



COMMONS REGISTRATION ACT 1965

Reference No.263/U/40

In the Matter of Town End Pond and
Surrounding Land and Field O.S.No.498,
Brompton-by-Sawdon, North Yorkshire.

DECISION

This reference relates to the question of the ownership of land known as Town End Pond and surrounding land and field C.S.No.498, Brompton-by-Sawdon, being the land comprised in the Land Section of Register Unit No.CL 248 in the Register of Common Land maintained by the former North Riding 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 the Brompton-by-Sawdon Parish Council claimed to be the freehold owner of the land in question and no other person claimed to have information as to its ownership.

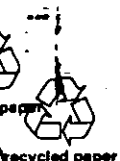
I held a hearing for the purpose of inquiring into the question of the ownership of the land at Scarborough on 7th November 1974.

At the hearing the Parish Council was represented by its Clerk, Mr C.P.Evans.

The land the subject of this reference consists of two portions, one consisting of Town End Pond and the land surrounding it and the other consisting of a field to the east and north-east of High, Middle, and Low Lanes.

It appears from the minute books and accounts of the Parish Council that since the 1920's the Council has regularly paid for mowing the grass on the land surrounding Town End Pond and for fencing the pond. This having been done for half a century without objection from anyone claiming to be the owner, I am satisfied that the Parish Council is the owner of the land, and I shall accordingly direct the North Yorkshire County Council, as registration authority, to register the Parish Council as the owner of Town End Pond and the land surrounding it under section 8(2) of the Act of 1965.

The grass on the field has never been mown, since it has been grazed by cattle. There is no mention of this land in the records of the Parish Council, but Mr R.E.Abbs, who has lived in Sawdon since 1912, gave evidence that the man who was paid by the Parish Council for mowing the grass on the land surrounding Town End Pond repaired the cart-tracks across the field and cleared out the grips on either side of the tracks. This man retired about 10 years ago, but Mr Abbs remembers similar work being done by another man before him. Mr Abbs believed that this work was done for the Parish Council, though the absence of any mention of it in the Council's accounts makes this doubtful. However, if the Council did pay for this work, it was





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empowered to do so under section 13(2) of the Local Government Act 1894, now replaced by sections 46 and 53(2) of the Highways Act 1959. The existence of these statutory powers excludes the possibility that the Parish Council had entered into possession of the field to the exclusion of the true owner. I cannot, therefore, hold that the Parish Council has acquired a possessory title to the field.

In the absence of any further evidence I am not satisfied that any person is the owner of the field and it will therefore remain subject to protection under section 9 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 25th day of November 1974

A handwritten signature in black ink, appearing to read 'G. D. Smith', written over a horizontal line.

Chief Commons Commissioner