



In the Matter of Whitgift Cow Gaits,  
Whitgift, Humberside.

### DECISION

This reference relates to the question of the ownership of land known as Whitgift Cow Gaits, Whitgift, being the land comprised in the Land Section of Register Unit No. CL 265 in the Register of Common Land maintained by the former West Riding 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 T L Taylor, Mrs E Harrison, Mr ~~H B~~ Longhorn, and W D Braisby (Farming) Ltd claimed to be the freehold owner of the land in question 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 land at Hull on 22 March 1977.

At the hearing Mr Longhorn and W D Braisby (Farming) Ltd were represented by Mr Robert Sterling, of counsel, and Mr Taylor appeared in person. Mrs Harrison did not appear and was not represented. Mr Taylor was interested in cow gaits and not in the ownership of any part of the land.

The land the subject of this reference is somewhat confusingly named in the Register Unit. Parts of it are named on the Ordnance Survey map as Church Lane, Quart Lane and Milking Hill Lane, the remainder being unnamed. The whole has been for many years subject to rights of grazing known as cow gaits, though the origin of these rights is not now known. 24½ of these cow gaits were conveyed to Mr Longhorn and his late brother on 15 April 1959 and became the sole property of Mr Longhorn on the death of his brother on 6 September 1974. Mr W D Braisby acquired ten cow gaits, four of which he conveyed to W D Braisby (Farming) Ltd on 5 October 1956.

Until 1958 or 1959 there was an annual meeting at which the cow gaits whose owners did not wish to exercise them were let for rents which were collected and distributed by a Mr Barrett. By 1959 most of the cow gaits had got into three hands - Mr Braisby (or his company), Mr Longhorn and his brother, and Mr Alfred Canty. By a document dated 25th June 1959 addressed to Mr Longhorn and his brother, Mr Braisby as owner of 10 cow gaits and Mr Canty as owner of 2½ cow gaits and tenant of 11 further cow gaits declared that they had no objection to the Longhorns' ploughing out the 24½ cow gaits owned by them and that they fully agreed with their action in so doing as they considered that modern conditions of farming and dairying did not permit of the cow gaits being used for the purpose for which they were originally intended. Mr Braisby and Mr Canty further agreed to abide by the allocation of their respective cow gaits to a specific area of land as already agreed between themselves and Mr Barrett. The legal effect (if any) of this document is by no means clear, but its significance lies in its explanation of the reasons for the actions of the parties to it.

Even before the signing of the 1959 document the use of the land comprised in the Register Unit for grazing had ceased. Instead, from the mid-1930's the persons entitled to the cow gaits either as owners or tenants had cut the grass for hay.



After 1959 the reaping ceased, and the allocated areas were ploughed and cereal crops were grown, a use of the land which still continues.

Mr Longhorn and W D Braisby (Farming) Ltd, which has carried on Mr Braisby's farming business, claim to have acquired possessory titles to the areas which had been allotted to ~~the~~ Longhorn, <sup>Mr</sup>brothers and Mr Braisby in 1959. There is no claim to the remainder by Mr Cauty or his present representative.

On this evidence I am satisfied that Mr Longhorn and W D Braisby (Farming) Ltd now have possessory titles to the areas of land which they have been respectively farming, and I shall accordingly direct the Humberside County Council, as registration authority, to register them as the owners of their respective parts of the land under section 8(2) of the Act of 1965.

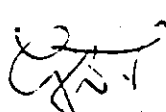
In the absence of any evidence I am not satisfied that any person is the owner of the remainder of the land comprised in the Register Unit, and it will therefore remain subject to protection under section 9 of the Act of 1965.

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 29<sup>th</sup> day of April 1977

  
Chief Commons Commissioner

See under

  
4/10/77