



## COMMONS REGISTRATIONS ACT 1965

Reference Nos.13/U/26  
13/U/27  
13/U/28  
13/U/29

In the Matters of Duntisbourne Leer  
Common, Masons Green, Well Hill Common  
and Tombs Green, all in Duntisbourne  
Abbotts, Cirencester R.D., Gloucestershire

DECISION

These references relate to the question of the ownership of land known as Duntisbourne Leer Common, Masons Green, Well Hill Common and Tombs Green, all in Duntisbourne Abbotts, Cirencester Rural District, being the land comprised in Register Unit Nos.C.L.14, C.L.15, C.L.16 and C.L.13 respectively in the Register of Common Land maintained by the Gloucestershire 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 Gloucester on 21 November 1972. The hearing was attended by Mr. E. V. Goss who is and for the last 8 years has been chairman of the Duntisbourne-Abbotts Parish Meeting, has lived in the Village for nearly ten years and known it for 15 years.

In the course of his evidence Mr. Goss produced a copy of an Inclosure Award dated 26 September 1780 made under the Duntisbourne Abbotts Inclosure Act 1777 (17 Geo. 3 chap. 36). By the Award, the Commissioners, after allotting certain land as public and private roads and paths, allotting certain land to the Rev. Joseph Chapman (the patron of the advowson and the rector of Duntisbourne Abbotts), allotting certain land to the Earl of Radnor (as Lord of the Manor of Duntisbourne Abbotts and Duntisbourne Leer), and allotting certain lands to various other persons therein named, made an allotment in these words:- "AND we the said Commissioners do award order allot and appoint unto and for to be enjoyed by all the before mentioned proprietors who have freehold allotments set out in the said Open Common Fields Common Pastures Waste Grounds and Commonable places Except the sd. Reverend Joseph Chapman and his Successors Rectors as aforesaid in the Common Pastures called Lower end Common All those several pieces or parcels (sic) of Land being Common Pastures called Lower end Common Tombs Green Masons Green and Well Hill."

Mr. Goss in his evidence said that none of these Units had any agricultural value. He produced four letters in identical form signed by Mr. J. Abel, Mrs. M. A. Watson, Miss G. M. Gegg and Miss V. Radway who had been resident in Duntisbourne Abbotts since 1893, 1894 and 1904, and 1910 respectively; each confirm that these Units "have always been regarded as village common land and none of these areas has been enclosed".

"Unit C.L.14" had an area of about 1.172 acres; although described in the Register as Duntisbourne Leer Common it is also known locally as "Lower end Common". It is a throw away piece of grass land which is not used for anything, and which



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nobody has planted out. There is a note on the Register that Mr. G. P. Page of Trustams House claims a right of way with vehicles across it and that Mr. H. R. and Mrs. H. A. Carver of Duntisbourne Leer, Leer Farm also claim a right of way with vehicles across it.

Unit C.L.15, Masons Green, is shaped like a right angle triangle, the two smaller sides of which are each about 22 yards long and is set back from the road. There is a field gate at the apex of the triangle. It too is a throw away ground mostly rough grass. However Mr. T. H. Brunsdon who lives at Brewers Cottage lower down the road would like to sink a septic tank into it; because of the steepness of the surrounding land, this appears to be the only feasible way of establishing water-borne sanitation for this Cottage (the effluent would have to be pumped up to the tank). He is, (as I was informed by Mr. Goss and as is confirmed by some correspondence sent by the County Council to the Clerk of the Commons Commissioners) anxious that there should be an owner of this Unit so that he can have somebody with whom to negotiate about the construction of this tank.

Unit C.L.13, Well Hill Common, consists of two pieces of land at the focal point of the Village below the Church (a Norman building, with a record of Rectors going back to before 1200). The land although sloping very sharply is a pleasant open breathing space for the Village. It is the confluence of several springs which emerge at the bottom of the Common and flow down into the Valley.

Unit C.L.16, Tombs Green, is a piece of grass land at or near the junction of four roads. It slopes very steeply, and is unsuitable for parking cars. Nobody seems to know what to do with it.

Mr. Goss thinks and I agree with him, that the four pieces of land described in the words quoted above from the Award are the same as the four Units I am now considering.

Since the hearing I have looked at the 1777 Act, and I can find nothing in it expressly authorising an allotment such as that above quoted. I infer that at that time these Units were as useless as they are now and that the Commissioners allotted them in the way they did on the assumption that they were obliged to make some allotment of them. The effect of the words "Except ... in the Common Pastures called Lower end Common" is to me obscure; whatever these words may mean they are not I think sufficient to qualify the general intention (which is I think clear enough) that these Units are allotted to the persons who under the preceding part of the Award (except the Rev. J. Chapman) get freehold allotments, between them as tenants in common. Mr. Goss said that there were now he thought about thirty or forty freeholders in the Village. It would I think be quite impracticable for these persons to prove their title to these Units as claiming under the persons who under the Award got freehold allotments.

It might be convenient and advantageous to the Village if all these Units were vested in some local authority or in the representative body constituted under section 47 the Local Government Act 1933 to hold property for a rural parish not having a parish council. But the Act of 1965 requires me to be "satisfied" as to ownership. I cannot I think on the evidence before me properly be satisfied that any such authority or body is the owner; so far as it goes the Award indicates that these Units are not in public ownership. By section 1(3) of the Act, this land (unless it is registered under the Land Registration Acts 1925 and 1936) will be vested "as Parliament may hereafter determine"; I realise that until Parliament so determines there will be no person with whom as owner it will be possible for Mr. Brunsdon to negotiate: but I cannot I think for this reason do more than the Act



of 1965 authorises me to do.

For the above reasons, I am not satisfied that any person is the owner of the land and it will therefore be subject to protection under section 9 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 8<sup>th</sup> day of December 1972.

a. a. Baden Fuller.

Commons Commissioner