



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/1

In the Matter of the village green,
Maulds Meaburn, Crosby Ravensworth,
Eden District, Cumbria.

DECISION

This reference relates to the question of the ownership of land known as the village green, Maulds Meaburn, Crosby Ravensworth, Eden District being the land comprised in the Land Section of Register Unit No. VG 45 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 (1) Crosby Ravensworth Local Council sent (their Solicitors letter of 23 November 1977) to the Clerk of the Commons Commissioners documents relating to Nos. 1 and 2 Stepping Stones; (2) Mr B W Cox and Mr H F Allen claimed (their Solicitors letter of 20 March 1978) the freehold title to the Mill Race (as appurtenant to the Corn Mill); (3) Crosby Ravensworth Local Council (letter of 28 March 1978) claimed ownership of all the land, as having been awarded to the Churchwardens and Overseers of the Poor for the air and exercise of the township and neighbourhood; (4) Mr R A Hodgson of Hill Top Farm claimed (his letters of 31 March and 8 April 1978) ownership of land between fields No. 251 and part 603 over which the approach road to his farm crosses; (5) Crosby Ravensworth Local Council disputed (letter of 19 April 1978) the ownership claim of Messrs B W Cox and H F Allen; (6) The Commons Open Spaces and Footpaths Preservation Society, on whose application the registration was made, sent (letter of 30 March 1979) an extract from the 1858 Award for the inclosure of Maulds Meaburn and Wickerslack Moors; and (7) the Charity Commission sent an affidavit sworn by Miss J Crawshaw on 5 April 1979 setting out an excerpt from the said Award held by the Charity Commissioners. 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 25 April 1979. At the hearing (1) Crosby Ravensworth Local Council (there is in the Land Section a note of an application by them for this registration) were represented by Mr G G Bowness their vice chairman and Mrs M Green their clerk; (2) Mr John Parr and Mrs Beatrice Ivy Parr of The Old Cornmill were represented by Mr P Kershaw, solicitor of Kershaws, Solicitors of Penrith; and (3) Mr R A Hodgson attended in person. Mr Kershaw said that Mr and Mrs Parr were the owners of the Corn Mill in succession to Messrs Cox and Allen mentioned in the said 1978 letters (2) and (5).

The land ("the Unit Land") in this Register Unit comprises a large number of pieces which together with roads and tracks by or crossing these pieces make up an area a little over $\frac{2}{3}$ of a mile long from north to south and of variable width (in places as much as about 200 yds). The Area is crossed by the Lyvennet Beck



(flowing northwards) and apart from roads and tracks is mostly grassland unfenced and easily accessible to the public; much of the buildings and lands of the village front on the Area.

The relevant allotment in the 1858 Award is:- "unto the Churchwardens and Overseers of the Poor of the said Township of Maulds Meaburn all that piece or parcel of land numbered 38 on the said map containing (inclusive of the tracks, roads and watercourses upon and over the same) twenty-four acres one rood to be held by them and their successors in trust as a place for exercise and recreation for the inhabitants of the said Township and neighbourhood". An extract from the Award map was produced. Nobody at the hearing disputed that the land so allotted included all the Unit Land, so I proceeded on the basis that in the absence of any evidence to the contrary, the Local Council as successor of the Churchwardens and Overseers are the owners of all.

From a letter of 7 April 1979 (from the Solicitors to the Local Council) and from what was said at the hearing, I understood that I am not concerned at all with any of the matters mentioned in the said 1977 and 1978 letters (1) and (2) so in the result much of the hearing was concerned with the ownership claim of Mr Hodgson being as he explained it to the part ("the Disputed Part") of the Unit Land at its southwest end, being an area approximately rectangular, about 70 yds long from north to south and about 25 yds wide. The Disputed Part is crossed by a track which leads from the north-south road through the Village to Hilltop Farm. Mr Hodgson indicated the north boundary of the Disputed Part claimed by him as being an east-west line through or a little to the north of a point where the track meets the road.

In support of his claim, Mr Hodgson questioned Mr Bowness who gave evidence on behalf of the Local Council, and then himself gave oral evidence; in support of the claim oral evidence was also given by Mr J Davidson. Two days after the hearing, I walked the length of the Unit Land, and in the presence of Mr Hodgson and Mr Bowness inspected the Disputed Part.

At the hearing Mr Hodgson said that he is the tenant of Hilltop Farm. During my inspection, he said that the Farm is about 130 acres and is held by him under an agricultural tenancy from Sir Robert Dent; Mr Bowness said that this ownership was not disputed. So Mr Hodgson's claim so far as it is based on things done on the Disputed Part by him as tenant of the farm could only go to establish the ownership of Sir Robert Dent. However for reasons which will be apparent ^{below} what I ~~now~~ say, I need not deal with this complication.

Mr Hodgson did not formulate the basis of his claim very clearly either at the hearing or during the inspection. In my opinion it can only succeed if I am satisfied that he and his predecessors (for himself or for Sir Robert Dent) have been in possession of the Disputed Part adversely to the Local Council and their predecessors, sufficient to extinguish their title under the Award by the operation of the Limitation Act 1939. The only things mentioned either by Mr Hodgson or Mr Davidson which could possibly have this effect, was the use made of the Disputed Part for access to Hilltop Farm and for storing agricultural machinery.



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As to storage Mr Bowness who has lived in the parish for 35 years said that farm machinery was not parked there except near the holding. Mr Hodgson in his evidence said nothing about storing machinery. ~~From~~ my inspection I saw one piece, and Mr Hodgson said that implements were parked there for a week or so in hay time; the layout of the Hilltop Farm buildings is such that any permanent parking of agricultural implements is unlikely. Even if there was some parking of implements, the area of the Disputed Part is so large when compared with the area which could ^{be} occupy any such implements that in my view such use could not properly be ascribed to taking possession of the Disputed Part or any now significant part of it.

As to access, no claim was made by the Local Council to the track itself, and as I read the Register the track is not now (although it was at one time) included in the Unit Land. I accept that when animals were driven from the road to the Farm they would stray over the disputed part, being grassland on either side of the made up track, and any other use of the track by agricultural implements or otherwise is I think only properly ascribable to ownership of ~~the~~ right of access along the track, ~~it~~ cannot properly be regarded as taking possession of any part of the Disputed Part.

Mr Davidson in his evidence of the Disputed Part said:- "this is his (Mr Hodgson) main access now and his father and his grandfather have enjoyed this area near the Green and have always maintained the sides and have used the road for farm machinery". He did not describe in any detail such use nor explain how he knew about it; I decline to base on what he said any conclusion more favourable to Mr Hodgson ^{than} ~~and~~ I can on what he himself said and on what I myself saw.

In my opinion Mr Hodgson is not now in possession of the Disputed Part or of any part of it, and having regard to what I saw during my inspection, I am not persuaded that he or any predecessor ^{of his} ~~entitled to his~~ ^(Farm) has ever been in possession.

For the above reasons I reject the claim of Mr Hodgson even assuming in his favour that he can properly make it on behalf of Sir Robert Dent. In the result there is no good reason why I should not ~~give effect to~~ ^{the} the above quoted allotment; ~~and~~ I am therefore satisfied that the Local Council are the owners of all the Unit Land and I shall accordingly direct the Cumbria County Council, as registration authority, to register Crosby Ravensworth Local 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 21st — day of June — 1979

A. A. Barber J. L. L.