



## COMMONS REGISTRATION ACT 1965

Reference No. 262/U/463

In the Matter of the Pumpfall,  
Stainton, Dacre Parish, Eden  
District, Cumbria

DECISION

This reference relates to the question of the ownership of land known as the Pumpfall, Stainton, Dacre Parish, Eden District being the land comprised in the Land Section of Register Unit No. CL237 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 of Stainton Jury" said (letter of 24 November 1981) that the land, a gathering place for stray sheep, was with other land awarded by the enclosure award for the benefit for all time of the resident of the Stainton Township, as it had since been administered for the benefit of Stainton residents by the Stainton Jury: and (2) Dacre Parish Council said (letter of 1 December 1981) that in the absence of any successful claims to ownership of land, they considered that it should be vested in them; and (3) a group of people 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 (1) Mr John Hetherington on whose application as "Acting Foreman to the Stainton Jury" the registration was made, 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 strip about 150 yards long open to and on the east side of the road which runs from the centre of the Village to one of the main junctions with the A66 road. Its greatest width is about 15 yards and it tapers at its north and south ends to a point. Generally it is grass land below the level of the carriageway being for the most part grass; near the middle there is a clump of low vegetation with some stone (perhaps the remains of a pump).

This hearing followed a hearing relating to other land in the Village situated near Keld Head and being Register Unit No. CL236 in the course of which Mr Hetherington gave evidence and referred to an Inclosure Award of 1775; about this other land I have given a decision of even date under Reference No. 262/U/462. All concerned having in mind the evidence Mr Hetherington had then given as summarised in my said decision, he at this hearing said (in effect):-The Award map treats the Unit Land as highway. He understood that there used to be a pump there made by a joiner in the Village who was also official pump maker for all the Lowther Estates. Nevertheless he could not be thought properly describe the Unit Land as being a watering place, it being really part of a very wide highway. He produced a letter dated



28 November 1969 from Cumberland County Council relating to an improvement of the road then proposed.

By this 1969 letter the County Land Agent and Valuer said that it had been discovered by searching through the Awards that the whole of the particular area concerned believed to be claimed by the Stainton Jury is in fact reserved for public highway. With the letter was enclosed an extract from the Award together with a copy of the Award Map from which it appears that the Unit Land is situated entirely within the 60 feet referred to in the Award and that the County Council had therefore no need to purchase the land for highway purposes.

Mr Hetherington explained that in these circumstances it could not now be claimed that the land was owned by the Stainton Jury in any sense.

It may be that this land being highway should not have been registered under the 1965 Act; however as the registration has become final I must under the 1965 Act consider ownership.

In the absence of any evidence I am not satisfied that any person is the owner of the land, and it will therefore remain subject to protection under section 9 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 14/6 — day of June — 1982

*A. A. Baden Fuller*

Commons Commissioner