



In the Matter of West Scafton Moor, West
Scafton, North Yorkshire

DECISION

This reference relates to the question of the ownership of land known as West Scafton Moor, West Scafton, being the land comprised in the Land Section of Register Unit No. CL 105 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 and no one 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 Richmond on 10 June 1982.

At the hearing the West Scafton Parish Meeting was represented by Mr R S Hall, its Clerk.

In a survey of the township of West Scafton made in 1843 for the purpose of the poor rate, West Scafton Moor was shown without any entry in the columns headed "Owners" and "Occupiers". The Moor was at that time subject to 845 gaits, and it appears from the minutes of a meeting of the inhabitants of West Scafton held on 15 November 1843 that bye law men were appointed and the exercise of the rights of grazing was regulated by the inhabitants.

The minute book of the Parish Meeting constituted under the Local Government Act 1894 also contains the minutes of meetings of the gaitholders held in 1896, when it was decided to pay for the erection of posts on the Moor. There seems, however, to have been no clear demarcation of functions relating to the Moor, for on 4 May 1896, when a meeting of the gaitholders considered the erection of posts on the Moor, the bye law men for the ensuing year were elected at the Parish Meeting held on the same day. Furthermore, subsequent minutes indicate that the fencing of the moor was undertaken by gaitholders on behalf of the Parish Meeting and that rental charges were occasionally levied by the Parish Meeting on the gaitholders for the purpose of providing finance for the fencing of the Moor.

On 4 April 1898 an agreement for the purpose of obtaining a supply of water for the township of West Scafton from a spring on the Moor was made between (1) a number of ratepayers (2) Anne Agnes Wright (3) four farmers of West Scafton. In this agreement it was recited that Anne Agnes Wright was the tenant for life of the manor of West Scafton.

The evidence thus far indicates that the Moor was waste land of the manor of West Scafton and in the ownership of the lord of the manor subject to the rights of the gaitholders. This is borne out by the fact that the rating records show that in 1897 Mrs Wright had let the sporting rights to Mr C J Burrill. From May 1907 to May 1912 the sporting rights are shown as in the ownership of the Trustees of C. Other, but in November 1912 the sporting rights are again shown as



in the ownership of A A Wright. The shooting rights on the Moor are at present claimed by Mr H St J Coghlan, but there is no evidence as to the basis of his claim.

Mr Hall, however, relied upon two matters as indicating that the Parish Trustees of West Scrafton had acquired a possessory title to the Moor.

The first matter on which Mr Hall relied was that at a Parish Meeting held on 18 March 1933 it was resolved that 100 sheep gaits be let to the gait-owners of the Moor to pay for the fencing of part of the Moor. It appears that such gaits were let, and on 31 March 1938 it was decided to pay for village improvements out of the sheep gait letting money. Mr Hall did not draw my attention to any evidence that the letting of gaits continued for long enough after 1938 for a possessory title to be acquired. However, even if there had been such evidence, I should not regard the taking of money from gait owners for grazing animals in excess of those which they were entitled as against the owner of the Moor to graze on it as ousting the true owner and taking possession of the Moor.

The other matter upon which Mr Hall relied to support a possessory title was the record in the minutes of the Parish Meeting held on 27 March 1910 of a resolution that the West Scrafton Coal Company have the use of "Parish Lime Kiln" on "Goosebank" [a part of the Moor] to burn lime in future. There is no evidence, however, that the Coal Company paid for the use of the lime kiln or for how long such use continued. In my view, this single 72 year-old resolution is not sufficient in itself to prove that the Parish Trustees are now the owners of the lime kiln and still less to prove that they are the owners of the whole of the Moor.

There is nothing in the evidence to satisfy me that any person other than the lord of the manor is the owner of the Moor. On the other hand, there is no evidence of the identity of the present lord of the manor nor as to whether he or one of his predecessors in title may have disposed of the freehold of the Moor in the course of the present century.

On the evidence before me I am not satisfied that any person is the owner of the land, and it will therefore remain subject to protection under section 9 of the Act of 1963.

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.

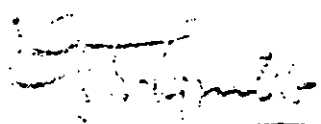
Dated this

17th

day of

June

1982


Chief Commons Commissioner