



IN THE MATTER OF SAWBANKS CALTON

DECISION

This reference relates to the question of the ownership of the land above mentioned being the land comprised in the Land Section of Register Unit No. CL 429 in the Register of Common Land maintained by the North Yorkshire County Council of which no person is registered under section 4 of the Act as the owner.

Following upon the public notice of this reference Mr W J Henderson and the Estate of the late James Thompson claimed to be the freehold owner of the land in question or a part of it and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the land at Skipton on 16 October 1984.

Mr D V Evans of Simpson Curtis and Co. Solicitors of Leeds appeared for Mr W J Henderson and Mrs Clair Brooks, Solicitor of Skipton appeared for the Estate of the late James Thompson.

Mr Evans said that his client claimed to own the whole of the register unit as Lord of the Manor of Calton. Mrs Brooks said that her client claimed ownership of an undivided share.

The history of Malhamdale and its manors is the subject of a book written by the late John William Morkill who died in April 1932. He lived at Newfield Hall, Calton and was Lord of the Manors of Calton and Airton. The book was published after his death financed by funds advanced by his friends.

By a Conveyance made the 7th day of April 1938 Alan Greenwood Morkill the son of John William and as his surviving personal representative conveyed Newfield Hall together with other property to All Souls College Oxford for £18,953. The purchaser sold what it had purchased from A G Morkill to James Hammond in 1961 and Mr Henderson is currently his successor in title.

The property conveyed to All Souls College is set out in detail in the First Schedule to the conveyance of 1938. The 12th and 13th parts of this Schedule are in the following terms.

TWELFTH PART

All those twenty two Cattle-Gaits and two Twinter Gaits on the gaited pasture known as Sawbanks near Calton aforesaid together with twenty three and seven twelfths Cattle Gaits on Calton Moor Calton aforesaid.





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The other argument put forward by Mrs Brooks was that the reference in the Conveyance of 1938 in the 12th part of the First Schedule to 22 cattle-gaits and 2 twinter gaits on the gaited pasture known as Sawbanks indicated that the Vendor's interest in Sawbanks was as a gait-holder and not as Lord of the Manor.

If one considers the rights of a Lord of the Manor to graze a piece of common land in competition with the commoners another a more likely explanation emerges. Normally a Lord of the Manor is entitled to residual grazing rights over such pasture as is not required to satisfy the rights of the commoners.

Where a Lord of the Manor acquires a property having grazing rights over a common forming part of the Manor it is important that his title deeds should show that the rights he has so acquired should be a matter of record to show that in respect of the rights so acquired he does not have to rely on his residual rights.

For these reasons I am of opinion that the Commoners' claim to own an undivided share of the soil of Sawbanks fails, and I am satisfied that Mr Henderson is the owner of the land and I shall direct the North Yorkshire County Council as registration authority to register him as the owner of the land under section 8 (2) of the Act of 1965.

I am required by regulations 30 (1) of the Commons Commissioners Regulations 1971 to explain that a person acquired by the decision as being erroneous in point of law may, within 6 weeks from the date on which notice of this decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 20th day of November 1984

George Hankin

Commons Commissioner