

COMMONS REGISTRATION ACT 1965

Reference Nos.45/U/254 45/U/255 45/U/256

In the Matters of The Recreation Ground (2 parts) and The Gardens, Hartlington,
Craven D., North Yorkshire

DECISION

These references relate to the question of the ownership of lands known as The Recreation Ground (2 parts) and The Gardens, all at Hartlington Raikes, in Hartlington parish, Craven District (formerly Skipton Rural District, Yorkshire West Riding) being the lands comprised in the Land Section of Register Unit Nos. VG.152, VG.99 and VG.100 in the Register of Town or Village Greens 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 these references no person claimed to be the freehold owner of the lands in question and no person claimed to have information as to their ownership.

I held hearings for the purpose of inquiring into the question of the ownership of the lands at Skipton on 2 April 1974. The hearings were attended by (1) Mr. J. H. Walker who was chairman of the Hartlington Parish meeting for 25 years (1945-1951 and 1956-1973), (2) Mr. A. E. Metcalfe who was a member (representing the Parish) of the Skipton Rural District Council and (3) Mr. F. Pickersgill, solicitor who represented the County Council as registration authority. At the hearings Mr. Walker who has lived in the Parish since 1909 (he was then 5 years of age) gave evidence. After the hearing I inspected the lands it having been agreed that I might do so unattended.

In the Register the land called "Recreation Ground" is registered in two parts: the VG.99 part (reference U/255) as containing .907 hectares (about 2.241 acres) and the VG.152 part (reference U/254) as containing .177 hectares (about .437 acres) On the Register map both parts appear as 0.5. No.104 containing 2.541 acres and separated by a line. The VG.99 part was registered pursuant to an application dated 22 May 1968 (in the Register said to have been made by the Parish Council; Mr. Walke said there had never been such a Council). The VG.152 part was registered pursuant to an application dated 12 May 1965 by the Commons Open Spaces & Footpaths Preservation Society, and such application included the VG.99 part and was therefore noted in the Land Section of Register Unit No.99. The Recreation Ground is on the west side of the road ("the Moor Road") which rises steeply out of Hartlington, crosses the moor and joins (at a point about 2 miles from Nartlington) the main road The from Grassington and Hebden on the west to Pateley Bridge on the east. Recreation Ground is surrounded by stone walls (access is from the Moor Road through a gate). No division between the VG.99 part and the VG.152 part is now apparent.





-2-

From its present appearance, I cannot imagine how anybody could ever want to use the Recreation Ground for any recreational purpose; the land is uneven (when I saw it, being grazed by cattle) and the houses (many rather scattered) of Hartlingto are nearly all some distance away.

The Gardens land (VG.100) which contains (according to the Register) .357 hectares (about .88 of an acre), is a long strip of land fronting for about 200 yards on the east side of the Moor Road. The registration was according to the Register made pursuant to the same application of "the Parish Council". The Gardens land is surrounded by stone walls (access is from the Moor Road through a gate at the south end). The land is uneven, is not now cultivated (apart from an inclosed mound at the north end, it is grass land, perhaps being used by chickens), & and seemed to me either unsuitable or inconvenient for growing vegetables or for any other kind of garden.

Mr. Walker produced (1) a book ("the 1871 Book") being the minutes of the meetings of the Ratepayers of the Township of Hartlington from 28 February 1871 to 26 March 1895, and of the Hartlington Parish Heeting from 26 March 1896 to 25 March 1943 and including the accounts of the cash received and paid on behalf of these Meetings and (2) a book ("the 1944 Book") being the minutes of the Martlington Parish Meeting from 24 March 1944 to the present day and including the accounts of the cash receive on their behalf.

The 1874 Book shows that there were regular lettings from 1871 to 1895 of "Maddy Green" and "Recreation Green" (apparently alternative names for the same property) at yearly rents such as, (1872) \$2-0-0, (1885) \$1-10-0, (1890) \$1-12-0 and (1895) E1-4-0, and from 1881 to 1895 of "Garden or "Gardens" at yearly rents such as (1881) 12/-, (1885) 10/-, (1890) 7/6, and (1895) 5/-: the other lettings if any were of "Moor Lane", of "shooting" and sometimes of other property, e.g. (1879) "the lanes or the entage thereof". The 1870 Book shows regular lettings (among one or two other properties) from 1896 to 1943 of "Recreation Gd.", "Eatage of Recreation" "Recreation Field", "Muddy Green" (possible before 1932 memaing the same property, but afterwards "Muddy Green" and "Recreation" are shown as let at separate rents to the same person) at varying yearly rents such as (1896) £1-5-0, (1909) £0-17-0, (1914) \mathfrak{L}_{3-0} , (1920) \mathfrak{L}_{5-6} (1922) \mathfrak{L}_{2-14-0} , (1932) \mathfrak{L}_{1-2-0} plus 10/- and (1943) £1-1-0 plus 12/-; and of "Garden", "Eatage of Gardens" or "Gardens" at varying rento such as (1896) 6/- (1909) 5/-, (1914) 9/- (1920) 5/- (1922) £1-3-0 (1932) 10/- and (1943) 10/-. The 1944 Book shows for every year; 3 or 4 (occasionaly more) lettings, always including (i) "Muddy Green", (ii) "Recreation", and (iii) "Gardens" at varying rents such as: for (i):- (1951) £2-1-0, (1965) £2-10-0 (1973) £8.50; for (ii):-(1951) 20-10-0, (1965) 20-5-0 and (1973) 20.50 and for (iii):- (1951) 21-9-0, (1965) £1-13-0, and 1973 £2.00.

Mr. Walker said (in effect):- He understood the references of the 1944 Book to "Muddy Green" were to the VG.99 part, to "Recreation" were to the VG.152 part, and to "Gardens" were to the Gardens land (VG.100). He had never seen any of the lands used for recreation. He had always assumed that the Parish had acquired the lands under an Award.



-3-

Mr. Pickersgill said that the Commons Open Spaces & Footpaths Preservation Society had when making their application for registration sent to the registration authority an extract from Hartlington Moor Inclosure Award dated 1865 and an extract from the Award plan. The Award extract is as follows:- "And I declare that I have set out and do hereby set out allot and award unto the Churchwardens and Overseers of the Poor of the said Parish of Martlington All that piece or parcel of land numbered 4 on the said Map containing Two acres to be held by them and their successors in trust as a place for exercise and recreation for the Inhabitants of the said parish and neighbourhood And I direct that the fence on the East side of such allotment shall from time to time be repaired and maintained by and at the expense of the Churchwardens and Overseers of the poor of the said parish for the time being". The extract from the Award plan shows (among other pieces of land) one piece ("the Allotted Piece") numbered "4" and on the west side of The Moor Road, and another piece ("the Township Piece", south of and adjoining the Allotted Piece) unnumbered, on the same side of the road and marked "Hartlington Township".

In the 1904 Return to the House of Commons of Inclosure Awards deposited or enrolled with Clerks of the Peace and others, includes an Award for a common named "Martlington Moor" in the parish or township of "Burnsall" dated 22 March 1865. The Award was evidently made under the Second Annual Inclosure Act 1857 (20 and 21 Vict. c. 20) by which (among other provisional orders) an order dated 19 February 1851 relating to this common was directed to be proceeded with.

The Allotted Piece and the Township Piece delineated on the said extract from the 1863 Award plan, together make up what is now known as the Recreation Ground. There is now no certain visible boundary between what was the Allotted Piece and the Townshi; Piece. It is possible (perhaps likely); (i) that the Township Piece was before 1863 vested in the churchwardens and overseers for recreational purposes, and that for this reason the Allotted Piece was by the 1863 Award allotted as it was; (ii) that the Gardens land was (as its name, situation and shape suggest might have been) allotted under section 73 of the Inclosure Act 1845 to the churchwardens and overseers as an "allotment for the labouring poor"; (iii) that "Muddy Green" and "Recreation Green" an similar expressions in the 1870 Book were then used differently from their present use; and (iv) that the legal estate in those lands has somehow devolved from the churchward and overseers on the representative body (the body corporate established by section 19 of the Local Government Act 1894 and continued by section 47 of the Local Government Act 1933 for the purpose of holding property of a rural parish without a parish counci I need I think express no opinion as to these possibilities, because I conclude from the 1870 Book, the 1944 Book and the evidence of Mr. Walker, that the Parish have for many years been in possession of these lands, and that however any uncertainties there may be as to their history are resolved, the Parish now has a good possessory title.

For these reasons I am satisfied that the Parish Trustees (who under section 13 of the Local Government Act 1972 on 1 April 1974 succeeded the representative body) are the owners of these lands (VG.99, VG.152 and VG.100); and I shall accordingly direct the North Yorkshire County Council as registration authority to register the Parish Trustees of Hartlington as the owner of the lands under section S(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

day of May a. a. Baden Fuller

1974.

Commons Commissioner

