



COMMONS REGISTRATION ACT 1965

Reference No 45/U/133

In the Matter of Lamberts Quarry,
Kirkby Malzeard Laverton and
Dallowgill, Harrogate District,
North Yorkshire

DECISION

This reference relates to the question of the ownership of land known as Lamberts Quarry, Kirkby Malzeard Laverton and Dallowgill, Harrogate District being the land comprised in the Land Section of Register Unit No CL. 193 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 not satisfied that any person is the owner of the southern part of the land.

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 in the course of his evidence 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 24 April 1935: "A letter was read from the Clerk to the Ripon RD Council with reference to the quarry known as Lamberts Quarry which has been visited by the Sanitary Inspector and the local District Councillor and reported to be strewn with refuse of all kinds... This Council...instructed the Clerk to get the rubbish gathered up and put out of sight..."; and 30 April 1935 "Removing rubbish in quarry (paid) 0-10-0".

Mr J Bowen who has been a member of the Parish Council since its formation in 1970 and before that from May 1965 a member of its predecessor, Kirkby Malzeard Parish Council and who has lived in the Parish for 21 years said (in effect):- The Parish Council always regarded this land as being their affair. In about 1964 the Rural District Council were tipping there and leaving it in a mess; there were complaints from residents about ashes burning. The Parish Council looked into the matter and found that they had been tipping there for nothing ever since 1947, so they decided to demand a rent. This was paid for three years after which the Rural District Council stopped tipping. From then the Parish Council tried to control any local tipping. About 18 months ago, the tip was



closed, and at a cost to the Parish Council of £430, the land has been levelled; the idea is to reseed it with a view of possibly at some time exchanging it for an equivalent area which could be combined with the Village Playing Field.

Mr Crosfield 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 somehow ceased to be the owner.

The decision to demand rent of the Rural District Council as described by Mr Bowen is recorded in the Minute Book of the Parish Council as having been agreed on 7 June 1966, and the subsequent receipt of 3 sums of £15 "for Lamberts Quarry" is recorded in the Accounts Book. On the evidence summarised above I find that the Parish Council treated themselves as owners in 1935 and were accepted by the Rural District Council as owners in 1966, 1967 and 1968. The nature of the land is such that acts of ownership more extensive than those described by Mr Bowen are not to be expected. In the absence of any evidence as to anything done on behalf of anyone other than the Parish Council who could claim under the Lord of the Manor entitled in 1787, I conclude that Mr Crosfield's contention succeeds.

For the above reasons I am satisfied that the Parish Council is the owner of the southern part of the land and I shall accordingly direct the North Yorkshire County Council as registration authority to register Kirkby Malzeard Laverton & Dallowgill Parish Council as the owner 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 10th day of March —

1978

a a Bowen Jll

Commons Commissioner