



COMMONS REGISTRATION ACT 1965

Reference No 262/U/309

In the Matter of land southeast of
the bridge over The River Eamont in
Pooley Bridge, Barton Parish,
Eden District, Cumbria

DECISION

This reference relates to the question of the ownership of land (a small piece) southeast of the bridge over The River Eamont in Pooley Bridge, Barton, Eden District being the land comprised in the Land Section of Register Unit No CL131 in the Register of Common Land 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 Mrs Sylvia Mary McCosh claimed (her Solicitors' letter of 26 September 1979) ownership of the land in question. No other person claimed to be the freehold owner 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 24 October 1980. At the hearing Mrs S M McCosh was represented by Mr D Mellor solicitor of Little & Shepherd, Solicitors of Penrith; and Barton Parish Council on whose application the registration was made, were represented by Mr J E Lowthian their clerk.

Mr Mellor said he was instructed to withdraw Mrs McCosh's claim for ownership. Mr Lowthian on behalf of the Parish Council claimed ownership, and in support of this claim oral evidence was given by Mr C E Arnison a solicitor of Penrith who is now 80 years of age and who remembered the land from when he was holidaying at Pooley Bridge about 70 years ago; and by Mr Lowthian himself who is 45 years of age, has been the clerk of the Parish Council for the last 7 years and has known the land for 40 years. After the hearing I inspected the land.

The land is the part of the River bank southwest of and next to the Bridge which carries the road (B5320) from the Village over the River; it is (according to the Register map) about 75 yards long (the River being its northwest boundary) and about 10 yards wide. Access to it from the public road over the Bridge is by a short track running by the side of a little beck next to the Bridge below road level.

Of it Mr Arnison said (in effect):- He remembered the land being used as a watering place for horses, particularly for the horses bringing the holiday coaches from Penrith; the coach and four met the train, loaded up with passengers and went to the pier on Ullswater (about $\frac{1}{2}$ a mile from the Bridge); there the visitors embarked for Patterdale (and back); the coachman drove to the Village and there unyoked the horses by the stabling at the Crown Hotel; the ostlers were employed by the Hotel. The coaches as he remembered during the summer months came frequently;



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but he thought that this all stopped at the time of the war (1914-18). But the land continued to be used for watering (other) horses (from the Village). More recently it became (as it now is) a place for boats; particularly canoeists getting in and out or coming to land (it would be difficult for rowing boats).

Mr Lowthian said (in effect):- The land is pleasant picnic spot by the River and tourists picnic there. The Parish Council have undertaken the responsibility for making it reasonably clear of litter; they employ a man part-time to clear litter in the Village generally, including this land. The Parish Council maintain the gravel walkway from the public roadway to the land. Not many years ago he remembered a boat being launched from the land in a wheeled bogey. The land had been used as described by Mr Arnison and himself for many years.

On the evidence summarised above and from the appearance of the land, I consider that it must be Parish Property within the popular meaning of these words. In accordance with the legal principle established in ~~Dea~~ ^{Dea} v Hiley (1830) 10 B&C 885, and ~~Dea~~ ^{Dea} v Terry (1835) 4 A&E 274 at page 281, ^{as} was by section 17 of the Poor Act 1819 vested in the churchwardens and overseers and by the operation of the Overseers Order 1927 is now vested in the Parish Council. Accordingly I am satisfied that the Parish Council are the owners of the land, and I shall accordingly direct the Cumbria County Council, as registration authority, to register Barton 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 8th — day of January — 1981

a. a. Bader Fuller

Commons Commissioner