



COMMONS REGISTRATION ACT 1965

Reference No. 268/U/341

In the Matter of Linton Moor, Linton

## DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL.196 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.

Following upon the public notice of this reference the Linton Parish Council claimed to be the freehold owner of the land in question and no other person claimed 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 Skipton on 24 May 1988.

At the hearing the Linton Parish Council were represented by Mr W Foster, Solicitor, of Walker, Charlesworth and Foster of Skipton, Mr David York FRICS, of Ingham and York appeared for Mr M J Fenwick the owner of the sporting rights and Mr J M Sheard FRICS appeared for the Trustees of the Chatsworth Settlement.

The unit land consists of Linton Moor, extending to some 213 acres. There are a number of grazing rights finally registered. These rights have been stinted (or gaited) for some time but I was not told how this came about. Only the Parish Council claimed ownership of the land.

Mr Foster produced no paper title and relied entirely on acts of ownership. I was told that there was an inclosure award made in 1790 but that it did not mention Linton Moor. It was not put in evidence.

Mr Arthur Morgan clerk to the Parish Council from 1 January 1955 to October 1981 gave evidence and produced two minute books, the first of which went back to 1934 and Mrs Patricia Metcalfe the clerk from October 1981 onwards also gave evidence.

It appears from the minutes that the Parish Council regularly let the grazing on Moor Lane, a green lane which runs from the village to the Moor, and performed various acts of maintenance and repair with respect to that lane. These actions, however, seem to me not to be referable to the ownership of the Moor itself. Nor, I think, is the fact that the Parish Council attended meetings with the quarry company operating a quarry to the south of Moor Lane to discuss problems of noise and pollution. That is a function which a parish council might well be expected to perform whether they owned any land or not.



There are, however, records in 1934 and after of the Parish Council having arranged with the gaitholders for gripping to be done on the Moor.

In 1934 for example "the desire of several of the farmers to have the Moor gripped" was reported to the Council and the Clerk was instructed to write to all the farmers and landowners concerned and later "to ascertain to what extent they would assist in this matter". Later the same year the Clerk was instructed to "write to all tenants holding gaits on Linton Moor asking them to co-operate with the Parish Council and asking them to attend a meeting to arrange for future gripping". On 29 May 1935 under the heading "Gripping of Moor" it was resolved "That the money as promised by the gaitholders be called in for work to proceed".

It seems to me that gripping of the Moor with the co-operation of the gaitholders is a function which one would expect to be performed by the owner and that the Parish Council would not have done it on someone else's land.

Much later, on 10 May 1974, the Clerk reported a request from the National Park Warden for permission to erect 3 or 4 stakes bearing footpath markers and it was agreed that this be done. Mr Morgan and Mrs Metcalfe confirmed that the markers were erected on Linton Moor itself.

Mrs Metcalfe produced a notice served on the Parish Council as owner on 11 November 1987 by the Yorkshire Water Authority regarding certain works which they contemplated carrying out on the unit land.

Mr Morgan told me that the land was registered as common land on the application of the Parish Council but in this I think he is mistaken. The register shows that it was registered in consequence of an application for rights and no application by the Parish Council is noted under section 4(4). When asked why he had not applied for the Council to be registered as owners he told me he did not know they had a right to register ownership.

The gaitholders (some of whom were members of the Parish Council) make no claim to ownership. Mr Fenwick by his agent Mr York said that when, in 1960, he purchased the neighbouring Threshfield Moor he only acquired the sporting rights over Linton Moor and did not claim to be the owner.

When I pointed out to Mr Foster how little evidence there was Mr Sheard, who was representing the Chatsworth Trustees in another case, asked for an adjournment so that he could make some investigation as to whether the Duke of Devonshire as Lord of the Manor might be the owner. When, however, I told him that such an application made at such a late stage and on no evidence could only be considered if he offered to pay the costs thrown away in any event, he withdrew his application.

The evidence of acts of ownership in this case is very slight but in the absence of any claim by any one else it is enough to satisfy me on the balance of probabilities that the Linton Parish Council are the owner.



I shall accordingly direct the North Yorkshire County Council, as registration authority, to register the Linton 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

3<sup>rd</sup>

day of

June

1988

*Peter Landon-Davis*

Chief Commons Commissioner