



COMMONS REGISTRATION ACT 1965

Reference Nos. 45/U/271
45/U/272

In the Matter of (1) Edge Top Quarry and
(2) Bank Lane Foot, both in Grassington,
Craven District, North Yorkshire

DECISION

These references relate to the question of the ownership of lands known as (1) Edge Top Quarry and (2) Bank Lane Foot (in the Register mistakenly called Back Lane Foot) both in Grassington, Craven District being the lands comprised in the Land Section of Register Unit (1) No. CL. 301 and (2) No. CL. 517 respectively in the Register of Common Land maintained by the North Yorkshire County Council (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 lands in question and no person claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Skipton on 23 March 1976. For the same purpose, a hearing was held on 23 July 1975 by another Commons Commissioner, who at the request of the persons attending the hearing adjourned the proceedings. At the 1976 hearing Grassington Parish Council were represented by Mr O P Jacques a member and chairman of their Property Committee; and the most noble Mary Alice Duchess of Devonshire and Mr Thomas Edward Sydney Egerton (the Trustees of the Chatsworth Estates) were represented by Mr J M Sheard, their resident agent at Bolton Abbey.

Mr Sheard said that although the Duke of Devonshire was the Lord of the Manor of Grassington, the Trustees made no claim to either of these lands.

Mr Jacques who has lived in Grassington all his life (over 70 years) and who has been a member of the Parish Council for the last 4 years and also before that, in the course of his evidence produced a copy of the Grassington Inclosure Award (dated 1 May 1792) and of the Grassington Inclosure Act 1788 (28 Geo.3.c.xlvi) under which the Award was made.

By the 1788 Act after reciting that the purpose of the Act was to inclose four undivided stinted pastures containing about 2,262 acres, it was enacted (among other things) that the Commissioners appointed thereunder should "set out such parcel or parcels of the said Pastures not exceeding the Quantity of Two Acres in the whole...for getting of Stone and Gravel for the Owners and Proprietors of the said Pastures, for Buildings, burning into Lime, and for repairing the Ways or Roads of the said Pastures; And that the Herbage growing and renewing in or upon the said Parcel or Parcels of Ground, shall be and is hereby vested





in the Churchwardens and Overseers of the Poor of Grassington aforesaid for the time being in trust to let the same for the most rent that can or may be got for the same, and apply the Rents and Profits thereof for and towards the necessary Relief of the Poor within the said Township". The Act is apparently made on the basis that the owners or proprietors of the pastures intended to be divided were persons who were the owners of the cattlegrates thereover and in the same proportions; and the Act reserved the rights which the Duke of Devonshire as Lord of the Manor of Grassington is entitled "to the Mines and Minerals and other manerial Rights within the said stinted Pastures".

The relevant allotment in the 1792 Award is in these words: "AND next as to the Allotments necessary to be set out upon the said several Pastures, for getting Stone and Gravel, by the Owners and Proprietors thereof, for Buildings, burning into Lime, and for repairing the Ways and Roads, WE...hereby allot... a certain parcel of Ground...called the OLD PASTURE No 8 upon the Plan hereunto annexed bounded...on the East and Southsides by an Allotment No. 7B...and on the West by the said Highway called the Moor Road which said Allotment contains ...1 Acre 1 Rood and 17 Perches WE...also...allot...a certain other parcel of ground...which said two Allotments or Shares hereinbefore awarded for Stone Quarries contain together...2 Acres...".

The Edge Top Land numbered CL. 301 on the Register map is bounded on the northwest by the road leading to the Moor and on the west (for a shorter distance) by a road called Edge Lane; the east and south boundaries are about the same length as the northwest boundary. The land numbered 8 on the Award map and marked "Stone Quarry", is bounded on the north by the Moor Road and is a short distance from the "Road to Pickering (?End)"; it is delineated as a strip, the west and east boundaries of which are about 3 or 4 times longer than its south and north boundaries.

As regards the Edge Top Land (CL. 301), which contains (according to the Register) about 0.459 hectares (1.134 acres), Mr Jacques said (in effect):- The Land (notwithstanding the difference in the shape and position above mentioned) is essentially the same as that allotment numbered 8 on the Award Plan. As long as he can remember it has been a grass plot, open to the adjoining road, on which the Parish Council have maintained a seat for the general public, and which they have until recently (when tubercular testing came in) let for grazing. The disused quarry face which is on the east side, indicates that stone has been got (probably Mr Jacques thought, soon after the Award was made for walls for the land thereby inclosed); except on odd occasions he had not seen any signs of stone being taken since he remembered it.

As regards Bank Lane Foot Land (CL. 517) which contains (according to the Register) about 0.032 hectares (0.08 acres) and which was registered on the application of the Ramblers Association, Mr Jacques said (in effect):- The Land is a strip of open grass land along which there is a gravel road. At its west end it adjoins Chanel Street; there are rights of way over it. Essentially the land is just roadside verge. No one claims ownership of it.

The evidence summarised above relating to the Edge Quarry land raises the question: in whom did Parliament intend that the land allotted for stone and gravel should under the 1788 Act vest. Although the Act expressly provides for the vesting of the herbage, and expressly excepts the mines and minerals, there is nothing in it as to the vesting of the other ownership rights; probably because in 1788 it never



occurred to anyone that such rights taking effect subject to stone and gravel being taken could be of any value to anyone. There are I think four possibilities: (1) Before the 1788 Act the pastures (except possibly the mines and minerals) belonged to the proprietors and owners of the cattlegates in proportion to their gates, and such ownership as regards this Land continued after the 1792 Award; (2) Before the Act and Award the ownership was vested in the Lord of the Manor subject to the rights of the owners and proprietors of the cattlegates, and so continued afterwards; (3) The ownership of the herbage must in the particular circumstances of this case be treated as equivalent to ownership of the Land itself subject to stone and gravel being taken; or (4) The Act provides no indication as to ownership and should now be disregarded altogether. To all these possibilities there are some objections; any arguments as to which of them was in 1788 intended by Parliament must necessarily be somewhat refined. Bearing in mind that no one has claimed that the Parish Council as owners of the herbage are not also owners of the Land, and that by maintaining a seat they have done at least one thing which cannot be referred to ownership of the herbage and nothing else, I consider I can properly favour possibility (3).

Alternatively, having some days after the hearing inspected the Edge Top Land, I conclude that the Parish Council by maintaining the seat are and have been in possession. The seat is in a dominating position on the land; placed there I suppose with the intention that those sitting on it may enjoy the splendid view; however this may be, the seat situated as it is may I think be regarded as proclaiming to all that the land is public open to all.

For the above reasons I am satisfied that the Parish Council as successors of the Churchwardens and Overseers are the owners of the Edge Top Land, and I shall accordingly direct the North Yorkshire County Council as registration authority under section 8(2) of the Act of 1965 to register Grassington Parish Council as the owners of the land comprised in Register Unit No. CL. 301.

In the absence of any evidence of the ownership of the Bank Lane Foot Land, I am not satisfied that any person is the owner of the land and it will therefore be 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 15th day of April —

1976

a. a. Baden Fuller

Commons Commissioner

