

The Tunaley Court Hearings of 1853-1855 and Tunaley connections to James Oakes Snr & Jnr., owners of the Riddings Ironworks and Foundry, Derbyshire, which eventually became part of the British Steel Corporation.

(by P.H.Tunaley with much source information supplied by J.E. Holmes)

Foreword

This article provides not only an account of the two years of court hearings 1853-1855 relating to a dispute between the Tunaley and Mousley families of Derby. It also demonstrates the family connections between the Tunaleys, Oakes, Bootts, and Hadens. There is even a family connection between the Bootts and Mousleys.

Moreover, given the closeness of these relationships, this leads to the likelihood that both James Oakes Snr. and Jnr., the successful entrepreneurs of the Riddings Ironworks and Foundry, Derbyshire, were partly influential in the start-up of the iron foundry project at the ill-fated Boston & Roxbury Mill Dam construction in Boston's Back Bay, Massachusetts. That project initiated by John Wright Boott – see <https://phtunaley.hypermart.net/KirkBoott-EdwardBrooks.pdf>

The Mill Dam was an engineering project involving the enclosure of Boston's Back Bay, allowing tidal waters to drive machinery. In the event, pollution, much of it sewage from Boston's Charles River, ruined both the project and the businesses that invested in it.

We know for example that Kirk Boott Jnr. spent much time in England consulting and planning with William Strutt about the Lowell project. Hence it is probable that, at the least, he would also have discussed the set-up of the iron foundry in Boston with the Oakes father and son. Especially as there is no evidence that any of the Bootts had specialist knowledge in that field of work.

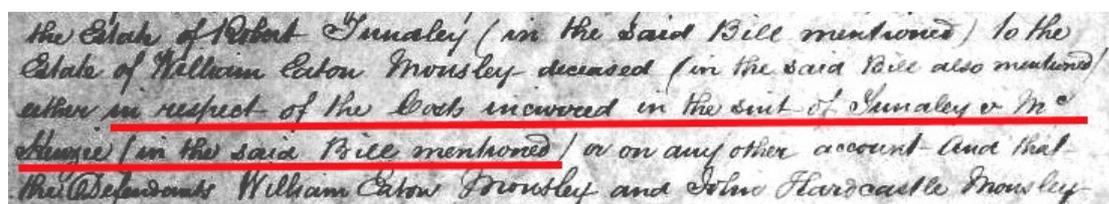
We also know that in November 1821, Kirk Boott Jnr. and John Wright Boott were working together on the planning of the Lowell project - see "Samuel Slater and the Bootts: US Pioneers". This was at the same time as James Oakes Jnr. was expanding his Riddings Ironworks business, now under the name of James Oakes & Co., that expansion including the opening of collieries in the area.

Background to the Court Hearings of 1853-1855

As a result of losing the case "Tunaley v. MacKenzie" in 1824 Thomas Snape Tunaley was then faced with paying all costs incurred. (see "The Dancing Exploits of Thomas Snape Tunaley" at <https://phtunaley.hypermart.net/Thomas%20Snape%20Tunaley%20Notices.pdf>,

That case having followed McKenzie's letter of complaint published in the Derby Mercury 30th July, 1823, relating to Thomas Tunaley's refusal to sign "Articles of Co-Partnership", <http://www.tunaleyfamily.com/McKenzieLetters.pdf>

Item below taken from the 1853-55 Court Hearing records



The Estate of Robert Tunaley (in the said Bill mentioned) to the Estate of William Eaton Mousley deceased (in the said Bill also mentioned) either in respect of the costs incurred in the suit of Tunaley v. MacKenzie (in the said Bill mentioned) or on any other account and that the Defendants William Eaton Mousley and John Hardcastle Mousley

Those costs were paid on Thomas's behalf by William Eaton Mousley (ca. 1787-1853), solicitor and Mayor of Derby 1845 and 1846. Mousley was a partner in the firm of Mousley and Barber. He was also a magistrate and alderman, and owner of a substantial amount of local property at that time, Mousley was the brother-in-law of Francis Boott (1792-1863) the physician and botanist, and a close neighbour of Thomas Snape Tunaley and resident in Exeter House on Full Street.

In return, a plot of land owned by the Tunaleys was handed over to Mousley in what appears to have been an informal and covert transaction, for which Mousley made no payment for the next 29 years.

Remarkably, this McKenzie case and the subsequent transaction involving the court costs had serious repercussions following the death of Mousley in 1853 when it was wrongly assumed by his executors that the plot was part of Mousley's estate even though, legally, it was still owned by the Tunaleys.

One witness called to the court hearings that followed was James Oakes (3) because his grandfather, the original James Oakes (1750-1828) and his father, also James Oakes (1786-1845), both now deceased, were involved in the leasing and later purchase of the plot with the Oakeses acting as trustees.

William Mousley was married to Antonietta (nee Hardcastle) the sister of Mary Hardcastle who was married to Francis Boott, the physician and botanist and to whom Mousley was brother-in-law by marriage.

Antonietta and Mary were the daughters of John and Lucy Hardcastle (nee Swift), Lucy having been the childhood friend of Mary Tunaley - see <https://phtunaley.hypermart.net/Mary-Tunaley.pdf> - and the suspected illegitimate daughter of Erasmus Darwin.

In 1803, Robert Tunaley (1744-1820) had leased a plot of land by virtue of a "mortgage by demise", the plot of land referred to in the court case documents as a "Field" - no details found in 1853 court papers of exact location but the agreement made 13th July 1803 "between Thomas Saxelby, Nathaniel Edwards, Richard Forester and William Wylde on one part and Robert Tunaley now deceased of the other part".

NB:1. At the time, Thomas Saxelby, Nathaniel Edwards, Richard Forester, and William Wylde were all partners in Thomas Saxelby and Co, Iron Founders of Derby, by whom James Oakes Junior (1788-1845) was then employed.

NB.2 James Oakes Snr. (1750-1828) became partner in Riddings Ironworks and sole owner from 1817. On his death, James Oakes Jnr. took over the business.

A "mortgage by demise" was a long-term lease (in this case 500 years) but normally included a redemption clause allowing the lessee to purchase the land. Robert evidently took advantage of this clause because Constantia Tunaley was able to furnish proof of ownership in the subsequent 1853-55 court hearings (see later). Oddly though, the lease, on redemption, had to be fully terminated by assigning the property to a trustee for the remainder of the term. The trusteeship, having been passed down the family from the original James Oakes Snr, now held by James Oakes (3) of the Riddings, who as revealed came to the 1854 hearing to present an affidavit.

N.B. 3. The position of trusteeship and ownership may well have been modified following the formation of the Land Registry in 1862.

Further details and description of a "mortgage by demise" can be found at:

<https://www.nottingham.ac.uk/manuscriptsandspecialcollections/researchguidance/deedsindepth/mortgaged/demise.aspx>

[The Tunaley, Haden, Oakes, Boott and Mousley family connections.](#)

The close connection between the various families is an indication of how the Mousley-Tunaley deal of 1824 came about:

1786 Dorothea Snape, c. St. Werburgh's, Derby, 22/2/1759, married James Oakes (1750-1828), 30/5/1786, Weeford, Staffs. James shareholder, partner and, in 1817, owner of The Riddings Ironworks, Derbyshire, (<https://phtunaley.hypermart.net/oakes-james-1750.htm>).

1800 Robert Tunaley (1744-1820), married Constantia Snape (1763-1854), sister of Dorothea, 27 Jan 1800. Constantia d. Duffield, nr. Derby, 5th June, 1854 - buried, Duffield, 10 June 1854 (<https://phtunaley.hypermart.net/tunaley--robert-1746.htm>).

1805 Mary Tunaley (1775-1846) m. Francis Boott ("merchant"), All Saints, Derby, 25th July, 1805. Francis cousin of Kirk Boott Jnr., (<https://phtunaley.hypermart.net/tunaley--mary-1775.htm>).

1814 Sarah Haden (1788-1860) married James Oakes Jnr. (1786-1845), Derby, 1814. James Jnr. took over the Riddings business when James Snr. died 1828. and remained head of the family firm until his own death in 1845 after which James Oakes (3) (1816-1868) took over. Finally after James (3) died the business was again taken over by his brother Thomas Haden Oakes (1819-1902), (<https://phtunaley.hypermart.net/oakes-james-1750.htm>).

1816 William Eaton Mousley (ca 1787- 1853), solicitor, m. Antonietta Hardcastle (b. 1792-1848), 3rd July 1816, St. Werburgh's Derby. Antonietta, sister of Mary Boott (Hardcastle) and sister-in-law of Francis Boott, the physician and botanist. Antonietta christened St. Martin, Birmingham, 10th December 1792.

1818 Ann Haden (1788-1869) married Kirk Boott Jnr., (1790-1837), St. Michael, Derby, 14th November, 1818. Ann died 12th June 1869, Massachusetts. U.S. Immigration records of 1862 show Ann spent time in England after twin sister Sarah died 1860.

1820 Francis Boott (1792-1863), physician and botanist, m. Mary Hardcastle (1795-1871), 3rd July 1820, St. Werburgh's Derby. Mary daughter of Lucy Hardcastle (nee Swift) – see <http://phtunaley.hypermart.net/Mary-Tunaley.pdf>

Events

Robert died 1820 with ownership of the plot of land passing to his widow, Constantia Tunaley.

Whether, by 1824, the "field" had already been leased to Mousley is unclear but it seems all Mousley's rentals were now waived for the following 29 years until his death in 1853, after which unforeseen consequences came to the fore.

As already mentioned, given the covert nature of the 1824 deal, there was an incorrect but understandable assumption on the part of William's sons that they, the Mousleys, not the Tunaleys, held legal ownership of the plot of land. But not mentioned in documents but relevant to the subsequent hearings and 1857 challenge to Constantia's later will, is whether or not her other son, Robert James Tunaley, a doctor living and practising in Wymondham Norfolk, knew anything at the time of that deal, (see <https://phtunaley.hypermart.net/courtcases.htm>).

William Eaton Mousley, "widower", died Wednesday 5th Jan 1853, wife Antonietta (nee Hardcastle) having died Derby, 1st Quarter 1848.

Mousley's will proven 24th January 1853.

An extraordinary sequence of events then followed starting with a Bill of Complaint presented by Constantia Tunaley to Court "Trinity term", 1853. No details available of contents of Bill of Complaint but the crux of the Bill evidently related to the assumption of ownership of the "Field" by the executors of William Mousley's estate. And clearly his estate could not be settled until this new case was heard and resolved.

Timeline

Tunaley vs. Mousley

The first court appearance of several hearings (1853-1855) re. William Mousley's estate "Trinity term", 1853.

A Bill of Complaint presented by Constantia Tunaley to the Court.

No details are available of the contents of Bill of Complaint but it is assumed the crux of the Bill related to William Mousley's estate having included ownership of the "Field".

The Defendants, Willaim Eaton Mousley Jnr, and John Hardcastle Mousley, "duly appeared and put in their answers 20th July 1853".

1854

Bill amended 22/4/1854

"An affidavit of the plaintiff Constantia Tunaley and an Affidavit of the Plaintiff Constantia Maria Rock (a.k.a. Roch) and the exhibit therein filed 22/5/1854."

"An affidavit of Thomas Snape Tunaley, an affidavit of James Oakes (and others) the exhibits therein filed 19/5/1854.

Constantia Maria Rock legal and personal representative of the Complainant exhibited the Bill to the Court 27th May 1853.

Bill amended again 29/5/1854.

Constantia Tunaley died Duffield 5th June 1854 with the case ongoing – her death shortly after her writing of the will dated 16 May 1854. This will leaving all the estate to her daughter Constantia Maria Roch (nee Tunaley) with no legacy to her two sons.

Constantia Maria Roch (nee Tunaley), given as "widow", appointed as sole executor/executrix. Constantia's will duly proved 29th July, 1854.

In the event, Constantia's will was to be challenged by her sons, but clearly neither her estate nor the challenge to her will could be heard or settled until after the Mousley case itself was settled.

5th August 1854, Defendants duly served notice that the case was now revived with Constantia Maria Roch acting now as the legal and personal representative of the deceased complainant.

1855

Final hearing on Wednesday 24th January 1855.

No-one appearing for the defendants - unsurprising. as Constantia Rock's case now effectively proven with defendants' priority to keep costs to a minimum and to settle William Eaton Mousleys estate at the earliest opportunity. .

Result of hearing:

The Defendants to pay "what was due to the Complainant Constantia Maria Rock for Principal and interest on the security of the hereditaments comprised in the mortgage by demise dated 13/7/1803 in the Bill mentioned made between Thomas Saxelby, Nathaniel Edwards, Richard Forester and William Wylde on one part and Robert Tunaley now deceased of the other part".

"The Complainant being willing and thereby offering to pay to the Defendants what if anything upon the taking of such accounts as this honorable Court should think fit to direct might be found due from the Complainant or the Estate of Robert Tunaley in the said Bill mentioned to the estate of William Eaton Mousley deceased either in respect of the Costs incurred in the suit of Tunaley vs McKenzie or on any other amount."

"The defendants should direct all deeds and writings relating to the said mortgaged premises to the custody and power of the Complainant Constantia Maria Rock And that in default of the Defendants paying to the Complainant such principal interest and costs by the time aforesaid (six months from date of hearing) the Defendants should be absolutely debarred and foreclosed from all equity of redemption of said mortgaged premises".

This result followed quickly by the death of Thomas Snape Tunaley, aged 54 years, 17th April 1855, Mill Field, Wigginton, Tamworth. Cause of death: "phthisis pulmonalis" (tuberculosis)

Thomas's will signed by him and witnessed on the morning of his death.

Thomas's illness and untimely death no doubt triggered in significant measure by the stress of his exclusion from Constantia's will and the later hearings. Thomas's estate: £1500.

Transcript of Thomas Snape Tunaley's will at: <http://phtunaley.hypermart.net/TranscriptionMain.pdf>

Although too late for Thomas, Constantia's will was finally revoked by the Chancery Court following the Tunaley Court Cases of 1857.

For full details go to <http://phtunaley.hypermart.net/courtcases.htm>.

As a result, Thomas's would-be share of the inheritance was assigned in trust to his wife Catherine Tunaley (nee Smith) for the benefit of their young daughter Kathleen Constantia Tunaley on reaching the age of 21 years.

Final Note:

From <http://www.somercoteshistory.co.uk/industryfeatured.asp?newsid=82>

"1847: James Oakes (3) erected the world's first oil refinery at Riddings Ironworks. It yielded 300 gallons of oil a day which was distilled into paraffin oil for lamps".

See also <http://www.somercoteshistory.co.uk/theironworks.asp>

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