



## COMMONS REGISTRATION ACT 1965

Reference Nos 262/U/363  
 262/U/367  
 262/U/368  
 262/U/369

In the Matter of (1) a quarry southwest of Lamonby Hall, (2) land (? a public stone quarry) between Phoenix Hall and Braisegate, (3) land (formerly a watering place and/or ? west) west of Lamonby School, and (4) land to the west of Roadend Wood, all in Skelton, Eden District, Cumbria.

DECISION

These references relate to the question of the ownership of (1) a quarry southwest of Lamonby Hall, (2) land (? a public stone quarry) between Phoenix Hall and Braisegate, (3) land formerly a watering place and/or ? a public stone quarry west of Lamonby School, and (4) land to the west of Roadend Wood, all in Skelton, Eden District being the lands comprised in the Land Section of Register Unit (1) No. CL339, (2) No. CL344, (3) No. CL345 and (4) No. CL346 in the Register of Common Land maintained by the Cumbria (formerly Cumberland) 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 Lord Inglewood claimed (letter of 18 November 1980) to own these lands as Lord of the Manor of Skelton; Messrs W J & G H Stockdale of Lamonby Hall claimed (letter of 8 November 1980) ownership of the CL339 land; and Skelton Parish Council said (letter of 13 November 1980) that with the exception of the CL344 land which nobody seems to know about, they wished to claim these lands as common and in their custody. No other person claimed to be the freehold owner of the lands in question or to have information as to their ownership.

I held a hearing for the purpose of inquiry into the question of the ownerships of the lands at Penrith on 18 June 1981. At the hearing Rt Hon W M Baron Inglewood was represented by Hon C J F Vane of counsel instructed by Trower, Still & Keeling, Solicitors of Lincoln's Inn, London; and Skelton Parish Council on whose application the registrations were made, were represented by Mr W Wetherell their clerk.

Mr Vane said that Lord Inglewood did not claim to be the owner of any of the lands. During the hearing there were produced the Skelton Inclosure Act 1767 (7 Geo 3 c.94) and (from the County Archives) the Skelton Inclosure Award dated 17 May 1769. Mr Wetherell who has for the last 37 years been the clerk of the Parish Council in the course of his evidence provided me with the below summarised information about these lands.

The CL339 land which according to the Register map is a rectangular area a little over 100 yards long and about 25 yards wide:- This land is south of Lamonby. It was a quarry, but ever since he had known it, the Parish Council has let the grazing at a yearly rent of £2. Although Messrs Stockdale do take stone from the land, they have never claimed ownership against the Parish Council.



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The CL 344 land which according to the Register map is a triangular area with sides about 50 yards long, one of which fronts on a public road:- Although described in the Land Section of the Register as "public stone quarry", it is just a hole in the ground, probably a disused claypit. It is very wet. About 5 years ago, the Parish Council planted some trees there, assuming it was their concern.

The CL 345 land which according to the Register map is an irregularly shaped piece about 70 yards long from east to west and for the most part about 20 yards wide, although much wider at its east end:- The land is to the west of a building erected as a school but not used as such for about 100 years; the building is now a dwelling house. The land was a watering place, allotted as such by the 1769 Award. It has never been enclosed probably because there is water there. At one time (as Mr Wetherell remembered) there was a well protected by a cover (the water surface being about ground level), and the Parish Council filled it in to make it safe (the water being no longer required).

The CL 346 land which according to the Register map is a triangular area with one side (the longest) of about 50 yards next to a public road. By the 1769 Award it is allotted as a watering place. The land is now a roadside wilderness. According to the Parish Council's minute book in 1900 the Council put a new set of troughs there but they are now either gone or being covered by vegetation.

As to the CL 345 and the CL 346 lands mentioned in the 1769 Award, the 1765 Act provides for the allotment of "Limestone and Freestone Quarries, Watering Places for Cattle, or Wells ... for the common use and benefit of the Lord of the said Manor, and all the Freeholders and other Land Owners and Tenants within the same only but not elsewhere ... for the Use and Benefit of the several Proprietors, to, through, over and from the Lots and Parcel of Ground to the Allotted and Assigned to them respectively ...". The Act appears to be on the basis that the Manor of Skelton is co-extensive with the Parish of Skelton; evidence to this effect was given by Lord Inglewood at a hearing relating to Register Unit Nos CL 342 and CL 343 held by me before these proceedings. I therefore conclude that these allotments were intended to be "belonging" to the Parish in the "popular sense of that expression" within the meaning of the words used by the Court in *Doe v Terry* (1835) 4 A&E 274 at page 281 and therefore under section 17 of the Poor Act of 1819 became vested in the churchwardens and overseers of whom the Parish Council are now the successors.

As to the CL 339 land, from the letting by the Parish Council described by Mr Wetherell, I conclude that they now have a possessory title. As to the CL 344 land, its nature and situation is such that it is likely to be parish property, and I consider I can properly apply to it the principles of law above mentioned as authorised by *Doe v Terry* supra.

For the above reasons I am satisfied that the Parish Council are the owners of the lands, and I shall accordingly direct the Cumbria County Council, as registration authority, to register Skelton Parish Council as the owner of the lands under section 8(2) of the Act of 1965.



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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 24<sup>th</sup> — day of August — 1981

a. a. Baden Fuller

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Commons Commissioner