



In the Matter of Wyre Pond, Holtby, North Yorkshire

DECISION

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This reference relates to the question of the ownership of land known as Wyre Pond, Holtby, being the land comprised in the Land Section of Register Unit No. CL 106 in the Register of Common Land maintained by the former North Riding 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 former Holtby Parish Meeting 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 Malton on 12 October 1977.

At the hearing the Holtby Parish Council was represented by Mr H Coulson, one of its members.

Mr Coulson said that the land comprised in the Register Unit had always been known as the village pond. After the drought of 1947 it was cleaned out mechanically by a contractor and paid for from parish funds augmented by public subscriptions. Since then trees have been removed to let in sun and air.

While acts such as those described by Mr Coulson could constitute a taking of possession which, if continued long enough, could give a possessory title, it does not appear to me to be possible in law for a parish meeting, which is not a body corporate, to be in possession of land. Therefore, possession in the legal sense could not have commenced before the constitution of the Parish Council, and that possession has not continued long enough to give the Council a possessory title.

For these reasons 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 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 31st day of October 1977

Chief Commons Commissioner