



COMMONS REGISTRATION ACT 1965

Reference No 3/U/28

In the Matter of Lower End Green, Long Crendon
Aylesbury R.D., Buckinghamshire

DECISION

This reference relates to the question of the ownership of land known as Lower End Green (originally Stibberton Common), Long Crendon, Aylesbury Rural District being the land comprised in the Land Section of Register Unit No CL 60 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 no person claimed to be the freehold owner of the land in question and the Long Crendon Parish Council in a letter dated 20 October 1972 claimed that an enclosed copy of part (from pages 22, 23 and 24) of the Long Crendon Inclosure Award 1827 (received from the Long Crendon Preservation Society) showed that the land belongs to the Parish, and stated that the land had some few years ago been offered for sale by agents of the Church Commissioners. No other person claimed to have information as to its ownership. In a letter dated 20 November 1972 the Church Commissioner stated that it appears from their records that they have no interest in Lower End Green.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at High Wycombe on 15 February 1973. The hearing was attended by the Long Crendon Parish Council who were represented by Mr M Davies. He handed me a statement made on behalf of the Council: (1) referring to the said pages of the Award; (2) disputing the claim or former claim of the Ecclesiastical Commission (for reasons set out in the statement); and (3) submitting that there is no evidence known to the Council of the ownership of Lower End Common and that the Commons Commissioners should place this common under the protection of whichever local authority seemed to them most proper, (the Long Crendon Parish Council would be willing to accept this charge).

In the course of the discussion of this submission, Mr Hamilton the deputy clerk of the Buckinghamshire County Council, who attended all the inquiries held by me on 14 and 15 February to represent his Council as registration authority, said that the 1827 Award had been examined on behalf of the County Council and this land was shown on the map as part of the highway.

Under section 9 of the Act of 1965 if no person is registered under the Act or the Land Registration Acts 1925 and 1936 as the owner of common land, it is subject to protection by any local authority as in the section specified. I, as a Commons Commissioner, have no jurisdiction to determine that any one of the local authorities concerned shall exercise this protection to the exclusion of the others: my jurisdiction under the Act on this reference is limited to stating whether I am "satisfied that any person is the owner of the land", see section 8(2); references in the Act to ownership are references to ownership of a legal estate in fee simple, see section 22. I therefore decline to consider which local authority could most properly protect this land.

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As to ownership, I agree with the submission of the Parish Council that they have no evidence. The copy enclosed with the letter of 20 October 1972, of the part of the 1827 Award does not I think suggest that the original Award if produced would establish who is now the owner. Since the hearing I have looked at the Long Crendon Inclosure Act 1824 (5. Geo 4, chap. 6 : private) being the Act under which the Award mentioned by Mr Hamilton was made; I can find nothing in the Act enabling me to determine who is now the owner of this land.

For the above reasons, I am not satisfied that any person is the owner of the land 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 13th day of March 1973

a. a. Baden Fuller

Commons Commissioner