



## COMMONS REGISTRATION ACT 1965

Reference No. 203/U/123

In the Matter of land at Rockwell End,  
 Hambleden, Wycombe District,  
 Buckinghamshire

DECISION

This reference relates to the question of the ownership of land at Rockwell End, Hambleden, Wycombe District being the land comprised in the Land Section of Register Unit No. CL 219 in the Register of Common Land maintained by the Buckinghamshire 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 Mr A C Keene of Rockwell End Farm claimed (letter of 27 September 1977) that the freehold title to the land in question is more likely to be vested in him than anyone else and said that his claim was based upon a long history of family ownership set out in the statement accompanying his letter. No other person claimed to be the freehold owner of the land or 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 Aylesbury on 25 January 1979. At the hearing (1) Mr Arthur Cyril Keene now of Russell Farm House was represented by Mr P Wood-Smith solicitor of Cripps & Shone Solicitors of Marlow, and (2) Hambleden Parish Council were represented by Mr M C Worster their vice-chairman.

The land ("the Unit Land") is a triangular piece containing (according to the Register) 0.38 of an acre. For the purposes of exposition it may be regarded as the eastern part of a triangular area ("the Central Area") containing about 2 acres which is now the middle of the junction at Rockwell End of three roads: one running north to Pheasants and Frieth, one running southwest to Pheasants Hill and Hambleden, and one running east to join about 600 yds away a road running north-south. Each of these three roads when it reaches the Central Area divides, so that a motorist can go along any side of the Central Area as he pleases. On the west part of the Central Area there are some considerable farm buildings; on the north (northeast) part there is a cottage (or dwellinghouse); apart from the Unit Land and a track along and just outside of its west boundary, the Central Area is enclosed, containing the said buildings and cottage and lands held with them. The Unit Land is open to the said road running east (being within the fork where this road divides).

Mr Keene ("the Claimant") in the course of his evidence produced: (1) a statement (much the same as that accompanying his September 1977 letter), (2) a sketch plan, (3) a deed of appointment and conveyance dated 15 September 1977 by which the Trustees of the will of Arthur Keene ("the Testator", he died 21 October 1950) pursuant to an option thereby conferred on the Claimant conveyed to him the land described in a legal charge dated 29 September 1936 and made by the Testator, (4) a copy of the plan attached to the 1936 legal charge, and (5) a copy of a conveyance dated 29 September 1936 by which the Trustees of the will of Alfred Keene (he died 21 February 1902) conveyed to the Testator 142.522 acres of land by five descriptions. The first



described land therein called Rockwell End Farm and said to contain 51.450 acres is all on the south side of the road to the east (ie south of the Central Area); the secondly described land therein called Russells Farm and said to contain 55.728 acres includes the enclosed part of the Central Area and is (except for this part) all west of the roads leading to the north and southwest. The thirdly, fourthly and fifthly described lands (some ~~where~~ apparently acquired after the death of the Testator by his Trustees) are so far from the Unit Land as to be of no relevance in this case.

That neither the Unit Land nor the track along its west boundary is expressly included in the lands conveyed by the 1936 and 1977 conveyances is apparent from the 1936 legal charge and conveyance plan. Indeed the Claimant made it clear in his said two statements that he was not suggesting otherwise. He said (in effect):- He now owns Russell Farm and Rockwell End Farm. The land all round the Unit Land was owned by his family (his grandfather and great uncle). At that time the road running east from the said road junction was all northeast of the Central Area (there was no fork); the part which now runs south of the Central Area appears to have been originally a shortcut for pedestrians and later on for farm vehicles. He claimed:- (a) the natural boundary between his great uncle's and his grandfather's properties was the said old road (not the shortcut); the Unit Land has always been regarded as part of Russells Farm and Rockwell End Farm, in that when his father owned the farms, he used to graze the cattle there, and it was also used by local children as a play area. And (b) he had never heard of anyone else claiming ownership of the Unit Land and he believed it formed part of the property which was conveyed to his grandfather in 1870, to his father in 1936, and to himself in 1977.

On 5 February I inspected the Unit Land and walked round the Central Area.

As to claim (a):- The Claimant said that Alfred Keene was his grandfather. He (the Claimant) lived at Russell Farm House from his birth (1904) to 1921, and then went to Rockwell End Farm with his parents; on his marriage in 1938, he moved back to Russells Farm. When he first knew the Unit Land it was grass and looked like meadow land (in recent years it has been used by the County Council for keeping grit and sand for use on the adjoining roads). He had been told by his father that during his (his father's) boyhood it was used as grazing by farm stock; "that is the only reason I could think that it could be claimed by us". He (the Claimant) did not remember grazing on the Unit Land but he remembered the playing there by children from the cottage (a family called Hobbs) on (? called) Badgers Hill; this cottage was sold away by his father in 1940.

In my opinion the evidence summarised is insufficient to establish the successive ownership of the Claimant, his father and grandfather; the grazing and playing by children relied on is too long ago and the evidence about it is too vague.

As to claim (b) documents produced are I think against this claim, because if the Unit Land had been regarded by persons other than the Claimant as part of the farms it would have been therein described. The 1965 Act contemplates that the owner of common land may be unknown, and accordingly the circumstances that no-one else has claimed ownership does not I think help the Claimant.

For the above reasons I am not satisfied that the Claimant is the owner of the Unit Land. In the absence of any evidence that anyone else is the owner, I am not satisfied that any person is the owner of the land. 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 2<sup>nd</sup> ——— day of March ——— 1979

A. A. Baskin Fille

Commons Commissioner