



COMMONS REGISTRATION ACT 1965

Reference No 45/1/132

In the Matter of Coalpit Goal,
Kirkby Malzeard Laverton and
Dallowgill, Harrogate District,
North Yorkshire

DECISION

This reference relates to the question of the ownership of land known as Coalpit Goal, Kirkby Malzeard Laverton and Dallowgill, Harrogate District being the land comprised in the Land Section of Register Unit No 03. 191 in the Register of Common Land maintained by the North Yorkshire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Mr G D Squibb QC, Chief Commons Commissioner, held a hearing for the purpose of inquiring into the ownership of the land at Harrogate on 6 May 1975, and in his decision dated 17 June 1965 said that he was satisfied that Mr R L Richard was the owner of the north part (about 3rds of the area) of the land, and that he would accordingly direct North Yorkshire County Council as registration authority to register him as the owner of the land under section 8(2) of the Act of 1965, but he was not satisfied that any person is the owner of the southern part of the land. His decision in accordance with this Section is dated 18 September 1975.

In a letter dated 9 November 1975, Kirkby Malzeard, Laverton & Dallowgill Parish Council applied to the Chief Commissioner to set aside his decision to reopen the hearing. This application was granted, and accordingly I held a hearing for the purpose of inquiring into the question of the ownership of the land at York on 23 February 1978. At this hearing, the Parish Council were represented by Mr S Crosfield solicitor of Hunt & Wrigley of Northallerton.

Mr Crosfield said that the Parish Council were only desirous of reopening the 1975 hearing so far as it was not beneficial to Mr Richmond. He (Mr Crosfield) had been a member of the Parish Council since May 1976 and had lived in the Parish since 1975. In the course of his evidence he produced: (1) the Parish Council Minute Book from 1906 to 1932, (2) the Parish Council Minute Book from 1932 to 1966, and (3) the Parish Council Receipt and Payment Account Book from 1934 onwards (including 1977). The earliest reference he could find in these books to the land now claimed by the Parish Council was dated 2 September 1924: "The clerk reported that a local gentleman had offered to pay the cost of a notice board to be affixed on Coalpit Waste to prohibit quarrying. The Council agreed to this being done". On 1 June 1951, there was a record of a letter having been read from Mr W Richmond asking if he could have the Coalpit quarry on a five year lease instead of a yearly lease and recording that the Council decided to... (?) him on the yearly lease". The Account Book shows the receipt of rent from Mr W Richmond from 1952 to 1974 with the later entries including a reference to Coalpit Quarry rent". From 1975 to 1977 this rent was paid by Mr R L Ward.



Mr J Howse who has been a member of the Parish Council since its formation in 1970 and before that from May 1964 a member of its predecessor, Kirkby Malzeard Parish Council and who has lived in the Parish for 21 years said (in effect):- The land now claimed by the Parish Council is a small area on the side of the highway known as the Kirkby Moor Road (unclassified between Dallowgill and Kirkby Malzeard). As long as he could remember it had been a woodcutter's yard; Mr Richmond mentioned in the Account Book had rented it; he was a self-employed sawyer and his shed and saw bench were on it, where the land has been flattened out. The land to the north owned by Mr Richmond still looks like a quarry although it is not now quarried; Mr Ward is the present tenant.

Mr Grosfield produced the same copy of the Award made on 30 June 1789 which had been produced to the Chief Commissioner at the 1975 hearing and said that he did not dispute the Chief Commissioner's conclusion that under it the Lord of the Manor became the owner of the land now claimed; he contended that the evidence summarised above showed that the Lord had been dispossessed by the Parish Council.

In my opinion this contention succeeds. The Parish Council are and have for many years been in possession by their tenants and their possession is such that it is practically certain that it will not be disturbed. Such possession is equivalent to ownership, and I am therefore satisfied that the Parish Council is the owner of southern part of the land and I shall accordingly in pursuance of section 8(2) of the Act of 1965 direct the North Yorkshire County Council as registration authority to register Kirkby Malzeard Laverton & Dallowgill Parish Council as the owner of so much of the land comprised in this Register Unit as is not the subject of a direction dated 18 September 1975 made by the Chief Commissioner for the benefit of Mr Ralph Laverton Richmond.

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 13th day of March — 1978

a a. Ben - Hill

Commons Commissioner