



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/486

In the Matter of Stainton Island,
Dacre, Eden District, Cumbria

DECISION

This reference relates to the question of the ownership of land known as Stainton Island, Dacre, Eden District being the land comprised in the Land Section of Register Unit No. CL352 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 14.12.81.) that the land is administered on behalf of the residents of the Township of Stainton as laid down in the Enclosure Award of 1725; (2) Dacre Parish Council said (letter of 20 December 1981) that in the absence of any successful claims to ownership, they considered the ownership should be vested in them; and (3) a group of people known as the Stainton Jury claimed (their Solicitors' letter of 23 December 1981) 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 (1) 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 (according to the Register map) in two pieces: one an island in the River Eamont a short distance southwest of the Village and approachable by a track off the A592 road, and the other a much smaller piece nearby on the south. In the Rights Section is registered a right for residents of Stainton to fish and to have access.

This hearing followed shortly after another hearing relating to other land in the Village 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 and a book entitled "Account Book, Township Stainton Jury 1893"; 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 CL352 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 words in the Award:-



- 2 -

Names of Landowners	Names of Closes and Parcels of ground	A.R.P.
----- Public Ground belonging to the Township of Stainton	----- A small piece near Kill Well A parcel over the River Eamont in Westmorland	----- 13 About two acres

Mr Hetherington said (in effect):- He identified the "Public Grounds" in the Award mentioned and marked on the Award map as being south of and next to the River with the Unit Land, suggesting that since the Award, these so called "Public Grounds" had become (in part at least) an island. He produced a modern OS map (1/2500) which marked "Stainton Island" as No. 5271 containing .86 hectares (2.125 acres), and identified it with the larger piece of the Unit Land. The smaller piece is not distinctly marked, and may be it has been eroded away. The said 1893 book showed that in respect of Stainton Island the Jury had received rents annually from 1894 to 1975 (except 1905 and 1906): from 1908 7/6, from 1947 £1.0.0, from 1958 £2.0.0, 1964 varying from £1.50 to £8.00. At one time the Unit Land was grazed, but it is now overgrown with trees and shrubs and not possible to graze. Children now fish from it.

On the above evidence, I conclude that the Unit Land belongs to Stainton Township and in accordance with the principles of law set out in my said decision of even date, I am satisfied that Dacre Parish Council are now the owners as successors of the Churchwardens and Overseers of Stainton Township. Accordingly I shall direct Cumbria County Council as registration authority to register Dacre Parish Council as such successors 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. Baden Fuller

Commons Commissioner