



COMMONS REGISTRATION ACT 1965

Reference No. 220/U/17

In the Matter of Trawden Moor (parts
about 54 acres: the Flakes), Pendle
Borough, Lancashire

- DECISION

This reference relates to the question of the ownership of land known as Trawden Moor (parts about 54 acres: the Flakes), Pendle Borough being the land comprised in the Land Section of Register Unit No. CL261 in the Register of Common Land 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, having been advertised as "Trawden Moor (Flake Moor and Fence Moor), Trawden", (1) Mr Airey said (his Solicitors' letter of 11 September 1985) that he owned Slack Head Farm, Wycollar Trawden, (being the land to which is attached the right of common described in the registration, final since 20 April 1982, at Entry No. 2 in the Rights Section) and also Fence Moor, that he had rights over Flake Moor, and thought that the land is probably owned by a Mr M Bannister; and (2) Mr M J R Bannister claimed (his Solicitors' letter of 27 September 1985) ownership of all the land now comprised in this Register Unit (before 25 September 1981 it included much other land to the east and southeast). 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 Burnley on 8 April 1986. At the hearing the said Mr M J R Bannister, Mr Peter Moores of Parbold Hall, Parbold, Wigan and Mr Robert Walker of 17 Marble Street Manchester were represented by Mr J P T Smith, solicitor of Roberts & Smith, Solicitors of Nelson; (2) Mr Joseph Parker of Brook Ends Farm, Wycollar, Trawden who applied for the registration (void since 20 April 1982) at Entry No. 1 in the Rights Section, was represented by his tenant Mr James Pilkington of Coverdale Farm, Gisburn; and (3) the said Mr Ronald William Airey of Little Thorn Edge Farm, Trawden attended in person.

Disputes about the registrations in this Register Unit were resolved by two decisions both dated 31 March 1981 and made by the former Chief Commons Commissioner, Mr G D Squibb QC, after a hearing on 29 January 1981; as a result of these decisions, the land ("the Unit Land") now comprised in this Register Unit is in two pieces: one irregularly shaped, about 650 yards long between its north and south corner and having an average width of about 400 yards and situated a little under a mile south-east of the Slack Head Farm Buildings (confusingly on the Register map delineated as partly within the areas thereon marked "Fence Moor" and "Flake Hill Moor"); and the other a nearby on the west, strip about 3/4 of a mile long from north to south and about 30 yards wide.

At the hearing Mr Smith produced a Land Certificate made under the Land Registration Acts 1925 from which it appears that under Title No. LA518044 on 26 September 1985 Peter Mores, James Metcalf and Robert Walker were registered with an absolute title of land "shown and edged with red ... being land forming part of the Moor Lodge Estate, Trawden". Mr Smith said that in the Certificate James Metcalf was a



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mistake for James Metcalfe Beswick who is now deceased, and that Messrs Moores and Walker are now (and were with Mr Beswick) trustees for a trust under which Mr M J R Bannister is the principal beneficiary.

The plan referred to in the certificate includes the Unit Land among that thereon edged red.

The

Reference under which this hearing was held is dated 11 July 1985 and was made under subsection (1) of section 8 of the Commons Registration Act 1965, which requires such a reference to be made by "the registration authority", "unless the land is registered under the Land Registration Acts 1925 and 1936". As above appears although the Unit Land was so registered at the date of the hearing, it was not so registered at the date of the reference; Mrs S M Cunliffe who at the hearing represented Lancashire County Council as registration authority said that the Land Registry search was made before the date of the reference, and Mr Smith said that the Land Certificate he had produced had not been received until February 1986.

By section 12 of the 1965 Act if the registration authority is notified by the Chief Land Registrar that the land has been registered under the Land Registration Acts 1925 and 1936 the authority shall delete the registration of the ownership under this Act; and by regulation 21 of the Commons Registration (General) Regulations 1966 if a registration authority is so notified by the Chief Land Registrar, the authority shall after deleting the registration of the ownership pursuant to section 12 make a note that the land has been registered under the Land Registration Acts 1925 and 1936. Having regard to the said section and regulation, I consider that notwithstanding the regularity of the reference at the time it was made, I ought not to proceed further under the section; so I express no opinion as to whether I am or am not satisfied that any person is the owner of the Unit Land as contemplated by subsection (2), it being so I assume practically certain that the Chief Land Registrar will in due course notify the County Council as registration authority of the registration of the Unit Land in accordance with the Land Certificate produced. But if no such notification is made, I give to the County Council and to the other persons who attended to the hearing liberty to apply to a Commons Commissioner for a further hearing of this reference.

In the course of the hearing it was agreed by those present that the description of the Unit Land as set out in the heading of this decision would be better understood locally than that by which proceedings were advertised.

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 2nd _____

day of June _____

1986

A. A. Baden Fuller

Commons Commissioner