



COMMONS REGISTRATION ACT 1965

Reference Nos.15/U/64
15/U/78

In the Matters of (1) Eyton Common
and (2) Eyton Upper Common, Eyton,
Leominster & Wigmore R.D., Herefordshire

DECISION

These references relate to the question of the ownership of lands known as (1) Eyton Common, and (2) Eyton Upper Common, Eyton, Leominster and Wigmore Rural District being the lands comprised in the Land Section of Register Unit No.CL.135 and (2) No.CL.171 in the Register of Common Land maintained by the Herefordshire 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 lands in question and no person claimed to have information as to their ownership.

I held hearings for the purpose of inquiring into the question of the ownership of the lands at Hereford on 11 December 1973. The hearings were attended by Mr. J.J. Coates who is chairman of Eyton Parish Meeting and chairman of the Luston Group Parish Council formed under the Local Government Act 1972 and by Mr. F. J. Hancorn who is a local resident.

Mr. G. H. Holman who was representing the County Council as registration authority said that the registration of Eyton Common (CL.135; according to the Register containing about 10 $\frac{1}{2}$ acres) was made upon the application of the County Council in accordance with the suggestions made in a circular letter dated 17 December 1969 and sent by the Ministry of Housing and Local Government to all registration authorities. Miss S. Hubbard who is senior assistant to the County Archivist, said that this land (CL.135) was mentioned in the Parish Tithe Award, being described as "Common", without any owner or occupier and being treated as non-tithable. Seven rights of common have been registered (including three registrations made on the application of Mr. Coates in respect of The Marsh, Stone House and Eyton House Farm and two registrations made on the application of Mr. Hancorn in respect of Eyton Court and Pound Cottage), and being undisputed have become final.

Upper Common (CL.171; according to the Register containing a little less than one acre) was registered, consequent on applications for registration of three rights of common (including one by Mr. Coates in respect of Eyton House Farm and one by Mr. Hancorn in respect of Eyton Court); these registrations being undisputed have become final.

Mr. Coates said (in effect):- He could offer no documentary evidence that either Common belonged to any individual. Both he and Mr. Hancorn thought that the Common should belong either to the Parishioners or to the Commoners, rather than to some distant authority; under the amalgamation of Worcester and Hereford (with



effect from 1 April 1974) the County Council will be more distant than now. The only evidence he could give would be that the Commoners had enjoyed rights of common for very many years; his family had lived in the Parish since the 18th century and probably before that.

In my view evidence that rights of common have been exercised, cannot be evidence that the owners of the rights are also owners of the land over which the rights have been exercised. In the absence of any evidence I am not satisfied that any person is the owner of the lands and they 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 19th day of December 1973.

a. a. Baden Fuller.

Commons Commissioner