



In the Matter of Arrow Gap Watering Place,
Dacre, North Yorkshire.

DECISION

This reference relates to the question of the ownership of land known as Arrow Gap Watering Place, Dacre, being the land comprised in the Land Section of Register Unit No. CL 395 in the Register of Common Land maintained by the former West Riding of 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 no person claimed to be the freehold owner of the land in question and no one 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 Harrogate on 10 May 1977.

At the hearing the Dacre Parish Council was represented by Mr J Love, one of its members.

By the Hayshaw Moor and Braithwaite Moor Inclosure Award made 31 August 1876 under the Acts for the Inclosure, Exchange and Improvement of Land the land the subject of the reference was set out and appointed as a public pond or watering place, and it was provided that the expense of cleaning, repairing, and maintaining it should be raised by rate to be levied on all the allotments set out in the matter of the inclosure in proportion to the rateable values of such allotments respectively. The rate is now levied by the Parish Council, which appoints overseers to carry out the work.

The Award contains no provision as to the ownership of the public pond or watering place, so the Parish Council can only have acquired a title to it (if at all) by adverse possession. In my view, the levying of the rate and carrying out the work of cleaning, repairing, and maintaining does not constitute taking possession of the land. On the other hand, it was provided by s.124 of the Public Health Act 1936 that all public pumps, wells, cisterns, reservoirs, conduits, and other works used for the gratuitous supply of water to the inhabitants of any part of the district of a local authority should vest in the local authority. Until 1 April 1974 the local authority for the purposes of the Act of 1936 was the Ripon and Pateley Bridge Rural District Council. That Council has now been succeeded by the Harrogate Borough Council.

In these circumstances I am satisfied that the Harrogate Borough Council is the owner of the land, and I shall accordingly direct the North Yorkshire County Council, as registration authority, to register the Harrogate Borough Council as the owner 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

30th

day of

May

1977

Chief Commons Commissioner

