



COMMONS REGISTRATION ACT 1965

Reference No.13/U/58

In the Matter of Old Town Ditch,
Lechlade, Gloucestershire.

DECISION

This reference relates to the question of the ownership of land known as Old Town Ditch, Lechlade, being the land comprised in the Land Section of Register Unit No.CL.82 in the Register of Common Land maintained by the former 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 one 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 10th July 1974.

At the hearing Mr. A.M.Grazebrook, solicitor, appeared on behalf of the Lechlade Parish Council, and Miss J. Magson, solicitor, appeared on behalf of Mr.Norman Lloyd.

The land the subject of this reference is a long narrow strip. At its southern end it abuts on the River Isis and at its northern end on Bell Lane, which leads northwards to the High Street. It is bounded on its western side by a property known as Free Wharf and on its eastern side by a property known as Park End Wharf. Although the land is registered under the name of "The Old Town Ditch", the ditch only forms the eastern part of it and divides the main part from Park End Wharf. There is a hedge between the land and Free Wharf.

The history of the land in question is somewhat unusual. It appears that it was formerly a southerly extension of Bell Lane (then called Tidford Lane), leading to a ferry (or possibly a ford) across the river. The line of the road from the ferry or ford on the south side of the river can still be identified on the modern Ordnance Survey map. In 1792 a bridge was built across the river to the east of the ferry or ford, so making the ferry or ford redundant. The ferry or ford had completely disappeared by 1839, when the tithe apportionment map showed the land in question as forming the site of an inlet from the river. It is clear that this inlet was man-made, for on its eastern side there is a wall which divided it from Park End Wharf and on the western side there is a wall which divided it from Free Wharf. The inlet has since been filled in, thus hiding the wall on the western side, but the other wall now forms the eastern side of the ditch. On the tithe map there is a dotted line which appears to indicate that the inlet was included in the same parcel as Free Wharf, the parcel comprising Park End Wharf being bounded by the inlet on its western side. The tithe apportionment is not now kept with the map in the County Record Office and was not produced at the hearing. After



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the hearing I inspected the award at the Gloucester City Record Office. It appears from it that Free Wharf belonged to the Parish Officers of Lechlade and Park End Wharf to the Thames and Severn Canal Company. I do not find this additional information of value in these proceedings and have therefore not thought it necessary to invite the comments of the parties upon it.

The subsequent history of the inlet is somewhat obscure. It is not clear when it was filled in. It still appeared on an Ordnance Survey Map published in 1911. Mr.A.J.Baxter, who was born in Lechlade in 1904, stated that it was partly silted up and partly made up, though he did not know when. Comparatively recently there has been some further raising of the surface by the former Gloucestershire County Council at the request of the Parish Council, which work was done without any objection being raised by anyone.

In 1959 Park End Wharf was sold to Mr.Lloyd, his wife, and Mr.R.A.Tooth by Mr.P.W.Ford. Mr.Lloyd remembers that for three or four years before the sale Mr.Ford had used the part of the filled-in inlet near to the river in connection with his boat business. Since purchasing the land Mr.Lloyd and people hiring boats from him have moored boats in the river at the end of the land and have used the part nearest the river for working on boats. Mr.Lloyd stated that the part so used was about 8 ft deep, but it has never been divided from the part to the north. It is approached from Park End Wharf by a wooden bridge over the ditch. Mr.Lloyd and his wife are now also the owners of Free Wharf, which they bought in 1960.

The Parish Council has cut the weeds growing on the land and about two years ago it paid for the planting of bulbs, some of which were planted within 8 ft of the river.

When the land in question formed part of Tidford (later Bell) Lane the presumption was that it belonged to the owners of the land on either side (Free Wharf and Park End Wharf) ad medium filum viae. That seems to be the most recent firm evidence about the ownership. The marking on the tithe map may indicate that by 1839 the owners of Free Wharf had acquired the whole of the land, by then excavated to form the inlet. There is, however, no later evidence to indicate that the later owners of Free Wharf owned any part of the land in question. Indeed, a former owner named Young planted a hedge on the eastern boundary of Free Wharf and made no use of the land in question.

In this state of uncertainty I can only look for evidence to support a claim to a possessory title either to the 8 ft nearest to the river or to the rest of the land or to the whole of it. I find that the evidence is, in my view, insufficient to support the acquisition of a possessory title by anybody.

For these reasons I am not satisfied that any person is the owner of the land and it will therefore remain 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



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is sent to him, require me to state a case for the decision of the High Court.

Dated this 26th day of July 1974

A handwritten signature in cursive script, appearing to read 'J. D. L. Jones', written over a horizontal line.

Chief Commons Commissioner