



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/465

In the Matter of a quarry known
as Lackay, Stainton, Dacre
Parish, Eden District, Cumbria

DECISION

This reference relates to the question of the ownership of land being a quarry known as Lackay, Stainton, Dacre Parish, Eden District and being the land comprised in the Land Section of Register Unit No. CL354 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 (1) Mr John Hetherington as "Foreman, Stainton Jury" said (letter of 24 November 1981) that the land originally quarry for Township residents to obtain limestone for building and lime burning was with other land awarded by the enclosure Award for the benefits for all time of the residents of Stainton Township, and that it had since been administered for the benefit of Stainton residents by the Stainton Jury; (2) Dacre Parish Council said (letter of 1 December 1981) that in the absence of any successful claim to ownership of the land, they consider that it should be vested in them; (3) group of persons collectively known as the Stainton Jury claimed (their Solicitors' letter of 7 December 1981) claimed ownership. No other person claimed to be the freehold owner of the land in question or to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Penrith on 11 March 1982. At the hearing Mr John Hetherington was represented by Mr D Mellor solicitor of Little & Shepherd, Solicitors of Penrith and (2) Dacre Parish Council were represented by Mr C Wilding their Clerk.

The land ("the Unit Land") in this Register Unit is a track having a frontage of about 60 yards to and on the east side of the minor road or track which leads northwards from the A66 road a short distance to the west of Stainton. It extends for a little of 100 yards eastwards from the road and appears to have been at one time quarried although now much covered by grass.

This hearing followed shortly after another hearing relating to other land in Stainton near Keld Head being Register Unit No. CL236. At this hearing Mr Hetherington gave oral evidence and produced among other documents an extract from an Award of 1775; in my decision of even date relating to such land given under Reference No. 262/U/462 I summarised the evidence he then gave in relation to such land. I treated this evidence as if it had been given again at this CL354 hearing; accordingly the summary of it in my said decision should be treated as part of this decision.

At this hearing relating to the Unit Land, my attention was drawn to the following words in the Award: "We do order direct and award that there be a Public Quarry ... and also that there be a Public Quarry at a place called Lakay near Kalkow Bogg as the same is set out on the said Common and distinguished in the said Plan marked with a number and letter 5B ...".



Mr Hetherington said that the Unit Land was one of the properties administered by the Stainton Jury as described by him in the evidence he had given at the hearing relating to the CL236 Land. It had been continuously let to various farmers and the rents received were recorded in the 1892 book he then produced.

The 1772 Act (as recited in the Award) authorises the Commissioner to "appoint so many places as they shall think necessary for stone-quarries, gravel-pits, clay-pits and watering-places upon some parts of the said Common and waste grounds ... for the common use and Benefit of all the Owners and Occupiers of Houses and Lands within any of the said Townships or Hamlets for their houses, lands and cattle therein but not for any elsewhere ...". On the express words of the Act and the Award I conclude that under it the Unit Land came into the ownership of Stainton Township within the popular meaning of these words. In my view the activities of the Jury were not adverse to the Township, and for the reasons set out in my said decision the Unit Land is now vested in the Parish Council as successors of the churchwardens and overseers of Stainton. The circumstances of this case are essentially the same as those I considered at a hearing on 8 November 1972 at Durham relating to the Goosepool, Staindrop, about which I gave a decision dated 9 February 1973 under Reference No. 11/U/16; the position of the Staindrop Freeholders Committee in that case was essentially the same as that of the Stainton Jury in this case. The legal considerations set out in my said 1973 decision and my said decision of even date are I think all applicable, and should be treated as repeated herein.

For the reasons set out above I am satisfied that the Parish Council as successor of the said churchwardens and overseers are the owners of the Unit Land and I shall accordingly direct the Cumbria County Council, as registration authority, to register Dacre Parish Council as successors of the churchwardens and overseers of Stainton Township as the owners of the land under section 8(2) of the Act of 1965.

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 14th — day of June — 1982

A. A. Budge Fuller

Commons Commissioner