



In the Matter of Hartlebury Common, Hartlebury and
Stourport-on-Severn, Hereford and Worcester (No. 1)

DECISION

This dispute relates to the registration at Entry No 1 in the Rights section of Register Unit No CL 68 in the Register of Common Land maintained by the former Worcestershire County Council and is occasioned by Objection No 57 made by the former County Council and noted in the Register on 11 February 1971.

I held a hearing for the purpose of inquiring into the dispute at Worcester on 30 November 1977. The hearing was attended by Mr P Talbot, the Chairman of the Hartlebury Parish Council, the applicant for the registration, and Mr M Bowmes, solicitor, on behalf of the Hereford and Worcester County Council, the successor authority of the Objector.

There has apparently been a long-standing belief in the parish that parishioners have a right to take sand, gravel, turf, etc. from the land comprised in the Register Unit for their own use in the parish. This is referred to in a letter dated 7 November 1908 from the then Clerk of the Parish Council to the Clerk of the former County Council. It is not, however, possible in law for such a right to be vested in a fluctuating body of persons, such as the inhabitants of a parish; see Gaboard's Case (1607), 6Co.Rep.59b. Mr Bowmes accepted that there are rights to take sand and gravel appurtenant to some tenements in the parish, but in my view he was right in refusing to accept that the parishioners as a class have such a right.

For these reasons I refuse to confirm the registration.

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.

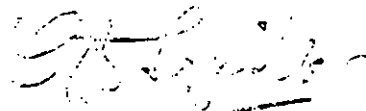
Dated this

6th

day of

February

1978


Chief Commons Commissioner