



COMMONS REGISTRATION ACT 1965

Reference No 209/U/12

In the Matter of land in front
of St Thomas' Church, Kentisbury,
North Devon District, Devon

DECISION

This reference relates to the question of the ownership of land in 3 pieces at the junction of Bayclose Lane and Furzepark Lane in front of St Thomas' Church, Kentisbury, North Devon District being the land comprised in the Land Section of Register Unit No WG. 74 in the Register of Town or Village Greens of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

The County Council in a letter dated 5 December 1973 claimed ownership of part of the land in question as having been farmed by their tenants of an adjoining small holding, or alternatively of part or all the land as being part of the Parish roads. Following upon public notice of this reference the Clerk of Kentisbury Parish Council in a letter dated 29 April 1977 said that the land was Parish property which had been transferred to the Council by the Vestry under the Local Government Act 1894; and the County Council in a letter dated 5 October 1977 said they would not oppose the application of the Parish Council to be registered as the owner of the land. 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 Barnstaple on 15 November 1977. At the hearing Kentisbury Parish Council were represented by the Rev H B Ayre, who is Rector of Kentisbury and their chairman.

Mr Ayre in the course of his evidence produced: (1) the Kentisbury Vestry Book from 1860 to 1879, which recorded that at a meeting held on 22 July 1867 they accepted a tender "for draining the church yard" and "also do what further work is required with regard to the carrying forward the drain along through the church path under the direction of the churchwardens"; (2) an extract from the Kentisbury Tithe map of 1840 on which the land comprised in this Register Unit and the now adjoining roadways are all coloured pink and unnumbered; and (3) the Parish Council Minute Book which records that at a meeting on 15 April 1895 the Council decided that they had no power to act on a complaint as to the pathway leading to the Church, the road being in the hands of the District Council.

Mr Ayre who has been the incumbent for the last 31 years (before he held office at East Down) said (in effect):- The 3 pieces, together about $\frac{1}{2}$ of an acre, are all grassland, separated by roads, being byroads (the Village is scattered). The drain referred to in the 1867 minute runs in a westerly direction parallel with the road adjacent to a conifer tree planted by the late Mr Francis Toms in connection with the Jubilee of HM Queen Victoria. The well on the land, from