



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/317

In the Matter of Bonfire Hill,  
in Kirkby Malzeard, Laverton  
and Dallowgill parishes, Harrogate  
Borough, North Yorkshire.

DECISION

This reference relates to the question of the ownership of the part ("the Referred Part") hereinafter defined of land known as Bonfire Hill, in Kirkby Malzeard, Laverton and Dallowgill Parish, Harrogate Borough, being the land comprised in the Land Section of Register Unit No. CL416 in the register of Common Land maintained by the North Yorkshire (formerly West Riding) County Council. The said land according to the Register contains 9.574 hectares (about 23.657 acres). Of the greater part, at Entry No. 1 in the Ownership Section of this Register Unit, the Lord Mayor Alderman & Citizens of the City of Leeds are registered as the owners and such registration being undisputed became final on 1 August 1972. The Referred Part herein means the remainder of the said land being about 1/30th of the whole and situated at its east corner, 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 (1) Mr Godfrey Stafford Bostock of Tixall, Stafford claimed (his solicitors' letter dated 30 October 1984) ownership of the land in this Register Unit by virtue of a conveyance dated 10 March 1981 by the Leeds City Council, and (2) Mr John William Burrill claimed (his solicitor's letter dated 30 November 1984) ownership of the land as part of Wake Hill Farm, High Grantley, Ripon which is the farm immediately adjoining and which he purchased in 1981 from the Leeds City Corporation. 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 Referred Part at York on 21 February 1985. At the hearing Mr G S Bostock was represented by Mr J H Weatherill, solicitor of Atkinson Dacre & Slack, Solicitors of Otley.

Mr Weatherill in the course of his oral evidence produced the Epitome of Title summarised in Part I of the Schedule hereto and said he relied particularly on the 1981 conveyance (GSB/21) therein mentioned. At the conclusion of the hearing I was inclined to be satisfied from the Epitome of Title produced that Mr G S Bostock is the owner of the Referred Part as Mr Weatherill claimed. But when I came to prepare a decision having looked at the Epitome, I inclined to the view that the Referred Part was not conveyed by the 1905 Indenture and that in the 1981 conveyance it was expressed to be conveyed not as part of Bonfire Hill but as part of Coal Hill Moor. In these circumstances I decided that this case should be listed for further hearing so that those concerned could if they wished give further evidence about the Referred Part.

I held the further hearing at Ripon on 14 July 1986. At this hearing Mr Bostock was represented by Mr S G Maurice of counsel instructed by Atkinson Dacre & Slack; also present were Mr Lewis Burrill of Carlesmoor and Mr Peter Burrill of Low Belford, Laverton.



This 1986 hearing about the Referred Part was held immediately after my 1986 (second) hearings about Register Unit Nos. CL 212 and CL 116 about which I have given decisions of even date. Some of the evidence about the Referred Part was given by reference to what at my CL 212 and CL 116 hearings<sup>had</sup> been said or produced; so to shorten this CL 416 decision, my said CL 212 and CL 116 decisions should be treated so far as relevant as repeated herein.

Mr P North said (in effect):- The Referred Part is No. 195 marked on the Extract OS map (GSB/50) by him produced and specified in Part II of the Schedule hereto, and therein shown as containing 1.743 acres. Although on such map given a distinct number, it appears to be quite indistinct from the rest of the Unit Land, all unenclosed moorland. Bonfire Hill, Coal Hill and Dallowgill Moor have on behalf of Mr Bostock been let for sheep grazing to various farmers in the area. The persons whose registered rights over the Unit Land have been avoided all in fact had leases which included this grazing because it is all one grazing area (the avoidance to which he referred was pursuant to arrangements specified in a decision dated 7 April 1981 and made by Mr Commons Commissioner Morris Smith under reference No. 268/D/337, by which he gave effect to an Objection made by Mr G S Bostock and refused confirmation of 13 registrations of grazing and other rights). The Coal Hill part of the area is the part of the CL 116 land which is not the subject of my decision of even date because of such part the Leeds Corporation were before they by the 1981 conveyance (GSB/21) conveyed it to Mr Bostock, the undisputed owners.

Mr Maurice submitted that the Referred Part passed under the 1981 conveyance to Mr Bostock because so far as it was not included in the second part of the Schedule expressly referring to "Bonfire Hill", it was included in the third part of the Schedule which referred to Coal Hill, and because it was irrelevant that the dividing line between the Unit Land and the CL 116 for the purpose of Commons Registration was not the same as the dividing line between "Bonfire Hill" and "Coal Hill" for the purposes of the 1981 conveyance.

Mr Maurice also submitted that the Referred Part passed under the 1905 conveyance as appeared from the following extract Part I of the First Schedule (8½ pages in all):-

No. on Deposited Plan	Ordnance Survey No.	Description	Area A. R. P	Present Occupier
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TOWNSHIP OF LAVERTON

*	*	*	*	*
345 (see also No. 32 in the Township of Azerley	2	Moorland	40.2.25	The Most Hon The Marquess of Ripon
*	*	*	*	*





GSB/22                    --                    Map showing edged red "CL 416" apparently based on a photocopy of a plan attached to a conveyance (at my said CL 212 1986 hearing it appeared that such conveyance was a copy of that dated 14 January 1966 and marked GSB/1; a copy of the plan therein referred to was at such hearing marked GSB/13).

## Part II: in 1986

GSB/50                    1907                    Extract OS map 1/2,500 showing generally Bonfire Hill and the road adjoining it on the southeast, and particularly the Referred Part as No. 195 containing 1.743 acres.

GSB/51                    10 July 1986           Letter from Leeds City Council (Director of Industry and Estates) to Atkinson Dacre & Slack: "... to the small plot of land at Bonfire Hill, it is obviously an anomaly arising from the use of parish boundaries for identifying land ownerships ...".

Dated this 10<sup>th</sup> — day of March — 1987

A. A. Baster Fuller

Commons Commissioner

