



COMMONS REGISTRATION ACT 1965

Reference No 28 U/2

In the Matter of Normanton Holme,  
Normanton-on-Trent, Bassetlaw District,  
Nottinghamshire

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DECISION

This reference relates to the question of the ownership of land known as Normanton Holme, Normanton-on-Trent, Bassetlaw District being the land comprised in the Land Section of Register Unit No CL. 14 in the Register of Common Land maintained by the Nottinghamshire 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 B G Selby & Sons Chartered Surveyors of Newark-on-Trent said (in effect) that the owners of the freehold were those who had rights of common and that the Holme Committee had a record of all owners, Mr F P Pennington said (in effect) that when he purchased his gates he understood that he would have an undivided share with the other gate holders all being tenants in common of the land, and Larken & Co, Solicitors of Newark-on-Trent said that the legal position is that the freehold ownership is vested jointly in the owners of the Beastgaits. No person 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 Nottingham on 25 January 1977.

In the Rights Section of this Register Unit there are 27 Entries of rights of pasture being calf gaits or beastgaits as summarised in the first, second and third columns of the First Schedule hereto. At the hearing the persons against whose names in the said Schedule hereto appear in the fourth column (1) the letters "L & Co" were represented by Mr A G Hine solicitor of Larken & Co, Solicitors of Newark-on-Trent, (2) the letters "APW & Co" was represented by Mr R W Burroughs solicitor of A P Williamson & Co, Solicitors of Retford, (3) the letters "H & T" were represented by Mr J W Raithby managing clerk with Hodgkinson and Tallents, Solicitors of Newark-on-Trent, (4) the letters "BGS & Sons" were represented in some cases in addition to being represented by solicitors as above, by Mr R Benbow of B G Selby & Sons chartered surveyors, auctioneers and estate agents of Newark-on-Trent and (5) the letter "P" attended in person. Additionally Mr Benbow represented (according to a list he left with me) Mr T L C Wilkinson (3 gaits); according to his list there are 265<sup>2</sup> gaits, so there may be or have been some unregistered gaits.

Mr Hine opened the proceedings by outlining the evidence available, and saying that it was not as far as he knew disputed by anybody that the owners of the gaits also each owned a part of share in the soil; he referred me to Harris and Ryan on Common Land (1967) pp 24 & 25 and suggested that the legal estate should be vested in trustees.



After some discussion with him, Mr Burroughs, Mr Raithby and others present, I said that in other cases, I had concluded that the law recognised a combined grazing and soil ownership under which land could be subject to cattle gaits or beastgaits and at the same time be owned beneficially by the gait owners in proportion to the numbers of gaits each owned, see my decision in re Longton (Lancashire) reference 20/U/81 dated 15 July 1974, re Ireshope (Durham) reference 11/U/19 dated 10 October 1974, re Bethacar (Cumbria) reference 25/D/79-95 dated 18 December 1975 and re Inchfield (West Yorkshire) reference 45/U/194 dated 27 May 1976. I had in such cases also concluded that any such combined ownership could not be presumed merely because the land was subject to gaits but had to be proved, that where it had been proved the transitional provisions of the Law of Property Act 1925 under which the legal estate in land formerly held in undivided shares was vested in trustees, became applicable and accordingly any land before 1925 subject to combined grazing and soil ownership vested in the Public Trustee in accordance with paragraph 2 of part V (headed "Open Spaces") of the First Schedule of the 1925 Act, see re Cotherstone, a decision of the High Court reported in the Estates Gazette of 1 July 1961.

After this discussion the hearing proceeded on the basis that evidence would be offered which would establish that this land is held in combined grazing and soil ownership, and that if I was satisfied as to this, it would not be contended that the legal estate was not now in the Public Trustee.

Mr Burroughs as solicitor for Mrs G I Weightman produced the documents specified in the first part of the Second Schedule hereto and Mr B Hough who is and has been for the last 25 years managing clerk and legal executive with Larken & Co (and as such had access to the Court Rolls of the Manor of Greisthorpe and Normanton and to the documents of title of those represented by his firm) produced the documents specified in the second part of the Second Schedule hereto.

Mr B Skelton gave oral evidence in the course of which he produced the Minute Book of Holme Committee meetings from 1905 and their Account Book, and said (in effect):- He is and has been for the last 15 years secretary of the Holme committee, being a body elected annually by the owners and occupiers of the land; he had been associated with the Committee for 20 years, and his grandfather had been associated with it in 1905. Nobody apart from the gait owners had ever claimed ownership as far as he knew. The land contains about 123 acres and adjoins the River Trent. In all there are 265 $\frac{2}{3}$  gaits. The pasture is closed from February, March and April but is open for grazing by beasts from May to December 31 and for sheep from May to January 31: he produced a print of the "Rules for Stocking". The Waterways Board pay a way leave rent to the Committee for the use of the tow path and the gait owners pay them for keeping the hedges in repair.

Mr R Benbow of B G Selby & Sons described how his firm arranged for the annual letting of the gaits; there is an auction sale in the village hall at Sutton-on-Trent and the gaits available for letting are offered in parcels of up to 20 at a time; and when the auction is completed his firm work out the average price per gait and pay the relevant owners the proceeds of sale less the Holme rate paid to Mr Skelton on behalf of the Commoners. He also produced on behalf of those he represented the documents specified in the third part of the Second Schedule hereto.

Mr J Marrison and Mrs Martin produced the documents specified in the fourth and fifth parts of the Second Schedule hereto.



On the evidence summarised above I am satisfied that this land is subject to combined grazing and soil ownership, and I infer that it has always been so subject and accordingly the above mentioned transitional provisions of the 1925 Act were applicable to it. I am therefore satisfied that the Public Trustee is the owner of the land and I shall accordingly direct the Nottinghamshire County Council as registration authority to register the Public Trustee 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.

FIRST SCHEDULE

Rights Section Entry	Applicant for Registration	Right Registered	Representation at the Hearing	Remarks based on Mr Benbow's 1976 letting list
1	Mrs Diana Fox	26½ calf or beastgaits	BGS & Sons	
2	Mr John Thomas Pilkington	12 ditto	—	
3	Mrs Dorothy Georgina Pilkington	8 ditto	H & T	
4	Mr Herbert Pilkington	4 ditto	H & T (also BGS & Sons)	
5	Mrs Gladys Irene Weightman	4½ ditto	APW & Co	
6	Mrs Alice Charlotte Hare	7 ditto	L & Co (BGS & Sons)	
7	Mrs Dennis Wood (Mary Meller Charity)	4 ditto	BGS & Sons	now 3 gaits
8	Mr Jeremy John Ware	3 ditto	—	
9	Mrs Joan Mary Martin	14 ditto	P (in person)	
10	Mr Edwin Burton	14 ditto	L & Co	
11	Mr George Thomas Buttery	5 ditto	L & Co (also BGS & Sons)	



12	Mr James Marrison	4 ditto	P (in person)	
13	Rev John De Quincy Mears incumbent of Normanton- on-Trent	3 $\frac{1}{2}$ ditto	BGS & Sons	now Southwell Board of Finance
14	Rev John De Quincy Mears (chairman of Esams Charity)	5 $\frac{2}{3}$ ditto	BGS & Sons	now Rev P W Swin:
15	Mr William Maxwell Evelyn Dennison	27 $\frac{1}{2}$ ditto	H & T	his executors
16	Mrs Olive May Lynn	4 ditto	—	
17	Mrs Annie Priscilla Thurston	4 ditto	BGS & Sons	
18	Taylor & Sons (Growers) Limited	48 ditto	L & G	
19	Mr William John Morley Pike	6 ditto	BGS & Sons	
20	Mrs Eleanor Alice Sayer	5 ditto	L & Co	
21	Mrs Clarice Thurston	2 ditto	—	
22	Mrs Margaret Parkin	15 ditto	L & Co	
23	Mrs Betsy Margaret Lambert	2 ditto	H & T	replaced by Entry No 30 in favour of Mr George Henry Lambert
24	Mr Thomas Hawksworth Marrison	14 ditto	BGS & Sons	
25	Official Solicitor as administrator of estate of Mary Elizabeth May deceased	2 ditto	—	
26	Mr Ernest Rawson, Mr Jeffrey Stevens and Mr Bert Paling	4 ditto	—	
27	Mrs Victoria Alexander Snaith and Mr George Rhodes Snaith	6 ditto	—	

Total (as registered) 254 1/6

SECOND SCHEDULE

## Part I. Produced by Mr Burroughs

13 September 1938: conveyance by Mrs L King to Mr R S Weightman of "4½ calf gaits or common of pasture in or upon certain common or pasture at Normanton-on-Trent aforesaid called the Holme and also such part and proportion of the soil of the said common which may belong to the vendor in respect of the said 4½ calf gaits".

5 June 1960: assent by Mrs G I Weightman in favour of herself of gaits described as above

## Part II. Produced by Mr Hough

April 1870 to May 1892 Court Rolls (volume 5) of the Manor of Greisthorpe and Normanton including an admission (10 September 1873) of copyhold beastgaits in Normanton "and also all such parts and proportion of the said soil of the said common and pasture which may belong to..."

20 January 1950 Conveyance by J G Bennington to Taylor & Sons (Growers) Limited of beastgaits with wording similar to the 1938 Weightman conveyance

31 March 1919 Conveyance by W Richardson to E Burton of "all those 4 beastgaits or commons of pasture for 4 beasts situate lying and being in a certain open pasture called the Holme in Normanton-on-Trent aforesaid and also all such parts and proportion of the said soil of the said common pasture as belongs to the vendor in respect of the said beastgaits"

20 January 1950 Conveyance by J T Pennington and W Walsham to Taylor & Sons (Growers) Limited of 4 beastgaits with wording as other conveyance of same date

29 August 1969 Conveyance H K Summers and others to Taylor & Son (Growers) Limited with wording similar to the 1938 conveyance

29 June 1930 Conveyance by C Taylor to Taylor & Sons (Growers) Limited: of calf gaits by a referential description (no indication of land ownership)

31 March 1941 Conveyance by G Esam and others to Taylor & Sons (Growers) Limited of land described in a schedule which included "34 beastgaits on the Holme at Normanton-on-Trent at Oa.lr.38p....16.2.12" and "4 beast gaits on the Holme at Normanton-on-Trent at Oa.lr.38p....1.3.22"

## Part III. Produced by Mr Benbow

23 April 1946 Conveyance to W J M Pike of 4 calf gaits "together with such part and proportion of the soil of the said common of pasture as belong to the vendor..."



- 30 April 1945                      Conveyance to W J M Pike of 2 beastgaits (without any words such as above quoted)
- 6 April 1936  
31 June 1944  
3 September 1945                      Conveyances being ~~title of(?)~~ W Oliver to gaits (without any words as above quoted)
- 19 June 1895                      Declaration of trust relating to Esam's Charity: including 5 beastgaits "and all such part and proportion of the soil of the said common as belongs to the vendors in respect of the said beastgaits"
- 13 October 1916                      Scheme for the administration of May Mellers Charity (1786): schedule included "Three calf gaits Normanton Holme (extent) 1-1-34"
- 29 September 1913                      Conveyance to... T H Marrison of 16 $\frac{1}{2}$  gaits including a proportion of the soil as above
- Part IV.      Produced by Mr J Marrison
- 12 January 1949                      Assignment including "calf or beast gaits or right of pasture for calves or beasts in Normanton Holme had and enjoyed by the vendor together with a proportion of the soil held in respect thereof"
- Part V.      Produced by Mrs Martin
- 6 June 1953                      Conveyance R Forshaw to M J Martin of 3 beastgaits (no words indicating ownership)
- 28 July 1924                      Conveyance by E Chambers to R Forshaw of 3 beastgais "and also such part and proportion of the soil of the said common of pasture as may belong to the said Edith Chambers in respect of the said three beastgaits"

Dated this 7/15 day of March —                      1977

a. a. Baird Fuller

Commons Commissioner