



COMMONS REGISTRATION ACT 1965

Reference No 268/U/102

In the Matter of (1) Lea Butt Green  
Quarry and (2) Grange Gill Allotment,  
both in Low Abbotside, Richmondshire  
District, North Yorkshire

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DECISION

This reference relates to the question of the ownership of land known as (1) Lea Butt Green Quarry and (2) Grange Gill Allotment, both in Low Abbotside, Richmondshire District being the land comprised in the Land Section of Register Unit No CL. 140 in the Register of Common Land maintained by the North Yorkshire 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 James Scarr chairman of Low Abbotside Parish Meeting on its behalf claimed ownership of both properties. No other person claimed to be the freehold owner of the land in question or 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 Richmond on 9 February 1977. At the hearing Mr Scarr was represented by Mr E R<sup>D</sup> Johnson solicitor of Willan & Johnson, Solicitors of Hawes.

Mr Johnson in the course of his evidence produced: (1) OS map 25" = 1 mile showing: (a) Grange Gill Allotment (the eastern of the two pieces comprised in this Register Unit) as No 283 containing 0.932 acres and on the south side of Skell Gill Lane, and (b) Lea Butt Green (the western of the two pieces) as No 127 containing 0.325 acres (at Shaw Cote); (2) the Minute Book of Low Abbotside Parish Meetings from 4 December 1894 to date; (3) the Parish Meeting Receipt and Payments Book from 1916 to date; and (4) two receipts dated 12 March 1965 and 20 April 1971 for money paid for a gate.

From the documents so produced, I conclude that these two pieces of land have for many years been let by or under the supervision of the Parish Meeting and that the money received as rent for them has been dealt with by the Parish Meeting, and that it is practically certain that the possession of the Parish Meeting will not be disturbed. Possession in such circumstances is equivalent to ownership, so the question arises in whom is the legal estate in fee simple now vested.

By subsection (6) of section 19 of the Local Government Act 1894 in a rural parish not having a separate parish council the chairman of the parish meeting and the overseers of the parish shall be a body corporate by the name of the chairman and overseers of the parish and...may hold land for the purpose of the parish.



The Local Government Act 1933 repealed this subsection and substituted another body corporate by the name "the representative body" consisting of the chairman of the parish meeting and the councillor and councillors for the time being representing the parish on the rural district council, see subsection (3) of section 47.

The Local Government Act 1972 which repealed the whole of the 1933 Act provides that a parish not having a separate parish council, the chairman of the parish meeting and the proper officer of the district council shall be a body corporate by the name of "the Parish Trustees" with the addition of the name of the parish, see subsection 13(3). By the Local Authorities (England)(Property etc) Order 1973, article 16, Schedule 4 part II, the property of a representative body of any parish passes to the parish trustees of the parish. Since the hearing Willan & Johnson in a letter 15 February 1977 state that there is no parish council for Low Abbotside.

Upon the evidence and the legal considerations outlined above, I am satisfied that the Parish Trustees are the owners of the land and I shall accordingly direct the North Yorkshire County Council as registration authority to register the Parish Trustees of Low Abbotside as the owners of the land under section 8(2) 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 21<sup>st</sup> day of February 1977

a. a. Baden Fuller

Commons Commissioner