



In the Matter of Roadside Verges on both sides  
of Road leading from the Village to Low Lane,  
Dalton near Richmond, North Yorkshire (NO.2)

DECISION

This reference relates to the question of the ownership of roadside verges on both sides of the road leading from the Village to Low Lane, Dalton near Richmond, being the land comprised in the Land Section of Register Unit No.CL.205 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 no person claimed to be the freehold owner of the land in question, but Messrs. Iliffes, Solicitors, claimed to have information as to its ownership.

Mr Commissioner Baden Fuller held a hearing for the purpose of inquiring into the question of the ownership of the land at Richmond on 29 October 1974. There was no appearance at the hearing, so in the absence of any evidence, the learned Commissioner was not satisfied that any person was the owner of the land, and gave a decision accordingly.

On 19 May 1975 the learned Commissioner decided to set aside his decision and reopen the hearing upon an application made by Mr J W Metcalfe under reg. 21 of the Commons Commissioners Regulations 1971.

I reopened the hearing at Richmond on 10 June 1982. On this occasion Mr Metcalfe appeared in person, the Dalton Parish Meeting was represented by Mrs L Turnbull, its Clerk and Chairman, and Mr L R Plews was represented by Mr A Leitch, Solicitor.

Mr Metcalfe applied for the hearing to be adjourned. The basis of his application was that he was also concerned with another case in the list and that he had received a notice from another person concerned in the other case that an application had been made to have the hearing of that case adjourned. Mr Metcalfe said that in consequence of that notice it had been decided that his solicitor would not appear in this case. Although not without some sympathy for the position in which Mr Metcalfe found himself, I also had to have regard to the interests of the parties who had appeared, and I refused to grant his application.

The land the subject of the reference consists of two strips of waste land along either side of a road known as Dalton Lane and divided from the adjoining fields by hedges or fences.

Mr Metcalfe said that he was the lord of the manor of Dalton and claimed to be the owner of the whole of the two strips as waste land of the manor. Mr Metcalfe did not have with him the evidence to prove his lordship of the manor, but for the purposes of this decision I am prepared to assume that he would be able to produce such evidence.





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There was conveyed to Mr Plews's father by a conveyance made 19 May 1938 between (1) Mary Margaret Harwood (2) Leonard Gill Plews a parcel of land known as "Well Garth" and described as bounded on the north by Dalton Lane. Mr L G Plews died on 12 January 1970 and his property became vested in Barclays Bank Trust Co., Ltd. By an assent made 4 February 1971 between (1) Barclays Bank Trust Co., Ltd (2) Leonard Robert Plews "Well Garth" was vested in Mr L R Plews.

This case appears to be clearly subject to the presumption that where a strip of waste land intervenes between a highway and an adjoining close, as between the lord of the manor and the owner of the adjoining close, the waste land and half the soil of the roadway belong to the owner of the close. This presumption is rebuttable but I can find nothing in the evidence in this case to rebut it.

It may well be that the owners of the other adjoining land are also the owners of the remainder of the land the subject of the reference, but I can make no finding as to this in the absence of evidence.

On the evidence before me I am satisfied that Mr L R Plews is the owner of the part of the land the subject of the reference adjoining "Well Garth" on its northern side, and I shall accordingly direct the North Yorkshire County Council, as registration authority, to register him as the owner of that part of the land under section 8 (2) of the Act of 1965.

In the absence of any further evidence, I am not satisfied that any person is the owner of the remainder of the land, and it will therefore remain subject to protection under section 9 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

29<sup>th</sup>

day of

June

1982

  
Chief Commons Commissioner