



COMMONS REGISTRATION ACT 1965

Reference No.268/U/26

In the Matter of Scallamoor Quarry,
Pickering, North Yorkshire (No. 2).

DECISION

This reference relates to the question of the ownership of land known as Scallamoor Quarry, Pickering, being the land comprised in the Land Section of Register Unit No. CL.355 in the Register of Common Land maintained by the former North 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 Malton on 13th February 1975.

At that hearing the Pickering Town Council was represented by Mr. J. R. Richardson, its Clerk.

The land the subject of the reference was allotted by the Inclosure Award made 28th April 1789 under the Pickering and Newton Inclosure Act of 1785 (25 Geo. III C. XXVI) as a Common Marl and Stone Pit. By the Award the herbage was allotted to the Surveyors of Highways, but the allotment as a Marl and Stone Pit was not made to any person. It therefore appeared that the ownership of the land remained in the lord of the manor, who at that time was the King in right of his Duchy of Lancaster: See R. v. Inclosure Commissioners for England and Wales (1871), 23 L.T. 778. However, since there had been no claim to ownership by the Duchy of Lancaster and I had no evidence as to what had happened since 1789, I could only say that I was not satisfied that any person was the owner of the land and that it would therefore remain subject to protection under Section 9 of the Act of 1965.

After receiving notice of my decision the Duchy of Lancaster applied under reg. 21 of the Commons Commissioners Regulations 1971 for me to set aside my decision and re-open the hearing. I granted this application and re-opened the hearing at Whitby on 3rd and 5th June 1975.

At the re-opened hearing I was satisfied by evidence given by Mr. E. R. Wheeler, the Clerk of the Council of the Duchy of Lancaster, and Mr. R. H. B. Hammersley, the Surveyor of the Yorkshire Estates of the Duchy, that this land has not been disposed of since 1789. In particular by an agreement dated 8th January 1960 the Duchy granted a consent to the North Eastern Electricity Board to place an overhead line across the land and the wayleave has since been paid by the Board to the Duchy.



On this evidence I am satisfied that Her Majesty The Queen in right of Her Duchy of Lancaster is the owner of the land, and I shall accordingly direct the North Yorkshire County Council, as registration authority, to register Her Majesty in such right 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

26th day of June

1975

Chief Commons Commissioner