



COMMONS REGISTRATION ACT 1965

Reference No 3/U/10

In the Matter of the Village Green,
Quainton, Aylesbury R.D., Buckinghamshire

DECISION

This reference relates to the question of the ownership of land known as the Village Green, Quainton, Aylesbury Rural District being the land comprised in the Land Section of Register Unit No CL.108 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 no 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 High Wycombe on 14 February 1973. The hearing was attended by the Rev. E G Klee, Rector of Quainton.

Mr Klee in the course of his evidence produced an Inclosure Award dated 15 February 1843 which contained allotments in these words:- "UNTO and for the Rector and Churchwardens of the said Parish of Quainton for the time being and their successors Trustees of land called School Land in lieu of freehold lands and rights of common; The two several allotments next hereinafter described (that is to say) one allotment of land or ground situate on Geech Common containing eleven acres one rood and eleven perches bounded ... AND an other allotment of land or ground situate upon and comprising the Green or Square within the Village of Quainton (subject to all rights of way of passage frontage and other easements existing thereon) containing one acre one rood and fourteen perches inclusive of all roads and ways crossing the same bounded on the Northward and Southward parts thereof by public Carriage roads and on the Eastward and Westward parts thereof by ancient Inclosures in Quainton aforesaid".

Mr Klee who had been Rector of Quainton since June 1944 said:- The Inclosure Award which he produced was kept at the bank for the Parish Council. The Green is still open land; at the north end there is an old fourteenth century Market Cross. He remembered the pond marked on the Register map being filled in. He identified the land ("the Unit Land") comprised in this Register Unit (in the Register stated to contain 1.21 acres) and delineated on the Register map as being the same as that shown on the map annexed to the Award, numbered Plot 124 and being that described in the second allotment quoted above. Before these proceedings it was he thought generally assumed in the Village that the Unit Land belonged to the Parish Council; that the Award showed it to have been allotted to the Trustees of School Land surprised everyone. The eleven acre plot being the first allotment made by the Award to the Trustees of School Land and shown as plot 156 on the Award map is situate southwest of the Unit Land and is generally now called "the School Land Charity Field", this was let and the rent used for local educational purposes. He had (although never formally appointed) acted since he became Rector as a trustee of the School Land Charity Field. There was no document setting out the trusts applicable to the Field.



Since the hearing I was informed by Mr R N D Hamilton, the Deputy Clerk of the Buckinghamshire County Council that the Award was made under the Quainton Inclosure Act 1840 (3 & 4 Vict. chap xv).

There being no evidence of anything having happened since the Award which could have divested the ownership thereby granted, I conclude that the Unit Land is now owned by the trustees whoever they now are, of the land called School Land in the Award mentioned.

It is not I think clear that the Rector and Churchwardens of a parish are a body corporate so that land granted to them by an allotment such as that above quoted passes to their successors without any conveyance or appointment of new trustees, see Halsbury Laws of England (3rd edition 1955) Volume 13 page 484. Mr Klee said that on inquiring of the position at the Ministry of Education he had been told that he was now the sole trustee. Accordingly, so as to leave the position as flexible as possible (any difficulty can be resolved by an order or scheme under the Charities Act 1960), I shall direct the Buckinghamshire County Council to register the Rector and Churchwarden of Quainton and their successors or other the Trustees of the land called School Land mentioned in the Award dated 15 February 1843 and made under the Quainton Inclosure Act 1840 (3 & 4 Vict. chap xv) as the owners 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 26th day of March 1973

a. a. Baden Fuller.

Commons Commissioner