



COMMONS REGISTRATION ACT 1965

Reference Nos. 15/U/104
15/U/33

In the Matters of (1) Talbots Well and (2) land adjoining Hartley's Quarry, both in Linton (near Ross), South Herefordshire D., Hereford and Worcester County

DECISION

These references relate to the question of the ownership of (1) land known as Talbots Well and the land adjoining, and (2) land extending to about 1 acre adjoining Hartley's Quarry, both in Linton (near Ross), South Herefordshire District being the lands comprised in the Land Section of Register Unit (1) No. CL.211 and (2) No. CL.29 respectively in the Register of Common Land maintained by the Hereford and Worcester 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 these references no person claimed to be the freehold owner of the land in question and no person claimed to have information as to ^{the} ownership.

I held hearings for the purpose of inquiring into the question of ^{the ownership of} the lands at Hereford on 11 December 1974. At the hearings, Linton Parish Council were represented by Mr T.H. Pickles, one of their members.

Mr Pickles who has lived in the Parish for 9 years and been a member of the Parish Council for 7 years in the course of his evidence said (in effect):-

The land ("the Well Piece": CL.211) is a strip of land on the southwest side of a road called "The Line"; this road runs along the northeast slope of Linton Hill: Linton was a flax community and the Line was originally the route from Linton to Gloucester for the flax farmers. The road now most used runs along the top of Linton Hill (parallel with and higher than The Line) from Linton to Aston Crews, and this road (and the views from it) are of outstanding natural beauty. In the middle of the Well Piece, there is a well, bricked in, the water level being about an arms length from the surface. Piped water was brought to the Village in about 1960; before then, this well was the Village water supply. The Parish Council have no title deeds; about 20 years ago they made some researches and failed to discover an owner; the Well Piece is generally considered to belong to the Village. About 10 years ago, an adjoining householder obstructed one of the accesses to the Well Piece, and the Parish Council successfully insisted on the obstruction being removed.

The land ("the one Acre Piece": CL.29) is in Gorseley (about a mile northeast of Linton Church). It is not a quarry or part of a quarry: one of the approaches to Hartley Quarry is (or was) across it. The one Acre Piece is open (at its northwest end) to the public road, and has always been recognised as common land. The Parish Council have found it impossible to find an owner. For one or two poles, the Midland Electricity Board pays a wayleave to the Parish Council.



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Two days after the hearing I inspected these lands. >

The ways marked on the Register map as leading down the hill to the Well Piece (although now apparently little used and perhaps obstructed) are identifiable. There is an iron pump by the well. I conclude that until the coming of piped water the whole of the Well Piece would certainly have been considered as belonging and as having belonged from time immemorial to the Parish; from this conclusion it follows that by operation of ^{law} the Well Piece became > vested in the Churchwardens and Overseers in accordance with the Principles set out in Doe v. Hiley (1830) 10B. & C. 885; and see Doe v. Terry (1835) 4A. & E. 274 at page 281 and Haigh v. West (1893) 2 QB. 19 at page 31. Land of this kind belonging to the Churchwardens and Overseers passed to the Parish Council under the Overseers Order 1927 (S.R. & O. 1927) No. 55). Further the well itself ~~was~~ became vested in the Parish Council under section 64 of the Public Health Act 1875 or under Section 124 of the Public Health Act 1936.

Upon the considerations outlined above I am satisfied that the Parish Council is the owner of the Well Piece and I shall accordingly direct the Hereford and Worcester County Council as registration authority to register Linton Parish Council as the owner of the land under section 8(2) of the Act of 1965.

The paths tracks trees and other vegetation on the one Acre Piece are of such a variable nature and its situation is such, that I find it impossible to form any conclusion or even guess how it could properly be regarded as being > now held. I cannot I think properly ascribe any rent received by the Parish Council for the electricity poles as indicating ownership of the whole or any defined part of the one Acre Piece. It seems to me just such a piece of land as the 1965 Act contemplates will have no ascertainable owner. On these considerations, I am not satisfied that any person is the owner of the one Acre Piece, and it will therefore remain subject to protection under section 9 of the 1965 Act.

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 24th —

day of January 1975

a. a. Baden Fuller

Commons Commissioner