



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/301

In the Matter of Brough Riggs,  
Brough, Eden District, Cumbria

DECISION

This reference relates to the question of the ownership of land containing about 15 acres and known as Brough Riggs, Brough, Eden District being the land comprised in the Land Section of Register Unit No. VG 23 in the Register of Town or Village Greens maintained by the Cumbria (formerly Westmorland) 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 Stainmore Parish Council claimed (letter of 6 October 1979) and Brough Parish Council (letter of 10 October 1979) also claimed, ownership of the land in question; and The Commons Open Spaces and Footpaths Preservation Society on whose application the registration was made, said (letter of 19 October 1979) that in an Inclosure Award dated 17 March 1890 the land was allotted to the Churchwardens and Overseers of the Poor of the Parish of Brough. No other person claimed to be the freehold owner of the land in question or 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 Penrith on 22 October 1980. At the hearing Brough Parish Council were represented by Mrs M Powrie their clerk and Stainmore Parish Council were represented by Mr J J Beckwith their chairman (present also were Mr J G Brogden their vice chairman and Mrs M E Sinclair their clerk).

Mr Beckwith who was born in the Parish and has been a member of the Parish Council since 1937 and their chairman for 20 years, in the course of his evidence produced from the Parish Council Records: (1) the East Stainmore Inclosure Award dated 17 March 1890; (2) the map therein referred to; (3) the Stainmore Parish Council Letting Book extending from 1906 to 1924; and (4) and (5) the Stainmore Parish Council Agreement Books extending from 1925 to 1936 and from 1937 to 1949. From the Award and map, it appeared that this land therein stated to contain 15 acres, was (with other pieces therein specified) allotted to the "Churchwardens and Overseers of the Poor of the said Township of East Stainmore... to be held by them and their successors on trust as places for exercise and recreation for the inhabitants of the said township and neighbourhood". The books he produced showed that the land has been every year let by the Parish Council of Stainmore. Mr Beckwith said (in effect):- The land ("the Unit Land") in this Register Unit is bounded on the south by the A66(T) road and on the northwest by the B6276 road which by the Unit Land branches off it towards Middleton-in-Teesdale. The Unit Land has always been fenced against these roads. Along and within the northwest boundary of the Unit Land there is about two acres of trees, planted about 30 years ago; apart from this area of trees, the rest of the Unit Land is grass land. The grass area is let by the Parish Council for grazing; now under a 3 year lease to



Mr J Dent; but previously let every year at least since 1906 as appears from the said Books; originally as 15 acres but since 1949 as 13 acres (that is less the Tree area).

Mrs Powrie in the course of her evidence said that the Unit Land is part of the Parish of Brough; in support of which statement she produced an OS map on which was outlined in red the Brough Parish Boundary (showing the Unit Land as included) and the list of Brough voters, which included four with addresses near the Unit Land. It seems (so she said) that before 1884 the Ecclesiastical Parish of Brough comprised several adjoining areas, including North Stainmore, South Stainmore and East Stainmore and that the Unit Land was part of "the Township of East Stainmore in the Parish of Brough"; at sometime in the next 10 years or so after 1884 during which the country areas were broken up into manageable districts and parishes for the purposes of local government and elections, the old ecclesiastical Brough Parish was divided: into "Stainmore" which now comprises North Stainmore and South Stainmore, and Brough which took in East Stainmore which then ceased to exist on its own. She contended the Unit Land went with Brough.

I need not I think make any finding as to the local government boundaries from time to time existing under the relevant Acts and Regulations: it will be enough for the purposes of this decision to assume that under such Acts and Regulations in relation to some area which includes the Unit Land, Brough Parish Council are the statutory successors of the Churchwardens and Overseers mentioned in the Award. But I am not prepared to assume because I think it very unlikely, that such Acts and Regulations in any way affect the operation of the Limitation Act 1939 (or the Acts which were replaced by the 1939 Act) by which the title of the successors of the Churchwardens and Overseers may be extinguished if some person takes possession of the Unit Land adversely to them. I find that Stainmore Parish Council by letting the land as described by Mr Beckwith have been in possession adversely for a long enough period to extinguish the title of Brough Parish Council as successors of the Churchwardens and Overseers.

So in the result Stainmore Parish Council have a possessory title. I am therefore satisfied that they are the owners of the Unit Land and I shall accordingly direct the Cumbria County Council, as registration authority, to register Stainmore Parish Council as the owners 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 24<sup>th</sup> — day of November — 1980

a. a. Baden Fuller