



COMMONS REGISTRATION ACT 1965

Reference Nos. 45/U/74
45/U/75

In the Matters of (1) Hillam Quarry and
(2) Betteras Hill Quarry both in Hillam,
Osgoldcross R.D., Yorkshire West Riding

DECISION

These references relate to the question of the ownership of lands shown as (1) Hillam Quarry, Hillam Lane and (2) Betteras Hill Quarry, Betteras Hill Road, both in Hillam, Osgoldcross Rural District being the lands comprised in the Land Section of Register Units (1) No. CL.209 and (2) No. CL.268 in the Register of Common Land maintained by the 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 Wakefield on 5 February 1974. At the hearing, Hillam Parish Council were represented by Mr. W. L. Robinson their chairman.

Mr. Robinson who was born in the Village 71 years ago, has lived there ever since, has been a member of the Parish Council for about 40 years and chairman for the last 20 years, gave evidence.

He produced from the Parish Council records an Inclosure Award dated 9 March 1811, for the township of Hillam in the parish of Monk Frystone, made under the Act of 1797 (37 Geo. 3 c. cxxxviii). This Award contained an allotment as follows:- " ... we ... do hereby award unto and for the use and benefit of the several inhabitants within the Manor and Township of Hillam aforesaid for the time being to be used by them as Common Pits for getting Sand, Gravel, Stones and other Materials for making and repairing as well the ancient public roads as also such new public and private Roads and Ways as are in and by this our Award set out appointed and directed to be made in over and upon the said open Common Fields Commons and Waste Grounds and for all other purposes within the said Township of Hillam except for sale the several pieces or parcels of ground next hereinafter mentioned and described (that is to say). One piece or parcel of Ground containing One acre and two roods parcel of the West Field of Hillam aforesaid bounded, by ... South Betteras Hill Road on or towards the North and ... And we do hereby order, direct and appoint that the Surveyors of the Highways of the Township of Hillam aforesaid for the time being shall make and for ever hereafter maintain the fence and ditch on the West Side thereof. And after one other piece or parcel of Ground containing two roods also parcel of the West Field of Hillam aforesaid bounded by ... the Township of Burton Salmon on or towards the West and the Pontefract Road on or towards the South And we do order direct and appoint that the said Surveyors of the Highways of the Township of Hillam aforesaid for the time being shall make and forever hereafter maintain the Fences and Ditches on the North and West Sides thereof."





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From the Award map, Mr. Robinson identified HILLAM Quarry (CL.209) with the second of the two pieces described in the above quoted allotment and Betteras Hill Quarry (CL.268) as being included in the first of the said two pieces. They are both marked on the current Ordnance Survey map as "... Quarry (disused)".

As to Betteras Hill Quarry, Mr. Robinson said (in effect):- When he was a boy, it was a lime stone Quarry from which the inhabitants took any stone they needed to repair roads (private and public). Until recently, rubbish was tipped into it, by almost anybody. For the last six months the Parish Council have allowed it to be used for tipping gypsum waste (plaster board etc.), for which they received from the contractor 25np. a ton; before this no rent was paid for tipping rubbish. It is now about 30 feet deep; the Parish Council have tried to fence it adequately and want to get it levelled up.

As to HILLAM Quarry, Mr. Robinson said (in effect):- When he was a boy it was full of water (but not deep). In old days the travelling steam engines used by threshing contractors used to draw water from it. It is now half full of water.

By the 1797 Act, after reciting that there was within the Manor and Township of HILLAM in the Parish of Monk Frystone open common fields, commons and waste grounds and that the Rt. Hon. R. E. Lord Petre was the Lord of the said Manor and as such entitled to the soil of the common and waste ground in the said Manor, it was enacted, (among many other things) that the Commissioners might set out public and private roads as therein mentioned and "That the said Commissioners shall ... allot such Part or Parts of the said Land and Ground hereby directed to be divided and inclosed as they shall judge most fit and proper for common Watering Places for Cattle and for common Pits for getting Sand, Gravel and Stones for repairing the Highways within the said Township and for such other purposes as the said Commissioners shall award and direct and ... further enacted That the Soil of the public and private Roads and Ways to be set out and made as herein is directed (subject to the Right of free and uninterrupted Passage thereon) and the soil of the land and ground to be set out for Watering Places for Cattle and for common Pits for getting Sand, Gravel and Stones and other Materials as herein provided shall be vested in the said Robert Edward Lord Petre his Heirs and Assigns; and the Grass and Herbage Annually growing and renewing on such public and private Roads and Ways or by the sides thereof; and the Grass and Herbage of the land which shall be set out for Watering Places for Cattle and for common Pits for getting Sand, Gravel, Stones and other Materials shall be taken and enjoyed in common by the several Owners and Occupiers of Common Right Houses in the said Township forever".

On this hearing I am concerned with the ownership of the legal estate in fee simple, see section 22(2) of the 1965 Act. I am unable to read the 1811 Award as vesting such ownership in the said Township or Parish or in the officers of the Township or Parish; the words above quoted from the 1797 Act by which such ownership was vested in Lord Petre are I think too plain. Notwithstanding that his successors in title have made no claim at this hearing before me, I have no power under the 1965 Act to vest the ownership of these lands in the Parish Council merely because for the benefit of the Village they would like to tidy them up or because it is for some other reason expedient that the ownership should be in the Parish Council; my jurisdiction is limited in determining whether I am "satisfied that any person is the owner", see section 8(2). In my view the evidence outlined above does not show the Parish Council or any other person as the owner.



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For this reason I am not satisfied that any person is the owner of these lands and they will therefore be subject to protection under section 9 of the Act of 1965. In the result they will I suppose, in accordance with section 1(3) of the Act "be vested as Parliament may hereafter determine"; the evidence of Mr. Robinson shows I think that as regards these lands it would in the circumstances of this case be advantageous if Parliament made this determination as soon as possible, so that their nominee could collaborate with the Parish Council in tidying the lands.

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 25th day of March 1974.

A. A. Baden Fuller

Commons Commissioner