



COMMONS REGISTRATION ACT 1965

Reference Nos. 204/D/51-53

In the Matter of Ailsworth Heath, Ailsworth
Cambridgeshire (No. 1)

DECISION

These disputes relate to the registration at Entry No 1 in the Land Section of Register Unit No.CL.49 in the Register of Common Land maintained by the Cambridgeshire County Council and are occasioned by Objection No. 4 made by the Church Commissioners for England and noted in the Register on 18 August 1970, and Objection No. 14 made by the Forestry Commission, and noted in the Register on 19 August 1970, and the conflicting registration at Entry No 1 in the Land Section of Register Unit No.CL.92 in the Register of Common Land maintained by the Council.

I held a hearing for the purpose of inquiring into the dispute at Cambridge on 18 February 1982. The hearing was attended by Mr E Hudson, the Clerk of the Ailsworth Parish Council, the applicant for the registration, Mr J Hardwick, Solicitor, on behalf of Milton (Peterborough) Estate Company, the successor in title of the Church Commissioners for England, who were also the applicants for the conflicting registration, and Mr R Turner, Solicitor, on behalf of the Forestry Commission.

Mr Hudson informed me that the Parish Council no longer wished to claim that a small area of land at the Southern end of the land comprised in the Register Unit and the subject of Objection No. 4 should be included in the Register Unit.

Objection No. 14 related to the remainder of the land the subject of Objection No. 4. The reason for there being two objections relating to the same piece of land is that this, with other land, was the subject of a lease for 999 years made 9 November 1953 between (1) The Church Commissioners for England (2) The Minister of Agriculture and Fisheries acting in exercise of the powers of the Forestry Act 1945. A part of the land the subject of this lease, including the land the subject of Objection No. 14, was the subject of a sub-lease made 25 August 1955 between (1) The Minister of Agriculture, Fisheries and Food (2) The Nature Conservancy.

There is no registration in the Rights Section of the Register Unit, so the disputed land can only fall within the definition of "Common Land" in Section 22(1) of the Commons Registration Act 1965 if it is waste land of a manor.

It was accepted that the land in question is "waste land" in the technical sense of that expression. Therefore, the only question to be considered is whether it is parcel of a manor by being in the ownership of the land of the manor.

This land was formerly part of the Peterborough Capitular Estate, which were vested in the former Ecclesiastical Commissioners for England by an Order in Council made on 2 May 1854. There is no evidence before me that these estates included the lordship of any manor in which the land may have been situated, but it is recited in a lease of the land immediately to the north made 13 April 1954 between (1) The Church Commissioners for England (2) The Nature Conservancy that the Commissioners are lords of the manor of Castor and as such are entitled to the soil of all the waste lands in the manor. This is, of course, not evidence that the land now under consideration was in the manor of Castor, but it is sufficient to put one upon enquiry. However, in view of further evidence to be referred to hereafter, it is not necessary to



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pursue that enquiry, and it can be assumed for the purposes of this decision that the land is in the manor of Castor and that the lordship of that manor passed to the Ecclesiastical Commissioners by the 1854 Order in Council.

By a deed of exchange made 10 December 1979 between (1) the Church Commissioners for England (2) Milton (Peterborough) Estates Company (3) The Honourable Elizabeth-Anne Marie Gabrielle Hastings the land now under consideration was, with other land, conveyed to the Company. There is no mention of the Lordship of any manor in the parcels of this deed, so that, assuming that the land in question was parcel of the manor of Castor, it was severed from the lordship of the manor by the deed and so ceased to be waste land of the manor: see In re Box Hill Common, [1980] Ch.109. Even if the land was at one time waste land of a manor, it was not so at the date of the hearing, which is the relevant date: see Central Electricity Generating Board v Clwyd County Council (1976), I.W.L.R.151,157.

I now turn to the conflicting registration. The application for the conflicting registration was dated 7 June 1968 and is stamped as having been received on 24 June 1968. On receiving ^{the} application the former Huntingdon and Peterborough County Council, then the registration authority, allotted to it under reg.9(1) of the Commons Registration (General) Regulations 1966 (S.I.1966 No. 1471) the distinguishing number 93. The application for the registration the subject of these disputes was dated 24 June 1968 and is stamped as having been received on the following day. This application had allotted to it the distinguishing number 113.

The land sought to be registered by application No. 113 included some of the land the subject of application No. 93 and some land which was not the subject of the latter application.

The registration in respect of application No. 93 was not made until 23 July 1970, and the Register Unit constituted under reg. 10 (2) of the Regulations of 1966 in respect of it was allotted under reg. 10 (5) the distinguishing number CL.92.

Meanwhile, the registration in respect of application No. 113 had been made in ~~respect of~~ application No. 113 had been made on 30 August 1969, and the Register Unit constituted in respect of it had been allotted the distinguishing number CL.49.

While it is unfortunate that the registrations were not made in the order in which the applications were received, there is nothing in the Regulations of 1966 which made this mandatory, so it cannot be said that either registration was invalid. However, in making the conflicting registration on 23 July 1970, the former County Council failed to comply with section 4 (4) of the Commons Registration Act 1965 by registering again the land which had already been registered on 30 August 1969. If the former County Council had complied with section 4 (4), there would have been no conflict between the two registrations.

The failure of the former County Council to comply with Section 4 (4) has thus generated an entirely fictitious dispute with its consequential paper-work. Fortunately no permanent harm has been done, since I can rectify the conflicting registration by confirming it with the modification of excluding from it the land which is comprised in the registration the subject of these disputes.



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For these reasons I confirm the registration with the following modifications; namely, the exclusion of the land the subject of both the objections.

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

3rd

day of

March

1982

A handwritten signature in cursive script, appearing to read 'G. Lapin', written in dark ink.

Chief Commons Commissioner