

GRANDEUR & DECLINE AT WENTWORTH WOODHOUSE

Encouraged in part by Catherine Bailey's *Black Diamonds*, many local people blame 'Manny' (Emmanuel) Shinwell, Minister for Power in the post-War Labour governments of 1945-51, for the decline of Wentworth Woodhouse, which has only recently started to be reversed; but, in fact, several other factors were at work. Though Lord Shinwell (as he became) was not well disposed towards the aristocracy, we should not forget the impact of death duties, the failure of the Fitzwilliam Earls to produce direct male heirs, and the changes in society brought about by the two World Wars. All these undoubtedly contributed to the decline, which was only too evident by 1979, when the last Earl died. However, Shinwell provides an easy target, a villain whom the audience can hiss at, secure in the knowledge that there will be few who will stand up for him now.

The Economic Miracle

In the first half of the 19th century, Britain saw a *Wirtschaftswunder* – an economic miracle - far more remarkable than the one experienced in West Germany in the years following the Second World War, if only because it was unique and home-grown, rather than financed by American money. Few Englishmen living in 1851 (the date of the Great Exhibition) would have denied that there had been dramatic growth in recent decades, in terms of population, G.D.P., average income, trade, manufacturing, finance, shipping and transport.

According to the prevailing Liberal philosophy, this growth was the result of the abolition of the corn laws, the abolition of tolls on internal trade, the harnessing of the steam engine, the spread of the factory system and the division of labour. Bank rate remained constant and inflation was non-existent. The United Kingdom was a single market without parallel, as well as 'the workshop of the world.' On the other hand, trade unions as yet lacked any real influence and there was no mass working class movement. When Karl Marx issued his call to arms in *The Communist Manifesto* of 1848, he was a prophet crying in the wilderness.

The economic miracle may have peaked in 1851, but it certainly did not come to an end. Praising Britain's constitution and political stability as well as her economic and social achievements, Bernard Porter characterized the mid-Victorian era as Britain's 'Golden Years.' Sir Ernest Llewellyn Woodward, Professor of History in Oxford between the Wars concurred:

For leisure or work, for getting or spending, England was a better country in 1879 than in 1815. The scales were less weighted against the weak, against women and children, and against the poor. There was greater movement, and less of the fatalism of an earlier age. The public conscience was more instructed, and the content of liberty was being widened to include something more than freedom from political constraint.

Sir Llewellyn's rider to all this reflected a shame felt in the 1930s, rather than the 1870s:

England in 1871 was by no means an earthly paradise. The housing and conditions of life of the working class in town & country were still a disgrace to an age of plenty.¹

It is doubtful if any such doubt afflicted Samuel Smiles (1812 – 1904), the author of *Self-Help*, first published in 1859. Smiles promoted the idea that hard work and thrift (rather than Marx's class struggle) provided the remedy for poverty – though he also attacked materialism and *laissez-faire* government. His most famous book sold 20,000 copies within a year of publication, becoming "the bible of mid-Victorian liberalism". By the time of his death in 1904, the book had sold over a quarter of a million copies; but he was also the author of numerous other books: *Character*, 1871; *Thrift*, 1875; *Duty*, 1880; *Life and Labour*, 1887; and *Lives of the Engineers* (5 vols, 1862).²

Meanwhile, in Europe and America, the late 18th and early 19th century saw revolutions in America, France and South and Central America, the foundation of ultimately successful nationalist movements in Italy and Germany, *coups d'état* and plots in many other countries, and (last but not least) the rise and fall of the first Napoleonic Empire. The Marxist Eric Hobsbawm called the years 1789-1848 *The Age of Revolution*; but the exception was Great Britain. We had no political revolution here; and, contrary to what people generally believe, no social revolution either.

The last statement is controversial. It has long been taken for granted, not least by Marx, that capitalism was the agent of a bourgeois revolution, which transformed the medieval feudal society of Western Europe, in accordance with the law of dialectical materialism; but, looking at 19th England (and indeed Britain), the theory cannot be sustained. When we consider the popularity of John Bull, the history of the Game Laws, the depth of the opposition to the repeal of the Corn Laws, the failure of the Chartist and Republican Movements, the remarkable survival of aristocratic titles, country houses and estates and (above all) the House of Lords, the failure of Gladstone's Liberal Party to carry Home Rule for Ireland and

¹ *The Age of Reform*, 1938.

² But, for a comprehensive (though balanced) rebuttal of the optimistic view of mid 19th century Britain (and Ireland) see David Cannadine's *Victorious Century* (Allen Lane, 2017)

the Marquis of Salisbury's long periods in office, there is a strong case for saying that England remained a bastion of aristocratic rule, right down to the Liberal landslide of 1906.

This is not very different from the conclusion reached by David Cannadine and Christ Bryant in their recent but very different studies of the British aristocracy. Bryant points out what is obvious to students of 'local history' in South Yorkshire - that the aristocracy played an extremely important part in the development of capitalism:

Nor was it just what happened on the land that was of interest; the exploitation of mineral rights underneath it became one of the most significant new sources of aristocratic income. Landowners had mined coal for centuries, but as shallow shafts and adits were exhausted and engineers developed means of extracting much deeper sea-coal, aristocrats stood in a uniquely privileged position. Right across the country, peers became prominent mine-owners.³

Cannadine was surely right too, when he pointed out that the British aristocracy's position remained largely unchanged and unchallenged at the beginning of the 20th century. Decline only set in with Lloyd George's tenure as Chancellor of the Exchequer, the catastrophic effects of the Great War of 1914-1918 on the labour market, and the rise of a more egalitarian spirit in politics, coinciding with the rise to power of the Labour Party, which first formed a government in 1924. There again, some of the great families managed to hold on to what they had; and amongst these were the Earls Fitzwilliam.

Grandeur & Decline

The position which the Fitzwilliam family occupied in South Yorkshire can easily be appreciated when we stand in the park of Wentworth Woodhouse and survey the scene, especially the vast width of the East Front of the mansion House (a Grade I listed building with more than 300 rooms and 1,000 windows), the Park itself (which extends to 180 acres and has a boundary wall which is nine miles long), and the monuments to be seen on the horizon (see illustrations). Hooper Stand, in particular, is remarkable: it commemorates the defeat of the Jacobite Rebellion of 1745, and the making of peace in Europe three years later. The first of these events had a particular significance in the life of the 2nd Marquis of Rockingham, because, as a boy of 15, he ran (or rather, rode) away from home and crossed the Pennines to join the royalist forces which were mustering to resist 'Bonnie Prince Charlie's' Jacobite army.

³ Bryant, *Critical History of the British Aristocracy*.

As the architecture and the landscape-gardening indicate, most of what we see today was created in the 18th century, when the estate belonged to the Marquises of Rockingham. As we have seen in Chapter 7, the second Marquis was Prime Minister in 1766 and again in 1782; and it was in his time that the East Front (and the magnificent stable block) was built. The Earls Fitzwilliam as a whole inherited the House and estate and lived there for almost 200 years; but their wealth, power and grandeur were still evident in the early 20th century.

William Charles de Meuron Wentworth-Fitzwilliam, the 7th Earl Fitzwilliam (1872 – 1943) succeeded to the earldom on the death of his grandfather, the 6th Earl, in 1902; and he was one of the richest men in Britain. He had several estates in England and in what is now the Republic of Ireland. He owned the coal which lay in abundance under the West Riding of Yorkshire, as well as the mining equipment, some of the railways, and the houses and cottages inhabited by hundreds of miners and agricultural workers. He maintained a stud to provide racehorses and hunters. He had a priceless art-collection and a 50-room house in Mayfair.⁴ He would probably be worth around £3,000,000,000 in today's money; but he controlled the lives of those who worked for him to an extent which would be unthinkable in 2016, even for a Gates, a Bezos or a Zuckerberg.

There are several stories about Wentworth Woodhouse which emphasize its size. In 1910 an American visitor is said to have remarked:

It is a place so huge that guests find it of advantage to bring with them treble the ordinary number of hats, which are kept at the various entrances, so as to save themselves the trouble of walking about a quarter of a mile from one entrance in order to get the hat which they may have left at another.⁵

Another story, related by a national newspaper in 1931, concerned the basement and vaults. Supposedly, one of the Countesses Fitzwilliam had advised her husband that it was his duty to know every part of his house in great detail. He had confessed that he knew very little about the geography of the nether regions, and undertook a voyage of exploration, by way of penance:

For what seemed to him like a very long time he groped his way along passages and through cellars without encountering any human being. At last he came across a smallish boy and asked him what might be his function in the establishment. "Me?" said the boy, "Why, I do all the work as is done in this place, don't I?" Upon that, Lord Fitzwilliam decided that he had, as it

⁴ Bailey, 7; *Nottingham Evening Post*, 12 February 1907; Sheffield Archives, Wentworth Woodhouse Muniments, T93, cited by *British History Online*.

⁵ *Northampton Mercury*, 16 September 1910.

were, discovered the mainspring of his household, and retired to the upper regions.⁶

In 1937 the 'Court and Society' column of another national newspaper informed its readers that:

Nervous guests are reputed to have tried the experiment of having a paper trail along passages to guide them back to their rooms; and another tale is that, during Doncaster week, when the host and hostess always entertain a large party, a manservant decided to test the distance covered while performing his duties, and his four days' work registered over fifty miles on a pedometer.⁷

In the 6th Earl's time, there had been 84 servants at 'the Big House.' A photograph, taken in 1890, shows a housekeeper and 8 maids. Another, taken ten years later, shows 60 out-door and non-domestic staff. A third, taken in 1902, shows 11 woodyard staff; but there were also gardeners, park-keepers, deer keepers, gamekeepers, grooms, poultry men and many others. Wentworth Woodhouse saw no less than three royal visits, in 1886, 1891 and 1912.

Successive owners of Wentworth Woodhouse were on the reformist wing of British politics. They were Whigs and then Liberals. As we have noted, the 2nd Marquis of Rockingham opposed George III and supported the demands of the colonists during the American War of Independence (1776-1783). His nephew, the 4th Earl Fitzwilliam, inherited his uncle's estates and assumed his position in the Whig party, but he resigned from office as Lord Lieutenant of Ireland in 1795, when George III refused to countenance any measure of emancipation for Roman Catholics. The Whig and Liberal tradition survived until the late 19th century, when it foundered on the rock of Gladstone's advocacy of Home Rule for Ireland.

The 7th Earl became a Conservative and was M.P. for Wakefield between 1895 and 1902, when he took his seat in the House of Lords; but the Fitzwilliam family continued to enjoy its favourable reputation in England in the 19th and early 20th centuries, despite the advent of democracy in politics and radical changes in master-servant relationships. Indeed, they were (and are) regarded with respect and affection even in the South of Ireland, where hatred of the Protestant Ascendancy ran deep. Many country houses belonging to the British aristocracy went up in flames during the Irish War of Independence of 1919-21; but Coolattin House and Carnew Castle still stand, though they no longer belong to the Fitzwilliam family.

The 7th Earl was an entrepreneur and an industrialist, as well as a landowner. If the headquarters of his agricultural empire was in Wentworth, the beating heart of his industrial empire was in nearby Elsecar, where the Elsecar Main colliery was

⁶ *The Manchester Guardian*, 10 December 1931.

⁷ *The Observer*, 12 September 1937.

opened in 1905. The importance of this can be seen even today, at the Elsecar Heritage Centre, where what remains of the Earl's private railway runs alongside the his old workshops and the Newcomen Pump (believed to be the oldest surviving steam engine of its kind in the world).⁸ He was also an adventurer and innovator. His taste for adventure was demonstrated in 1904, when he bought a steam yacht and set off to Cocos Island in the Pacific, in search of buried treasure,⁹ while shortly after his return he founded the Sheffield Simplex car company, a potential rival for Rolls-Royce, before it closed in 1925.

But, if Wentworth Woodhouse continued to enjoy days of grandeur in the early 20th century, it experienced a sad decline after 1943, when the 7th Earl died. Billy Fitzbilly was succeeded by his son Peter, who was killed in an air crash in 1948, along with his lover Kathleen (or 'Kick) Kennedy, the sister of the American President John Kennedy (assassinated in 1963). The 8th Earl had no male heir, and so the estate and the title passed to a distant cousin, Eric (the 9th Earl), who was an alcoholic and died without issue in 1952. After a dispute resolved by the Probate Divorce and Admiralty Division of the High Court, the Fitzwilliam title and estates then passed to an even more distant cousin, known as 'Tom' (the 10th Earl), who also died without issue in 1979. It was then that the title to the earldom became extinct.

Meanwhile, the House underwent several changes of use and ownership. It had already been used as a Training Depot and Headquarters of the Intelligence Corps during the Second World War. Then the Ministry of Health proposed to requisition it as "housing for homeless industrial families". To prevent this, the 8th Earl attempted to donate the house to the National Trust, which declined to take it. Subsequently, Billy Fitzbilly's sister Lady Mabel, who was a Socialist, arranged for the West Riding County Council to lease most of the house, leaving forty rooms for the Fitzwilliam family. Thus, from 1949 to 1979, the house was used by the new Lady Mabel College, which trained female P.E. teachers (including some who taught at my wife's school in Doncaster).

The college then merged with Sheffield City Polytechnic (now Sheffield Hallam University), which eventually gave up the lease in 1988, due to high maintenance costs (and, by some accounts, because many of the students considered Wentworth too remote from the high-life of Sheffield). Forty-five years after Billy's death, Wentworth Woodhouse had fallen into a very poor state of repair, and already needed millions spending on it, given the enormous size of the place.

In 1989 the family trustees decided to sell the House and the area surrounding it, but retain the Estate's 15,000 acres of land. A buyer was found in the businessman Wensley Haydon-Baillie; but was eventually overwhelmed by debt, and Wentworth Woodhouse was re-possessed by a Swiss bank, and in 1999 it was sold for £1.5 million to Clifford Newbold (1926–2015), a former architect from

⁸ See illustrations.

⁹ See *Earl Fitzwilliam's Treasure Island*, Stephen Cooper & John Moorhouse (CreateSpace, 2016) and Chapter 11 above.

London, and his sons. They started a programme of restoration, and began to open the House to the public for the first time; but (as we shall see) they also made the serious (and seriously expensive) mistake of suing the Coal Authority for compensation, in respect of mining subsidence, which had allegedly recurred in the 1990s.

Finally, the Newbolds put the property back on the market in 2014, and in March 2017, it was sold to the Wentworth Woodhouse Preservation Trust for £7 million. By this time, the cost of repairing the mansion block was estimated to be anything between £40 million (the figure put forward by Newbold when interviewed by *Country Life* in 2010) and £100 million (the figure claimed at one stage during the litigation with the Coal Authority). At any rate, the cost is thought to dwarf the amount given by the nation by the Chancellor of the Exchequer in his Autumn Budget Statement of November 2016.¹⁰

What accounts for the decline and fall of the House of Fitzwilliam in the second half of the 20th century? To some extent the answer is obvious. As Catherine Bailey tells us, the principal reason was the failure of the dynasty to produce direct male heirs – a problem which had also afflicted their predecessors more than once. This certainly accounts for the extinction of the title in 1979, since under the traditional law of primogeniture, an earldom could only be inherited by male heirs. To some extent, it also accounts for the decline of the House itself, because the division of the family estates meant that a way of life was lost, something which meant a lot to local people in particular. Although the House survived, it was no longer the heart of an aristocratic community and enterprise.

But this is not enough to satisfy everyone's desire for a scapegoat; and there are many who seek to put the blame on 'Manny' Shinwell, and 'the Coal Board', though the latter was replaced by the Coal Authority as long ago as 1987.

Manny Shinwell

As Minister of Fuel & Power in the post-war Labour Government of 1945-1950, Shinwell was in charge of the mines, which needed to produce unprecedented quantities of coal in the late 1940s, as a result of a balance of payments crisis and an exceptionally cold winter in 1946-7. Shinwell's plans for solving the problem included an extensive programme of open-cast mining in and around the village of Wentworth.

During the War, the coalmines had been under state control, and the Labour Party was committed to nationalising the means of production when peace was restored. Shinwell was a committed Socialist and had little time for coal-owners like the 8th Earl Fitzwilliam, though the Earl had served in the War and was popular with local people, including miners. Catherine Bailey describes what she regards as an

¹⁰ It has recently been reported that the total cost will be nearer to £140,000,000 [26/10/18]

inevitable confrontation between the Labour Minister and the owner of Wentworth Woodhouse:

The Coal Nationalization Act was making its way through Parliament between January and May 1946. Manny Shinwell, the senior Government official who had served the requisition order, was responsible for steering the legislation through the House of Commons. Shinwell was one of the 'wild men of the Clyde', a left-wing group of Glasgow Labour MPs returned in the General Election of 1922. Born in 1884, the son of Jewish immigrants, he had grown up in a two-room flat in a tenement block in Glasgow.

Shinwell told Parliament:

The total quantity of coal I desire to work on the Wentworth Estate is 371,000 tons, of which 220,000 tons is the good-quality Barnsley coal which is urgently required for the railways. The Barnsley coal I desire to work is equivalent to nearly three-quarters of a week's requirements for the British railways.

Earl Peter disagreed, not least about the quality of the coal which could be got by open-casting. He commissioned an expert report from Sheffield University who found that, if Shinwell's plan was implemented, the coal obtained would be 'very poor stuff' and 'not worth the getting'. Accordingly, Fitzwilliam proposed an alternative scheme, which involved drift mining; but Shinwell thought this would take too long; and he pressed head with his own proposals, despite the Earl's extensive lobbying and his success in obtaining the support of the miners' trade union, which Shinwell dismissed as 'intrigue.' The open-casting went ahead, turning the fields between the parish church and Wentworth Woodhouse - and even part of the gardens behind the House - into a moonscape, while some of the spoil was dumped in large heaps next to the Long Terrace (see illustrations).

As Bailey says 'open-cast mining in the vicinity of the House continued into the early 1950s; and much of the woodland and the formal gardens were not replaced'. As she also says, this was widely resented in South Yorkshire (as this part of the West Riding was re-named on April Fools' Day 1974). Some local people will still not hear a good word said about Shinwell; and it is difficult not to agree that there was an element of vindictiveness about his decision; but it also has to be stated that, whatever else it does, open-cast mining does not cause subsidence. Further, the Fitzwilliam family was compensated financially for what was done; and much of the land directly affected was eventually reinstated. When I moved into the area in 1975, I was blissfully unaware of what had taken place, although I was a frequent visitor to both Wentworth village and the Park, though admittedly not to the gardens - which were closed to the public for many years.

The 10th Earl continued to live at Wentworth Woodhouse, but he did not occupy the whole of it, which was used as a P.E. college for girls between 1949 and 1979. Instead, as Bailey tells us:

He lived at the back of the house in the apartment that Billy and Maud had occupied during the Second World War. His suite of forty rooms resembled an Aladdin's Cave, crammed with paintings, fine pieces of furniture, porcelain and silver - the precious family heirlooms that had once filled the other 325 rooms in the house.

Inevitably, many of the contents were disposed of, in successive sales; and in any case, the 10th Earl was not popular locally, whether because of his addiction to drink, or other reasons:

Eric drew cold stares from the villagers as he shuffled past. 'No one wanted him. No one liked him. He weren't someone you could respect. "Him," they'd say, nodding at 't big house. Then they'd tip their hand. "Him as 'ud like a drink.'"

Bailey's conclusion was as follows:

All hope that Wentworth House and the Estate could pull through this dark period in its history had gone. 'When Peter got killed, that were it then,' Geoff Steer, a miner's son who was at the funeral, recalled. 'Wentworth House died with him.'

Another contributory factor in the decline of the dynasty's fortunes may have been the costs of litigation. In particular, there were serious disputes within the family in 1902 and 1951. In 1902, some members of the family (including Billy Fitzbilly's Aunt Alice) contended that he was a bastard, whose mysterious birth in a log cabin at de Meuron in Canada in 1872 had disguised the fact that he was also a changeling; and therefore that he had no right to succeed his grandfather as 7th Earl; but Billy did not take this lying down. He counterclaim that Aunt Alice pilfered various valuable from the House when the 6th died. This dispute never came to court, because other members of the family withdrew their support for Alice. However the dispute in 1951 resulted in a full hearing in the Royal Courts of Justice, before Mr Justice Pilcher.

This time the trial concerned a dispute between 'Toby' and 'Tom' Fitzwilliam, who were brothers, as to was entitled to the earldom on the 9th Earl's death. Tom alleged that Toby, though older, was illegitimate, while Toby claimed that his parents had undergone two ceremonies of marriage, and the earlier had preceded his conception. This first had allegedly been conducted in Scotland; but after a full hearing the Judge held that it was not valid, partly because the parties had not lived

in Scotland for the requisite 21 days prior to the wedding ceremony. The legal expenses involved in the case cannot have been cheap, though it is difficult to think that these alone would have been an intolerable burden for a family which was still so wealthy.

Having reviewed these sorry tales of succession and family discord as a whole, it is difficult to think that Emmanuel Shinwell was solely responsible for the downfall of the House of Fitzwilliam. If there was a villain of the piece, it was surely Dame Fortune.

The Trial

Others blame the Coal Authority – at least this was the myth peddled by the Newbold family, who owned Wentworth Woodhouse and lived in the West Front, between 1999 and 2017. Towards the end of that time, I went on two tours of the House (since Newbold senior had, to his credit, opened it to the public). On each occasion, we were assured by the guide that ‘Mester Newbold’ had sued ‘the Coal Board’ on no less than three occasions, and on each occasion he had won, but that the Coal Board had not yet paid a penny. Some members of the public believed this, just as they believed that Newbold was due to receive around £40 million in compensation for mining subsidence, because this is what he told journalists from *Country Life* in 2010, as well as Dan Cruickshank, when the latter interviewed the owner for his film *The Country House Revealed* (BBC, 2011).

Yet the truth is very different, as the Wikipedia entry on Wentworth Woodhouse reveals:

[The Newbolds] allege that mining operations near the house caused substantial structural damage to the building due to subsidence, and lodged a claim in 2012 of £100 million for remedial works against the Coal Authority. The claim was heard by the Upper Tribunal (Lands Chamber) in April 2016. In its decision dated 4 October 2016 the Tribunal found that the damage claimed for was not caused by mining subsidence (2016 UKUT 0432 (LC)).

There cannot be many who take the trouble to dig out the law report referred to, and there are probably even fewer who bother to read it, since it is 100 pages long; but it does confirm the truth of this summary.

The first stage in the proceedings took place in the Lands Chamber of the Upper Tribunal, created in 2008; but the hearing concerned a preliminary point only. It appeared that, when Clifford Newbold bought the property in 1999 he had only the most cursory of surveys done, which said that there was nothing to be concerned about, because any mining which had taken place had ceased years ago, and/or been the subject of compensation. This is the kind of report which is routinely obtained as part of the conveyancing process, and it is relatively cheap; but, as a solicitor who

once practised conveyancing, it amazes me that Newbold did not have a full survey done; but then he had been an architect, and doubtless a 'full' survey would have been extremely expensive in this case.

Be that as it may, Newbold began to notice, not long after he moved in, that parts of the House were suffering stresses and strains as a result what he took to be 'mine water rebound' in the South Yorkshire coalfield. This is what occurs when active mineworking has ceased, but water trickles back into abandoned seams, causing the ground to rise. It is a recognised phenomenon; but it does not always lead to significant subsidence in overlying buildings. Nevertheless, Newbold commissioned reports which confirmed his own view that there was subsidence which would cost many millions to put right; and he decided to lodge a claim.

Under the Coal Mining Subsidence Act 1991, there was a duty on anyone claiming compensation to serve a notice on the Coal Authority (formerly the British Coal Corporation, and at one time the NCB, or National Coal Board); and the notice had to comply with certain rules as to the form it took, and who should sign it. Now, as far as the general public was concerned, Clifford Newbold had bought Wentworth Woodhouse from Haydon-Baillie's bankers in 1999; but legally, he was in some kind of partnership with his three sons, Paul, Marcus and Giles, and in 1999, none of them had acquired the freehold: this was only acquired by the brothers in 2005, though a limited company retained a 20 year lease of the vast majority of the site. Complex as the legal situation was, it seems that at all relevant times the senior Newbold was the principal figure involved; but there was a doubt as to who should serve the relevant notice on the Coal Authority. When the latter rejected the notice signed by Paul Newbold alone in 2007 (though amended in 2009) all three Newbold brothers sued to establish its validity. In the event, the Lands Tribunal agreed with them, holding that the notice was valid because, while it may not have complied with all requirements to the letter, it was sufficient to put the Authority on notice of what the claim was about. So the Newbolds won 'round one' of the litigation.

The second round was when the Coal Authority appealed to the Court of Appeal against the decision of the Lands Tribunals on the technical point; but on 23 May 2013 the Court of Appeal unanimously dismissed that appeal. Their judgment runs to 89 paragraphs and is reported as Newbold v the Coal Authority [2013] EWCA Civ 584; but suffice to say that that the Newbolds won 'round two'.

The third and final round of proceedings was the judgment of Lands Tribunal dated 4 October 2016, and reported as Newbold v the Coal Authority [2016] UKUT 432 [LC]. This consists of 102 pages and 468 paragraphs; but the sting is in the conclusion because, this time, the Newbolds undoubtedly lost.

Before going any further, it is necessary to explain that one of the sons, Paul Newbold had died after the claim was made and before the case came to court for the third time; and that the father Clifford Newbold also died in April 2015; but neither of these events prevented the remaining members of the family from pressing on.

The first two paragraphs of the final judgment contain an excellent summary of the history of Wentworth Woodhouse and of the effects of coalmining in the local area upon it, while paragraphs 5 and 6 summarise the issues before the Tribunal, and the central arguments put by each side:

1. This reference concerns Wentworth Woodhouse, one of the greatest private houses in Great Britain. It was built in the second quarter of the 18th century in open country a few miles from Rotherham. Its façade is one of the longest of any house in Europe and its interiors the finest of any Georgian stately home. The house and its associated structures are now in a state of deterioration which the claimants attribute to subsidence caused by the effects of coal mining for which, in their reference to the Tribunal, they seek compensation “likely to be in excess of £100m”.

2. Beneath the house and its landscaped park lie the productive seams of the South Yorkshire coalfield which had been mined in the area at surface outcrops from the early middle ages. The Fitzwilliam family, whose ancestors had owned Wentworth Woodhouse since the time of the Normans, were mining coal reserves on their estates by 1750. The invention of Newcomen’s steam powered engine allowed deeper mine shafts to be sunk in the 18th and 19th centuries to meet the insatiable demand created by the industrial revolution and by the increasing use of coal to power ships, railways and factories. By the 1920s deep seams were being exploited under the park and close to or under the buildings and structures at Wentworth Woodhouse. The 1947 nationalisation of the coal industry brought intensified mining beneath the park and formal gardens which continued until the 1960s, by which time the mines in the immediate vicinity were exhausted or uneconomic.

5. The issue now for consideration is whether any of the deterioration in four separate parts of the buildings and structures at Wentworth Woodhouse is “subsidence damage” within the meaning of section 1(1) of the 1991 Act, such that the cost of its remediation will fall on the Coal Authority. The four areas selected for consideration are (1) a line through the east front of the north wing of the mansion following the area putatively influenced by the Wentworth fault; (2) the north tower of the mansion and the adjacent north quadrant; (3) the south terrace wall; and (4) the camelia house. On 1 May 2014 the Tribunal directed the trial of preliminary issues to identify whether, in relation to those four specific areas, coal mining has caused any subsidence damage. The evidence and the arguments before us went rather further, the real debate being not simply whether subsidence damage had occurred at any time (which in many instances was not contentious), but whether such damage was the result of a renewed phase of ground movement occurring

since the 1990s, long after conventional expectations would have ruled out historic mining as a cause of damage.

6. The claimants contend that the great majority of the damage at Wentworth Woodhouse is at least likely to have been caused by ground movement attributable to mining. The primary trigger for this movement is suggested to be the collapse of old mine workings as a result of their inundation by rising ground water following the general cessation of pumping in the South Yorkshire coalfield in the 1990s. The Coal Authority asserts the contrary: that ground movement caused by mining ended many decades ago and that Wentworth Woodhouse is largely stable, with the damage visible in the four selected areas being either historic or attributable to a variety of other causes, including neglect and decay.

A case like this was always going to depend upon expert testimony; and evidence was duly given by structural and mining engineers, some of whom contradicted each other. The judge therefore had to decide which opinion to accept; and, in the end, he preferred the evidence of the Coal Authority's experts, to that given by those called by the Newbolds.

The conclusions of the Tribunal were as follows (and those who want to cut to the quick may wish to read paragraph 465 only):

463. Following the cessation of deep mining in South Yorkshire and the discontinuance of strategic pumping, the level of groundwater has recovered and the former workings, including those surrounding Wentworth Woodhouse, have become progressively inundated since the late 1980s. Ground or mine water rebound had the potential to cause a new phase of damage to surface structures long after the end of active mining either by the disruption of historic workings causing collapse or further consolidation or by the reactivation of geological faults.

464. Had we been satisfied¹¹ that damage to the structures at Wentworth Woodhouse had been caused in either of these ways as a result of mine water rebound, we would not have had difficulty in accepting that the damage was subsidence damage within the meaning of section 1(1) of the 1991 Act. If deep mine workings collapsed, or the fractured overburden above them settled, causing vertical or horizontal displacement, the resulting damage could fairly be described as having been caused by the withdrawal of support from land in connection with coal mining operations. Neither the lapse of time between the mining operations and the withdrawal of support, nor the key role played by returning water (itself previously kept at bay as part of those mining

¹¹ The Judge sat with two expert members.

operations), appear to us to take the damage so caused outside the scope of the statutory definition of subsidence damage. If the cause of damage was the reactivation of a fault because of the discontinuance of pumping and the general return of water, so as to cause differential movement and the withdrawal of support either vertically or laterally from ground along the line of the fault, we would equally have been prepared to accept that that was subsidence damage.

465. *However, we are satisfied that the mechanism of damage relied on by the claimants in this reference does not explain the damage at Wentworth Woodhouse. We think it more likely than not that the critical Parkgate seam was damaged to a much greater extent in the 1940s than Mr Stevenson's hypothesis allowed for. Although the possibility of further consolidation, triggered by returning mine water, cannot be ruled out, there is no evidence to support it having occurred. All of the technical monitoring evidence available since 1995 suggests that, on the balance of probability, the house has been stable. In the face of that data the suggestion that further subsidence has occurred during the same period depends on a theory of equal but opposite regional uplift in the surface of the ground which, having reviewed all of the evidence, we find implausible. The sequence of benchmark evidence is incapable of differentiating between subsidence which undoubtedly occurred in the 1960s and any that may have occurred subsequently. The evidence of recent large scale movement given by Mr Newbold was unreliable, while that of Mr Pearson was imprecise. When evaluated in the light of the technical and expert evidence, the more careful observations of Mr Scholey and Mr McWilliams did not establish that such changes as have occurred since 1999 were as a result of mining subsidence. [My emphasis]*

466. We are satisfied that Wentworth Woodhouse has experienced mining subsidence on a substantial scale. We are also satisfied that damage occurred for longer than would ordinarily have been anticipated by the application of conventional rules of thumb. This was, in particular, due to the presence of the fault which remained active for perhaps as much as fifteen years after the cessation of mining. We are also satisfied that the impression that mining related damage continued long after the time it would usually be expected to have ended was contributed to by the NCB's dilatory approach to carrying out or paying for repairs, which may have made it difficult until the 1980s for it to resist some questionable claims (the clearest example of this being in relation to the terrace wall).

467. The preliminary issue we have been considering asks simply whether coal mining has caused subsidence damage in the four areas of investigation, which clearly it has to the extent we have identified. In their submissions and in the lay and expert evidence which they relied on, both parties addressed the more relevant question, namely whether coal mining caused a second

phase of subsidence damage after the 1980s when mine water rebound began to occur. For the reasons we have given we are satisfied that it did not.

One of the features of the judgment which may strike the layman as odd is that, after a hearing which lasted for a total of fourteen days in April and May 2016, the Tribunal did not give a judgment which was truly final; but this was because it was not asked to. We may wonder why.

It would have cost the Newbolds hundreds of thousands of pounds to have commissioned a full survey of Wentworth Woodhouse, of the quality required by a court. Instead, they chose to present evidence about four areas only: the north tower and quadrant; the line of damage through the mansion; the [Long] terrace wall and the camelia house (see illustration). So the Tribunal gave a ruling on those four issues, and those only. The final paragraph of the judgment reads as follows:

468. In the light of our conclusions we now invite the parties either to agree or to make further submissions on what, if anything, remains to be determined in this reference.

But, for all practical purposes, the case had come to an end. As we have already noted, Clifford Newbold and his son Paul had already died and, in any event, Clifford had already decided to sell up, even before his death. So, within a year or two, Wentworth Woodhouse was sold; and, fortunately saved for the nation.



The Camelia House, 2018



The Long Terrace, 1947 & 2018