

COMMONS REGISTRATION ACT 1965

Reference No. 262/U/334

In the Matter of Lambfoot Pond,
Embleton and District Parish,
Allerdale District, Cumbria

DECISION

This reference relates to the question of the ownership of land known as Lambfoot Pond, Embleton and District Parish, Allerdale District being the land comprised in the Land Section of Register Unit No. CL372 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 Embleton and District Parish Council said (letter of 28 November 1980) that the land in question is Parish Council property. No other person claimed to be the freehold owner of the land 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 Keswick on 27 April 1981. At the hearing Embleton and District Parish Council were represented by Mr O W Todhunter, their clerk.

Mr Todhunter produced the minute book of the Embleton and District Parish Council and its predecessor before 1976 the Embleton Parish Council. He said (in effect):- The land (according to the Register map it has a frontage to the road of about 35 yards) was a watering place and is now a swampy place open to the road with a bus shelter against it. On one side it is bordered by the garden wall of a house (? houses) in Station Terrace. The Minute Book shows that the Parish Council at their meetings on 2 June 1959, 11 February, 15 March and 26 May 1960, 17 April 1961, 17 May 1965 and 2 and 31 May 1966 have treated the land as their responsibility, in that they were negotiating with the owner of a guest house in Station Terrace as to the renting of it with a view to it being kept tidy and free of rubbish; and also about a fence being kept in repair so as to prevent cattle straying on it. The land now looks nice.

Land which is and has been "parish property" within the popular meaning of these words is vested by operation of law in the Parish Council as successors of the Churchwardens and Overseers. I infer from the said minute book and from the evidence above summarised of Mr. Todhunter that this land is just such property, and I am therefore satisfied that the Parish Council are the owners, and I shall accordingly direct the Cumbria County Council as registration authority to register Embleton and District Parish Council 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 this 19th — day of May — 1981

a. a. Baden Fuller

Commons Commissioner