



COMMONS REGISTRATION ACT 1965

Reference No. 212/D/102

In the Matter of Manor Square,
Ongar, Epping Forest District,
Essex

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL334 in the Register of Common Land maintained by the Essex County Council and is occasioned by Objection No. 361 made by Mr Trevor Mackenzie Ball and Mrs Norah Julia Ball and noted in the Register on 5 April 1971.

I held a hearing for the purpose of inquiring into the dispute at Chelmsford on 20 February 1979. At the hearing Ongar Parish Council were represented by Mr J B S Mackay solicitor of Raggett Wakefield & Co, Solicitors of Ongar.

The land ("the Unit Land") in this Register Unit is according to the Register map about 45 yards long and about 25 yards wide, is on the east side of and open to the High Street, and is west (or south-west) of Manor House. The grounds of Objection (stating their effect shortly) are: (a) the land was not at the date of registration common land, (b) it was not subject to rights of common, (c) it was not waste land of a manor, (d) the Objectors are the owners of it, and (e) they make no admissions about it.

I have a letter dated 12 February 1979 sent by Budd, Martin, Burrett, Solicitors of Chelmsford to the Clerk of the Commons Commissioners saying that their clients Mr and Mrs T M Ball (the Objectors) have no further interest in the matter in the sense that they have sold their interest in the Manor House and premises adjoining and that the present owner is Mr A M Jacobs; and also saying: "We have briefly spoken to Mr Jacobs on the telephone and we learn that he is not available in any event on the 20th February. Although we are not acting for Mr Jacobs in the matter we do, at his request, ask if the hearing can be adjourned pending Mr Jacobs' return and him instructing his own Solicitors in the matter".

Mr Mackay said that he was prepared to prove the case of the Parish Council. There is nothing on the file of the Commons Commissioners showing that Mr Jacobs ever asked to be informed of the date of the hearing, or any other indication that he has succeeded to the interest of Mr and Mrs Ball. If Mr Jacobs purchased from Mr and Mrs Ball the land the subject of this dispute, the registration I am now considering would have come to the attention of, if not Mr Jacobs personally at least of, his legal advisers, and he or they could have made arrangements to be informed of the hearing. Having regard to these considerations, I refuse Mr Jacobs' request (made telephonically as above described) for an adjournment.

Mr J T Coles who has resided in Ongar for just over 45 years, and been a member of Ongar Parish Council (in 1965 reorganised so as to include Shelley, Greensted, and Mardon Ash) for 33 years, and was a member of the District Council from 1946 to 1967, in the course of his evidence described the Unit Land and said (in effect):- It had always been open to the public, being used for such public activities as political meetings, the selling of produce, and Morris dancing. In 1969 an attempt was made



to enclose it by erecting posts joined by a chain along the High Street side (such attempts having been made so he understood by the owners of Manor House); the wine shop (by the Unit Land) objected, and the Parish Council also objected, and the posts and chain were removed.

Mr E Green who was born almost opposite the Unit Land 75 years ago in the course of his evidence said (in effect):- His mother owned the three shops fronting on the High Street and nearest on the north to the Unit Land, and also the cottage at the back of these shops; access to the cottage was always across the Unit Land. As he first remembered the Unit Land, its surface was hard gravel; the same as that of the adjoining part of the High Street (now or lately the A113 road); the water cart used to water both surfaces at the same time, the cart having taken the water from the stand pipe (no longer there) on the Unit Land. He remembered two unsuccessful attempts to enclose the Unit Land; the 1967 attempt described by Mr Coles and another in the early 1930's when the tenants of the wine shop placed empty barrels across it; these were removed (as I understood Mr Green) by the public. There were no other attempted enclosures, although he remembered that empty wine cases were placed on the Unit Land at odd times and that these obstructions ended up in the middle of the road! He remembered the Unit Land being used for religious and political meetings, and for various ventures promoted by local charities.

On 2 April 1979 I inspected the Unit Land.

There was no evidence that Mr and Mrs Ball ever were the owners of the Unit Land. Mr Coles and Mr Green both said that the use they described of the Unit Land was as far as they knew without any permission, meaning (as I understood them) that the owners of Manor House never attempted to control such use in any way.

For the purposes of the 1965 Act, "common land" includes "waste land of a manor not subject to rights of common", see section 22. In the absence of any evidence (or even suggestion) that the Unit Land is highway land part of the High Street, the only possible explanation of its present appearance and history as described by Mr Coles and Mr Green, is I think, that it is historically waste land of a manor. In my view, I can properly conclude that it was and still is such notwithstanding that no manorial records were produced and nobody named the relevant manor. In the absence of evidence that the Unit Land has been severed from the Manor or otherwise cease to be within the 1965 Act definition, I conclude that the registration was properly made and that the objection fails. For these reasons I confirm the registration without any modification.

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 12th — day of April — 1979

a a Baden Fuller

Commons Commissioner