



COMMONS REGISTRATION ACT 1965

Reference Nos 215/U/27  
15/U/100

In the Matter of (1) Westhope and Upper Hill Common and (2) an area of land adjoining the said Common at its southwest corner, in Pyons and Birley Group and in Hope-under-Dinmore Group, Leominster District, Hereford and Worcester

DECISION

These references relate to the question of the ownership of (1) land extending to about 120 acres known as Westhope and Upper Hill Common, and (2) land extending to about 2.652 acres adjoining the said Common at its southwest corner, being the lands comprised in the Land Section of Register Unit (1) No. CL 33 and (2) No. CL 227 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.

On the CL 227 Register there is a note that Mr Paul Henry Treadgold claimed ownership of OS No. 58 being nearly all of the CL 227 land. On the CL 33 Register it appears that Mr Treadgold was at one time provisionally registered as the owner of part of the CL 33 land, but that this registration was avoided pursuant to a direction under section 6(2) of the 1965 Act made by Mr Commons Commissioner C A Settle QC; in his decision dated 20 June 1977 in accordance with which he gave such direction, he indicated that Mr Treadgold might nevertheless claim ownership under any reference (such as that I am now considering) under section 8 of the said Act. Following upon the public notice of these references (save as aforesaid) no person claimed to be the freehold owner of the lands in question or to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the CL 227 land at Hereford on 19 July 1977. At this hearing (1) Mr P H Treadgold was represented by Mr W J H Davies solicitor of T A Matthews & Co, Solicitors of Hereford, (2) Mr D G A Leddington-Hill (appearing as Secretary of Westhope Common Rights Association: "WCRA") was represented by Mr G G H Davies solicitor of Beaumont Smith & Davies Solicitors of Hereford, and (3) The Pyons with Birley Group Parish Council were represented by Mr J B Fowler their chairman and Mr A D Bowyer one of their members. Upon what was said at this hearing, I gave a decision dated 30 September 1977; such decision was to the effect that upon the evidence put before me at the hearing I was not satisfied that any person is the owner of the CL 227 land but I gave Mr Treadgold liberty to apply to me to set aside my decision if (stating the effect of my decision shortly) he wished to call other evidence of ownership.

By letter dated 24 April 1978 upon receipt of an application made on behalf of Mr Treadgold, I set aside my said decision.



I held a hearing for the purpose of inquiring into the question of the ownership of the CL 33 land at Hereford on 12 January 1979. At this hearing (1) Mr Treadgold (and also Mrs Treadgold) was represented by Mr J M Davies as before, (2) Mr L Legge (a person interested in one or more of the 36 rights of common registered in the CL 33 Rights Section) was represented by Mr W D Turton, Solicitor of Lloyd & Co, Solicitors of Leominster; (3) Mr D H Legge (another such person) was represented by Mr J B Senior solicitor of Rutter Senior & Frith, Solicitors of Bromyard; and (4) WCRA were represented by Miss E M Davies articled clerk with Beaumont Smith & Davies Solicitors of Hereford. Mr J M Davies applied for an adjournment. My decision then given orally was that if Mr and Mrs Treadgold within two months of such hearing (ie of 12 January 1979) informed the clerk of the Commons Commissioners that they or either of them claimed ownership, then the proceedings would be adjourned, but if not in the absence of any evidence of ownership, I would give a decision that I was not satisfied that any person is the owner so that section 9 of the 1965 Act would apply. I also said that if the case was adjourned, the costs of the hearing on 12 January 1979 would be reserved to the Commons Commissioner who heard the adjourned proceeding.

Since the said January 1979 hearing, the Clerk of the Commons Commissioners has received letters dated 1 March, 6 April, 11 June and 26 July 1979 and 14 August 1980 from T A Matthews & Co (for Mr and Mrs Treadgold) and letters dated 8 June 1979, 1 February 1980 from Beaumont Smith and Davies (for WCRA), letter dated 11 June 1979 from Lloyd & Son (for Mr L Legge) and a letter dated 18 September 1980 from the clerk of The Pyons with Birley Group Parish Council. I need not I think deal with these letters because T A Matthews & Co by their 1980 letter (in effect) apply to me to treat it as a formal withdrawal on behalf of Mr and Mrs Treadgold of their applications in respect of these Register Unit Nos CL 33 and CL 227, and contend that no further hearing is required.

On the information now before me I agree this contention subject to my giving certain other persons liberty to apply as hereinafter provided.

Accordingly as regards the CL 227 land for the reasons and upon the considerations hereinbefore and in my said 1977 decision (which I hereby restore) set out, I am not satisfied that any person is the owner of such land, and it will therefore remain subject to protection under section 9 of the 1965 Act. As regards the CL 33 land, in the absence of any evidence of ownership I am not satisfied that any person is the owner of such land and it will therefore remain subject to protection under the said section 9.

As to any persons (other than Mr and Mrs Treadgold) who as above recorded attended either the 1977 or the 1979 hearing, because it is possible they might if I held a further hearing wish to make representations on some aspect of this case which I have overlooked, I give each of them liberty within 42 days of this decision being sent to them to apply to me to hold a public hearing at which they can make such representations. By giving this liberty I am not encouraging any of them to make any such applications, because of the information now before me it appears to me that any further public hearing ~~to~~ these references would serve no useful purpose. Any such application should in the first instance be made by letter addressed to the Clerk of the Commons Commissioners and should specify the direction which the applicant consider I ought to make at any such further hearing.



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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 14<sup>th</sup> — day of October — 1980

a. a. Baden Fuller

Commons Commissioner