	76,000 acres

SIZE CLASS	NO.	% NO.	ACRES	% ACRES
> 100 000	6	0.4%	924,727	4.8%
75 000 – 99 999	10	0.7%	860,643	4.5%
50 000 – 74 999	17	1.2%	102,5661	5.4%
40 000 – 49 999	10	0.7%	457,784	2.4%
30 000 – 39 999	23	1.6%	811,298	4.3%
20 000 – 29 999	57	4.0%	1,384,269	7.3%
10 000 – 19 999	145	10.3%	2,017,173	10.6%
5 000 – 9 999	216	15.3%	1,509,813	7.9%
4 000 – 4 999	114	8.1%	495,114	2.6%
3 000 – 3 999	118	8.4%	392,881	2.1%
2 000 – 2 999	230	16.3%	526,773	2.8%
1 000 – 1 999	465	33.0%	609,269	3.2%
TOTAL	1411		11,015,405	57.8%

Total land area of Scotland	19,068,631 acres	100.00 %
<u>Publicly owned land</u>		
Secretary of State for Scotland – Forestry Commission	1,660,923 acres	8.71 %
Secretary of State for Scotland – SOAEFD	281,355 acres	1.48 %
Local Authorities	152,771 acres	0.80 %
Scottish Natural Heritage	84,488 acres	0.44 %
Secretary of State for Defence (MoD)	50,429 acres	0.26 %
British Coal	40,000 acres	0.21 %
Highlands & Islands Enterprise	5,802 acres	0.03 %
TOTAL PUBLICLY OWNED	2,275,768 acres	11.93 %
NON-PUBLICLY OWNED	16,792,863 acres	88.07 %

Principal Not-For-Profit Landowners in Scotland		
National Trust for Scotland		176,827 acres
Royal Society for the Protection of Birds		87,489 acres
Stornoway Trust		69,400 acres
The John Muir Trust		35,015 acres
Scottish Wildlife Trust		28,620 acres
Assynt Crofters Trust Ltd.		21,132 acres
Church of Scotland General Trustees		14,841 acres
Melness Crofter Estate Ltd.		10,700 acres
The Woodlands Trust		5,000 acres
Brove & Annishader Township Ltd.		4,500 acres
Co-operative Wholesale Society		2,240 acres
TOTAL		455,764 acres
% of Scotland		2.4 %



- **Planning and Development**
- **Heritage Property and Building Conservation**
- **Project Management and Construction**
- **Land and Property Management**
- **Compulsory Purchase and Compensation**
- **Expert Witness and Representation**
- **Independent Bespoke Service**



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