



COMMONS REGISTRATION ACT 1965

Reference Nos. 10/D/27
10/D/28

In the Matter of Spring Street,
Wool, Dorset.

DECISION

These disputes relate to the registration at Entry No.15 in the Land Section of Register Unit No.V.G.15 in the Register of Town or Village Greens maintained by the Dorset County Council and are occasioned by Objection No.90 made by the County Council and by Objection No.400 made by the Trustees of the Weld Estate and both noted in the Register on 7th October 1971.

I held a hearing for the purpose of inquiring into the disputes at Dorchester on 27th February 1973. The hearing was attended by Mr.E.F.Le Quesne, the Chairman of the Wool Parish Council, which applied for the registration and by Mr. W.N. Taylor, Assistant County Solicitor. Before the hearing the solicitors for the Trustees of the Weld Estate informed the Clerk of the Commons Commissioners that they did not wish to pursue their objection.

The land the subject of this reference consists of several pieces of rough grass forming part of the verge on the eastern side of Spring Street in the village of Wool. Spring Street is part of the public carriage road numbered 8 set out and appointed by the Winfrith Newburgh and Wool Inclosure Award dated 24th April 1839. On the map annexed to the award the whole of the area in question is coloured brown in the same way as the remainder of the road. Although set out and appointed as a public carriage road in the Award, both the wording of the Award and the map annexed to it appear to indicate that there was an existing road along the route. Evidence was given by Mr. C.A.E. Treasure, an Assistant Divisional Surveyor of the County Roads and Bridges Department since 1961, that the land in question has been maintained and the grass on it mown by his divisional labour force as part of the general road maintenance.

Mr. C.E. Hyde, who has lived in Wool all his life, as did his father before him, said that before there was a playing field in Wool children used to play on the land, as they still do to some extent. Mr. Hyde said that the whole of Spring Street is taken up by a fair for a week about 14th May every year. This is now an amusement fair, but it was formerly a cattle fair as well. While it may not be admissible evidence, it is not without interest to find that 14th May is given in old almanacs as the date of Woolbridge Fair.

I have come to the conclusion that the land in question formed part of the highway set out in 1839 and that there has been nothing since to deprive it of its status as highway land. On the other hand, land is not excluded from the definition of "town or village green" in section 22(1) of the Commons Registration Act 1965 merely by being part of a highway. It does not, however, seem to me that Mr. Hyde's evidence is sufficient to show that the children who played on this land were doing so as of right, which is an essential element in all the limbs of the definition of "town or village green". This



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land appears to be highway waste on which children have played for no better reason than that it is there.

While I accept Mr. Hyde's evidence regarding the holding of a fair in Spring Street, to use it as the basis of a decision that the land on which the fair is held is a town or village green would be to fail to have regard to the legal characteristics of a fair. A fair is a franchise, the holder of which is alone entitled to hold a concourse of buyers and sellers, to collect tolls and other charges and to prevent any other person from infringing the monopoly so granted. It is for the owner of the franchise to provide the fairground and if he does not do so he may incur a forfeiture, but the inhabitants of the locality will have no legal cause for complaint. The persons who indulge in the sports and pastimes made available at a fair do not do so in the exercise of any legal right. It is to the interest of the owner of the franchise to attract as many people as possible to his fair. The provision of facilities for indulging in lawful sports and pastimes, while not strictly part of the franchise, is a way of attracting to the fairground people who may then be tempted to spend money with those who have brought goods for sale. Furthermore, the persons who attend a fair do so as members of the public at large and not as inhabitants of the locality in which the fair is held. It may be that fairs are sometimes held on town or village greens, but the mere fact that a fair with amusements is held on a piece of land is no evidence that such land is a town or village green.

For these reasons I refuse to confirm the registration.

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 22nd day of March 1973


Chief Commons Commissioner