



In the Matter of Garston,  
Lower Cotton, Cotton,  
Staffordshire Moorlands District,  
Staffordshire.

DECISION

This reference relates to the question of the ownership of land known as Garston, Lower Cotton, Cotton, Staffordshire Moorlands District being the land comprised in the Land Section of Register Unit No. CL117 in the Register of Common Land maintained by the Staffordshire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owners.

Following upon the public notice of this reference Mr Charles Alcock claimed (letter of 20 February 1977) to be the freehold owner of the land in question; 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 Hanley, Stoke-on-Trent on 6 July 1978. At the hearing Mr Alcock attended in person.

The land ("the Unit Land") in this Register Unit is approximately triangular with sides about 60, 100 and 120 yards long; it is bounded on the north by the A52 road (Hanley - Ashbourne) and on the west by a side road leading southwards off it.

Mr Alcock in the course of his evidence produced a plan (52" x 46") of The Alton Estate offered for sale by auction in 1918; on this plan the Unit Land is uncoloured (not included in the sale). After the hearing his solicitors sent to the office of the Commons Commissioners Mr Alcock's documents of title to the small holding which adjoins the Unit Land on the southeast. From his oral evidence and these documents I conclude:- Mr George Alcock (the witness' grandfather) under a conveyance dated 27 March 1919 and made by C H J Earl of Shrewsbury and Earl Talbot and others became the owner of the small holding (being lots 272, 274 and 275 containing altogether about  $22\frac{1}{2}$  acres). On part of the holding just south of the bridge over the quarry railway or tramway, he (the grandfather) built for his son Mr Charlie Alcock (the witness' father) a cottage known as Bridge Cottage. In 1932 he conveyed the Cottage to his son and the remainder of the small holding to his daughters Miss Ann Alcock and Miss Mary Alcock. In 1933 Miss Ann Alcock conveyed her share to her sister. On 29 October 1965 Miss Mary Alcock died having by her will dated 25 March 1959 given the small holding to Mr Charles Alcock (the witness) and his brother Mr James Stubbs Alcock. Under an assent dated 4 August 1966 the small holding became vested in them jointly on trust for themselves equally. Mr J S Alcock died 15 May 1975.

Mr Alcock said (in effect):- He was born 57 years ago and had always lived at Bridge Cottage. Apart from the substitution of an iron fence for a stone wall (consequent on an improvement to the A52 road), the Unit Land and its boundaries had always appeared as they now do. The southeast boundary is such that cattle could easily go from the fields (part of lot 272) onto the Unit Land, and they had always done this to graze "the little bit of grass between the gorse".



Mr A E Ward who is 25 years of age, now lives about 1 mile northwest of the Unit Land and has known it all his life (he spent the first 5 years at Shirley Cottage which has land near to the said small holding) generally confirmed the evidence of Mr Alcock. He remembered the iron fence being erected, and with some hesitation, said he thought it was put up about 15 to 18 years ago.

After the hearing accompanied by Mr Alcock, I walked over the Unit Land. It appears to have been a quarry long ago; the depression from which the stone must have been taken is very irregular and is much overgrown with gorse and similar vegetation; there is no sign of any recent quarry working. The iron fence (iron posts and bars) runs about 7/8ths of the north boundary and about 1/3rd of the east boundary, and is such that a motorist travelling along the A52 can easily see (through the bars) vehicles approaching from the side road; the rest of these boundaries are stone walls; all these fences are in good condition and isolate the Unit Land from these roads not only for vehicles and animals, but also for pedestrians, except those willing to climb over or through the iron fence or over the wall. The line of the southeast boundary is for the most part distinct, being the line of an old stone wall in bad repair and in many places almost non-existent; ~~there~~ though there is nothing to prevent, or to discourage, animals and persons going between the Unit Land and the adjoining field, and they appear to be all one holding.

At my inspection Mr Alcock said that he thought the iron fence had been put up at least 7 years. Whether or not it has been up as long as Mr Ward thought, it is clearly a visible and obvious assertion against the ownership of any person other than the owner of the small holding. In the absence of any evidence or of any explanation of the apparent total exclusion from the Unit Land of the public and of everybody else (other than the occupier of the small holding) I consider I can give full effect to the evidence of Mr Alcock that for as long as he has known the small holding Unit Land has been grazed with it. I conclude therefore that Mr Alcock is now and that he and his predecessors in title as owners and occupiers of the small holding have been in possession of the Unit Land, and he therefore now has a good possessory title to it.

For the above reasons, I am satisfied that Mr Alcock is the owner of the land, and I shall accordingly direct the Staffordshire County Council as registration authority, to register Mr Charles Alcock of Bridge Cottages, Garston, near Froghall, Stoke-on-Trent 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 27<sup>th</sup> day of November 1978

*aa. Bode Fuller*

Commons Commissioner