

Whose Land Is It Anyway?

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John MacLeod may have gifted the Cuillin of Skye to the people of Scotland – in exchange for the upkeep of Dunvegan Castle, of course – but why be grateful for something that should belong to us in the first place?

Perhaps you have a fine old house worth £50,000. Perhaps that house has a spacious and delightful back garden. Perhaps, for argument's sake, the dear old family house is in a bad way and needs £200,000 worth of repairs. What do you do? The chances are that you do not nip off to the local building society, talk them into paying £200,000 for your £50,000 house, and then persuade them to allow your family to occupy the place in perpetuity.

Your cherished backyard might be one of the highlights of the neighbourhood, but a building society manager is likely to point out that it isn't worth much actual money. As for your fine, distinguished, but sadly leaky old house, in perpetuity is a very long time indeed, not least when the only alternative is wrack and ruin.

Bump up the numbers a bit, nevertheless, and you have the latest episode in the tale of the Cuillin of Skye, Dunvegan Castle and John MacLeod of MacLeod. Three years ago the chieftain announced that he was selling his part of the mountain range for £10 million in order to keep a roof over himself and his guests at the ancestral home. Outrage ensued. Some people said MacLeod had no moral right to sell off part of Scotland's natural heritage; others said he had no legal right. Prospective buyers – the numbers varied – were nevertheless supposed to be keen.

On paper the laird had it made. In strict commercial terms a 23,000 acre estate with little to offer in the way of agricultural or sporting income would not have been worth much more than £2.5 million. The Cuillin, however, is not just any old piece of landscape. But with £10m to hand MacLeod could fix Dunvegan's sieve-like roof, create a hotel and leisure complex, and develop the gardens, the better to entertain 145,000 visitors annually.

Three years on, things have come unstuck or gone beautifully, depending on your point of view. Whether because of adverse publicity, falling stock markets or sober reflection, Cuillin-buyers with £10m to spare appear to have become thin on the ground. Dunvegan meanwhile continues to show the effects of its 800-year existence. And MacLeod, suddenly, is “*delighted*” to do his bit for Scotland's national heritage.

Which is to say that if Highland Council, Highlands and Islands Enterprise (HIE), the John Muir Trust and anyone else prepared to help can find approximately £10m, and

possibly more, for Dunvegan's restoration, "*the people*" can have the so-called Black Cuillin, the heartland of Skye.

All the chief requires are residence rights for himself and his family for as long as the family endures. His gesture is, in the language of the landed, "*a gift*".

Most people appear to be happy with that. Jack McConnell, First Minister, believes a deal would be good for Scotland. Jim Hunter, chair of HIE, sees an opportunity to create Scotland's first real national park. The leader of the council's Skye and Lochalsh committee thinks the idea of public ownership is "*fitting*". Nobody seems to have noticed that MacLeod, in the apparent absence of any viable alternative, has struck an excellent deal for himself.

First, Dunvegan is renovated at public expense. Secondly, the tricky question of whether he actually has any legal right to the central part of the Cuillin is made to go away. On one interpretation he surrenders control of an estate he could not manage to sell or afford to maintain. On another reading he and his family gain permanent rights to a very decent residence maintained at public expense in exchange for a tract of economically-negligible land to which he has, it is said, questionable title.

A royal charter exists: of that there is no doubt. Issued in 1611, it granted the Barony of Dunvegan to the MacLeods, but it did not actually mention the Cuillin specifically. Equally, three years back, the Banffshire-based Land Reform Scotland, Ramblers Scotland and the Scottish Office nagged the Crown Estate into investigating whether the holders of Dunvegan had in fact fulfilled all the legal obligations set out in their title deeds.

No-one seriously expected the Crown to open up the can of worms that is land ownership in Scotland – just how many ancient deeds are actually valid? – but some thought the legal opinion might be interesting.

So it proved. Acting with legal counsel's advice, the Crown Estate "*found no evidence to support a legal challenge against John MacLeod's title*" to the Black Cuillin.

After questioning by Land Reform Scotland, however, it turned out that in counsel's opinion MacLeod's title was merely "*capable of including the Cuillins*". In plain language, this boiled down to saying that because the claim of lordship had not been challenged in 20 years, MacLeod, the former John Wolrige-Gordon, was secure. So there.

Legalese was incapable, of course, of expressing the idea that the ancient fabric of Scotland might not belong to anyone in any real sense. The country's self-selecting deed-holders, as opposed to its long-dispossessed people, do not think in those terms.

Having made an almighty stink in the run-up to the Land Reform (Scotland) Act by turning a simple argument over access – the right to cross land; the "*right to be on land for recreational, educational and certain other purposes*" – into the main issue, they yet again deflected the demand for proper reform.

True, the spectre was conjured of communities and crofters seizing control of any estates they chose, like so many bucolic Bolsheviks, but even a glance at the act showed this to be nonsense. Meanwhile, it has been left to the likes of the redoubtable Andy Wightman and the **Who Owns Scotland website project** (<http://www.whoownsscotland.org.uk/>) to continue to spell out the facts.

Take 19-and-a-bit million acres and call it Scotland. Of that total 18.5 million acres are classified as rural. Of these, 2.275 million acres are owned by public bodies. The remaining 16.2 million acres – four-fifths of the landmass – are “*in the ownership of private interests*”.

Break private holdings down further, as **Who Owns Scotland** does, and the results are both fascinating and all too familiar. One quarter of private land in Scotland is in the hands of 66 landowners. One third is shared between 120 owners; one half by 243; and fully two-thirds of 16.2 million acres is shared between 1,252 individuals or other private interests.

But these are custodians, are they not, of our heritage? Either that or they are the sort of selfless people prepared to carry the burden of maintaining economically worthless land. Possibly they are counted among those who have just signed up for Scottish Natural Heritage’s “*good practice guide*” to heather moorland, what with generations of experience they bring to the art of the muirburn and the like.

Possibly they haven’t noticed the 10 percent decline in half the bird species associated with moors and uplands over the last three decades; possibly the 25 percent reduction in heather moorlands between the 1940s and the 1980s was overlooked. Possibly; possibly not.

Estate, shooting estates in particular, are the best argument ever devised for public ownership. Their proponents talk a lot about conservation; what they mean is the conserving of huge, treeless tracts – and there is nothing natural about those – for witless sport. Sheep farming, deer stalking, fishing and grouse-shooting are encouraged – even as grouse disappear from their natural range; even as salmon numbers decline – but bio-diversity is dimly understood. Wild native mammals, like native plants, have continued to die out and commercial forestry has been grotesquely mismanaged. The economic returns have meanwhile been slight, where they have existed at all.

Even these truths are not the heart of the matter. Whether MacLeod of MacLeod understood it or not, the idea of him flogging off the Black Cuillin just to fix the roof of the big house touched a very old Scottish wound.

Equally, the continuing annexation of 16 million of Scotland’s 19 million acres by a handful of people is the most eloquent of symbols: the old Scotland, with all its ancient injustices, is very far from dead, and the Land Reform Act is scarcely worth the name. A nation without its statehood; a country robbed of its land and its rights. This is the 21st century, right?

Sometimes I wonder. The first proposal for a (public) national park in Scotland was made in 1931. We are promised one very shortly.

Further Information

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