



COMMONS REGISTRATION ACT 1965

Reference No.3/U/34

In the Matter of The Common Moor,
Medmenham, Wycombe R.D., Buckinghamshire

DECISION

This reference relates to the question of the ownership of land known as The Common Moor, Medmenham, Wycombe Rural District being the land comprised in the Land Section of Register Unit No.CL.72 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 Medmenham Parish Council 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 Aylesbury on 27 November 1973. At the hearing Medmenham Parish Council were represented by Wing Commander D. D. Martin, their chairman.

Mr. W. J. Fretwell who has lived in the Parish for 11½ years and is churchwarden of Medmenham Parish Church of St. Peter and St. Paul, in the course of his evidence produced the Medmenham Tithe Award (apportioning rent charges in lieu of tithes) confirmed by the Tithe Commissioners on 10 September 1842. The Award is kept in the Church Chest of the Parish Church. In the Schedule to the Award under the columns headed "(i) Landowners, (ii) Occupiers, (iii) No. referred to on plan, (iv) Name & Description of Land and Premises, (v) State of Cultivation (vi) Quantity in statute measure, A.r.p.", there is an item as follows:- (i) Landowners of Medmenham Parish jointly, (ii) The occupiers of the Parish jointly, (iii) 204, (iv) The Moor Common, (v) grass, (vi) 1.3.20." The said item is shown as not tithable.

Mr. Fretwell identified the land comprised in this Register Unit which contained (according to the Register) 1.74 acres with the plot numbered 204 on the Award map, except that the plot is a little larger because it includes the strip between the registered land and Ferry Lane; this strip although not registered, appears to be part of the Common Moor because it is the principal or only access way. The Common Moor is rough grass land used mostly as a childrens playground; it is also used by people of the parish generally for such purposes as exercising a dog. The grass is cut two or three times a year under informal arrangements made with persons living near by.

The ownership in 1842 could not have been exactly as described in the Award, because ownership by "the Landowners" of a parish "jointly" was not then (and still is not) a form of ownership legally possible; nor could or can all the "occupiers of the Parish jointly" occupy land. But bearing in mind that neither the valuer who prepared the Award nor the Tithe Commissioners, were concerned to define in precise legal language the ownership of non-tithable land, I conclude from the 1842 Award that plot



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204 "The Moor Common" then belonged to the Parish in the popular sense of that expression. From this conclusion, it follows that the land should be treated as vested in the churchwardens and overseers of the parish, see Doe v Hiley (1830) 10. B. & C. 885, Doe v Terry (1835) 4 A. & E. 274 at page 281, and Haigh v West 1393 2 Q.B. 19 at page 31. Being in 1842 so vested, it devolved on the Parish Council by operation of the Overseers Order 1927 made under the Rating Act 1925 (being the Act by which the overseers were abolished).

For these reasons I am satisfied that the Parish Council is the owner of the land, and I shall accordingly direct the Buckinghamshire County Council, as registration authority, to register Medmenham Parish Council 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 5th day of December 1973.

A. A. Baden *Allen*

Commons Commissioner