



In the Matter of Armathwaite Quarry,
Cumbria

DECISION

This reference relates to the question of the ownership of land known as Armathwaite Quarry being the land comprised in the Land Section of Register Unit No. VG 45 in the Register of Town or Village Greens maintained by the former 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 Mr Edward P. Ecroyd and Hesketh Parish Council each claimed to be the freehold owner of the land in question ("the Unit land") and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the unit land at Keswick on 9 October 1979.

At the hearing Mr D Mellor, Solicitor, represented Mr Ecroyd and Mr J Brinicombe, Clerk to the Parish Council, appeared on its behalf. Mr P W Pickles, Solicitor, attended on behalf of Mr and Mrs J K Deal, of Eden View, Lessees of part of the unit land.

Mr A Farrant, Chartered Surveyor, of the firm of Watson, Lewis and Company, who have acted as Mr Ecroyd's land agents for many years, gave evidence and produced the following title deeds:-

(A) A Vesting Deed dated 31 December 1927, made between Thomas B Ecroyd and others as Trustees (1) and William E B Ecroyd (2) whereby various parcels of land which included the Unit Land were declared to be vested in William E B Ecroyd as tenant for life

(B) Probate of the Will of William E B Acroyd (who died on 20 January 1951) limited to settled land granted to Q.L.W. Little, G.J.C. Harrison (the then Trustees) on 20 April 1951

(C) Vesting Assent dated 24 November 1953 whereby these Trustees assented to the Vesting in Edward Peter Acroyd of the settled land (including the Unit Land).

Mr Farrant stated that except for the lease, granted after 1973, of part of the Unit Land to the owners of Eden View there has been no transactions disposing of the Unit Land.

Mr Brinicombe in evidence, said that the Unit Land has always been thought to belong to the Parish Council which over the past thirty years has at times claimed the land: it had put up a locked gate at the entrance and notices warning trespassers which (he added) had been promptly pulled down. Some 15 years ago the Council sold a quantity of gravel from the Quarry to a purchaser. In cross-examination he described the state of the Unit Land as rocky, dirty and full of weeds.

I am satisfied that Mr E P Acroyd's documentary title is in order and upon the



evidence I do not find that a possessory title has been established by the Parish Council. Accordingly I find that Mr E P Acroyd is the owner of the Unit Land and I shall direct the Cumbria County Council, as registration authority, to register him as the owner 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 31 October 1979

L. J. Morris Smith

Commons Commissioner