



COMMONS REGISTRATION ACT 1965

Reference No. 220/U/7

In the Matter of Weets Hill,
Brogden, Pendle Borough,
Lancashire

DECISION

This reference relates to the question of the ownership of land known as Weets Hill, Brogden, Pendle Borough being the land comprised in the Land Section of Register Unit No. CL54 in the Register of Common Land, ~~maintained by the Lancashire (formerly 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 no person claimed to be the freehold owner of the land in question and no 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 Preston on 25 November 1981. At the hearing there attended in person: (1) Mr John Darrell Pilkington of Brogden Hall Farm, being a successor in title of the applicants for the registration at Right Section Entry No. 6 and being also chairman of Brogden Parish Meeting; (2) Mr Alec Moorhouse of Horrocks House Farm, Kirk Clough Farm and Jack House Farm being either an applicant for or a successor in title of the applicants for the registrations at Right Section Entry Nos. 1, 2 and 3; and (3) Mr William Heaton of Higher Clough and Coppey House being a successor in title of the applicant for the registration at Right Section Entry No. 35 (formerly No. 23).

The land ("the Unit Land") in this Register Unit is between its most northerly and most southerly points a little under 1 mile long and has an average width from east to west of about $\frac{1}{2}$ a mile. On 4, 5 and 6 April 1974, I held a hearing about the Unit Land and the adjoining moor (Register Unit No. CL55); my decision is dated 9 August 1974 given under reference nos. 45/D/29-32. Although as a result of this hearing I have some knowledge of the general appearance of the Unit Land and of some of the problems associated with the grazing of it, I can find nothing in my decision and I have no recollection of any evidence being then given in any way indicating who might be the owner of the Unit Land.

At the 1981 hearing no evidence of ownership was offered. However I indicated that if any evidence was discovered I would if an application was made before 31 January 1982 consider re-opening the hearing so that I might consider it.

After the hearing I had a letter dated 7 December 1981 from Farnworth & Watson, Solicitors of Nelson written on behalf of Messrs J, J and W Parkinson of Middop Hall Farm (applicant for the registration at Right Section Entry No. 14) saying that it had always been assumed that the land would remain unclaimed land; and a letter dated 20 January 1982 from Mr J D Pilkington quoting from a deed of lease and release dated 29 and 30 October 1706: "... Also 4 beastgates or pasturage for



4 beasts of in upon and throughout all that parcel of common or moor called ground Weets or more or less or proportionately among those commoned there which proportion was 6 gates saving only $\frac{1}{3}$ part of one beastgate and if in case it happened to be inclosed then the proportion for or in Weth of the said beastgates would be 17 acres all ... or howsoever."

Mr Pilkington ends his letter by suggesting that this 1706 conveyance showed that the Unit Land could be split into fields, so that if in the past the gate holders had decided to proportion the land and fence it then they would have been automatically considered as owners of the land.

^{Under} the 1965 Act, ^{the} ownership with which I am concerned is defined as "the ownership of a legal estate in fee simple". I am not persuaded by the said 1982 letter that if this 1706 deed was produced to me there is any reasonable chance of my being satisfied as to the ownership of the Unit Land being now in the gate holders or any trustee for them. Accordingly I give my decision on the information (or the lack of it) which I had at the hearing.

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 1st — day of April — 1982

a. a. Baden Fuller

Commons Commissioner