



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/467

In the Matter of Christopher's Quarry,
Kirkoswald, Eden District, Cumbria

DECISION

This reference relates to the question of the ownership of land known as Christopher's Quarry, Kirkoswald, Eden District being the land comprised in the Land Section of Register Unit No. CL 134 in the Register of Common Land, ~~maintained by the Cumbria (formerly Cumberland) County Council~~ 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 no person claimed to be the freehold owner of the land in question and no 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 land at Penrith on 11 March 1982. At the hearing Mr G A Todd, Mr W R Todd and Mr A W Todd were represented by Mr T Arnison, solicitor of Arnison & Co., Solicitors of Penrith.

Mr W R Todd who has lived in Kirkoswald all his life (70 years) in the course of his evidence produced a conveyance dated 2 February 1960 by which Mr John Edward Raine conveyed 63.715 acres of land described in the Schedule thereto, to the said Messrs Todd and Mr Frank Edmund Todd as tenants in common. He said (in effect):- They are all brothers: Mr F E Todd died about 2 or 3 years ago. The land in this Register Unit is that described in the Schedule as "(OS 1900 No) 479: (Description) Old Quarry: (Area acres) 2.400". There is no fence separating the land from the adjoining field (also included in the conveyance) and the grass is grazed as one field (by his firm Todd Brothers, builders and farmers). He had never seen anyone take any stone from the quarry: he thought that all the stone there (sandstone for house building) had been worked: what is left is now all covered up. He is the present chairman of Kirkoswald Parish Council, and understood they made no claim of ownership; but he did not represent them at the hearing.

Under the 1965 Act I am concerned only with the ownership of the legal estate in fee simple, see section 22. Notwithstanding that the 1960 conveyance was expressed to be made to all four brothers as tenants in common, ~~and~~ the legal estate under it passed to them jointly as trustees for each other, so on the death of Mr F E Todd the ownership for such estate passed to the survivors. I am not concerned with the possible beneficial address of the successors in title Mr F E Todd. Upon the above considerations I am satisfied that Messrs Todd are the owners of the land, and I shall accordingly direct the Cumbria County Council, as registration authority, to register Mr George Anthony Todd, Mr William Richard Todd and Mr Alfred Watson Todd all of High Bank Mill, Kirkoswald, Cumbria as the owners of the land 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 21 ~~25~~ day of May 1982

A. A. Baden Fuller

Commons Commissioner