



In the Matter of Five pieces of land  
at Winter Hill in the Parish of Cookham

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DECISION

This reference relates to the question of the ownership of land above mentioned being the land comprised in the Land Section of Register Unit No. CL 94 in the Register of Common Land maintained by the Berkshire 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 Messrs Wootten Boatbuilders claimed to be the freehold owner of part 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 Maidenhead on 8 December 1982.

Mr R M Purchas of Counsel instructed by Messrs Joelson Wilson and Co, Solicitors of London appeared for Messrs Wootten and Mr G Livsey (a member) appeared for Cookham Parish Council.

Mr Purchas said that the registration of the five pieces of land which made up the Register Unit had become final on 1 August 1972 in the absence of any objection. In 1978 the Register Unit had been made subject to the protection of the local authority pursuant to S. 9 of the Commons Registration Act, 1965 after a hearing before Mr Commissioner Baden Fuller. His clients had not been notified of the hearing and had not attended and the Commissioner had agreed to re-open the hearing and the present proceedings were a rehearing limited to this one piece of land.

This piece of land ('the Sheepwash'), is shown coloured pink on a photostat copy of the O.S. Map marked Plan of Immediate Area. The land on the East side of the Sheepwash and coloured green on the same plan is held on a Lease for 99 years from 25 December 1909 granted on 26 February 1930 by Anna Dorothea Mary Skrine to Arthur Edwin Wootten and Arthur Edward Wootten. The Leasees or one of them had been in occupation of the land comprised in the Lease since 1909.

The Successors in title of the Lessor did not claim ownership of the Sheepwash and the Parish Council which had previously opposed his clients' claim no longer did so.

Mr Sydney Guy Wootten said that he was born in 1908 and the Leasees in the Lease of 1930 were respectively his father and his brother. At the date of the Lease the Leasees were using the Sheepwash in connection with their boatbuilding business. Local boys came down to the Sheepwash to swim and it was the way by which goods coming by land reached the boatyard. In earlier times cattle used to come down to the river to drink across the Sheepwash but this had ceased in the early 1920's. In 1950 he acquired the freehold of the land coloured yellow on the plan which he used for parking cars, mooring boats, as a site for toilets and as a west boat house. The business continued to use the Sheepwash in the same way as previously and for the parking of small boats. Part of his business



was the letting of moorings in the middle of the river and it was part of the arrangement that a boat owner who took such a mooring could keep a dinghy on the part of the Sheepwash near the river to enable him to reach his mooring. No special charge was made for the mooring of a dinghy in such a case. The business also put some small boats on the Sheepwash. The business of letting out moorings in the middle of the river had started in about 1936.

The witness produced a picture said to have been painted in 1947 showing a view of the land coloured yellow, red and green from the river which showed work being done to a boat on the Sheepwash. The witness said that the picture was an accurate picture of what went on in 1947. Work on boats was part of his business. No one controlled the Sheepwash and no one else kept the undergrowth cut. What he did on the Sheepwash was not challenged by anyone.

Mr Patrick Arthur George Guy Wooten said that he was born in 1936 and had lived at The Bungalow which had been built on part of the land coloured yellow since 1958. He was a son of the previous witness. When he first went to the Boatyard with his father there was swimming from the Sheepwash and the Boatyard ran a ferry across the river from there. When I started work at the Boatyard in the early 1950's the business made such use of the Sheepwash as was necessary for the carrying on of our business. Repairs to punts and such boats were carried out there and small dinghies were kept there. About 70% of these would belong to the owners of boats moored in the river. These moorings were used with the firm's permission and were paid for.

No one objected to their control of the Sheepwash. They regard themselves as owners of the land, in so far as the leasor owns the land.

The fact that they no longer face opposition to their claim to ownership from the Parish Council does not absolve the claimants from proving their claim to have acquired a possessory title.

Both the witnesses who gave evidence on behalf of the claimants emphasised that the claimants activities on the Sheepwash were in connection with their business as provided in the Lease. There has been no attempt to enclose the Sheepwash with a fence or wall.

I am not satisfied that the claimants have established their claim to have acquired possessory title.

For these reasons I am not satisfied that any person is the owner of the land or of any part of it and it will therefore be 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 2nd day of February 1983

*George Hesketh*

Commons Commissioner