



COMMONS REGISTRATION ACT 1965

Reference No. 220/U/45

In the Matter of Brandwood Higher End Moor in the  
former Urban District of Whitworth and Municipal  
Borough of Bacup

## DECISION

This reference relates to the question of the ownership of the land mentioned above being the part of the land comprised in the Land Section of Register Unit No. CL.213 in the Register of Common Land maintained by the Lancashire 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.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Rawtenstall on 19 April 1988.

The hearing was attended by Mrs S. Cunliffe of Lancashire County Council (the registration authority) Mr R. Hilditch (Chairman) and Mr W. Lloyd (Secretary) of East Lancashire Commoners Association Mr Stanley Thorpe (Rights Entry No. 8) Mr B.B. Matthews (Rights Entry No. 2) Mr R. Ormerod and Mr B. Whitehead.

The land was registered as common land consequent upon the rights application of Nellie Eveline Barnett (Rights Entry No. 1). The registration in the Land Section of the Register became final after a hearing before Mr Commons Commissioner Morris Smith who modified the registration to exclude what he described as "the Dunne strip". There are nine entries in the Rights Section all of which became final.

There are no entries in the Ownership Section, but substantial parts of the land have been registered at H.M. Land Registry under the Land Registration Acts.

In my Decision In the Matter of Jam Hill and Scholfield Rough in the former Urban District of Whitworth Ref. 220/U/41 dated 13th August 1987 I mentioned that a Statutory Declaration then produced to me by Mr Bird of Holt Langworth Solicitors of Rawtenstall acting as agents for Rhodes & Co of Rochdale, although not relevant to Mrs Barnett's claim to CL.300 might be relevant when claims to CL.213 came to be considered. Rhodes & Co were notified of the present hearing, but did not attend.

Mr Lloyd said that the local quarry companies had been interested in this and other neighbouring land. He mentioned the names of Eskett Quarries Limited and Castleton Sand and Gravel Limited. Accordingly after the hearing I directed the Clerk to the Commons Commissioners to make inquiries of these companies and of Brockbank Tyson & Co, Solicitors of Whitehaven who had represented Castleton at an earlier hearing. By letter dated 16th September 1988 Brockbank Tyson and Co wrote to the Commons Commissioners that neither of these companies (being their clients) claimed ownership of the land.



After the hearing Rhodes & Co on behalf of Mrs Barnett wrote to the Clerk to the Commons Commissioners asking for time in which to clarify the matter and make a decision from her point of view. I therefore postponed issuing this Decision to enable them to consider making an application to re-open the hearing. Ultimately, on 28th November 1988 Rhodes & Co wrote that, the writer having attended the site, it would not seem that the Barnetts' title involved the unclaimed land.

On this 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 9<sup>th</sup> day of December 1988

M. R. R. R.

Commons Commissioner