



COMMONS REGISTRATION ACT 1965

Reference No 15/U/107

In the Matter of land adjoining
Lower Lugg Meadow, Hampton
Bishop, South Herefordshire
District, Hereford and Worcester

DECISION

This reference relates to the question of the ownership of land adjoining Lower Lugg Meadow (being on the other side of the Rhea Ditch), extending to 3.993 acres, being in Hampton Bishop about half a mile southsoutheast of Lugwardine Bridge (A438) in South Herefordshire District and being the land comprised in the Land Section of Register Unit No CL. 223 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 this reference The Church Commissioners for England claimed ownership of the western part of the land in question. No other person claimed to be the freehold owner of the land or 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 Hereford on 21 July 1977. At the hearing The Church Commissioners for England were represented by Mr R L Bolt chartered land agent of Cluttons, chartered land agents of Bath (and elsewhere).

Mr Bolt, an employee for the last 3 years at Cluttons who act for The Church Commissioners for England, in the course of his evidence produced: (1) a map entitled "Reduced and Compiled from Tythe Maps by Robert & John Clutton of 8 Whitehall Place, 1848"; (2) a foolscap book entitled "Cathedral Hereford, County Hereford, Prebend of Warham and Aylestone: office copies of general report" and comprising a copy letter dated 3 January 1848 by Robert John Clutton recording that "they had made the usual survey and valuation of the property forming part of the Prebend and find it consists...(detailed list followed)..."; and (3) copy tenancy agreement dated 24 August 1926 by which the Ecclesiastical Commissioners for England let to Charles William Powell and Charles John Powell, Warham Farm containing 232a 1r 6p on a yearly tenancy from 2 February 1926.

The 1848 valuation includes a heading: "Land in the Township of Tupsley and parish of Hampton Bishop in the occupation of William George" under which there is an item "366: part of Lugg Meadow: 1.3.26. (A.R.P.)". Mr Bolt said that the 1848 valuation and 1848 map had always been kept together as one document; the map shows plot 366 as the west part of the land ("the Unit Land") comprised in this Register Unit; the east part on the map is marked with a name indicating (as I read the map) ownership other than that of the Prebend. Mr Bolt explained



that under the Ecclesiastical Commissioners Act, the land of the Prebend vested in the Commissioners on 7 May 1838 on the death of the Rev Dr John Clutton, the then Prebend. The 1926 agreement included an item:- "366: Lugg Meadow: Meadow: 1-3-26: Hampton Bishop"; Mr Bolt said that the rent payable under this lease had been paid to the Church Commissioners and was being currently paid to them by the personal representatives of Mr Charles John Powell who had recently died.

Mr Cedric Gwynne Griffith, of Tupsley Court, Hereford who was watching the proceedings being concerned with the next case (relating to Lower Lugg Meadow), volunteered the following information about the Unit Land:- It is fenced in on the west and south sides; it is not fenced on the north and east sides, the boundary there being the Rhea Ditch. There is no fence down the middle distinguishing the west part (as might be thought from the 1848 map or from the present claim by Mr Bolton). The grass on the Unit Land is mown by the Farmer, and is commonable afterwards.

On the evidence summarised above, I am satisfied that the Church Commissioners for England are the owners of the west part of the Unit Land delineated on the 1848 map. In the absence of evidence as to how such delineation should be transcribed on to the Register map, I must define it as best I can. Accordingly I shall under section 8(2) of the Act of 1965 direct the Hereford and Worcester County Council as registration authority to register The Church Commissioners for England of 1 Millbank, Westminster, SW1 as the owners of the part of the land west of a straight line which runs approximately north-south, which passes through the most northerly point (on the Rhea Ditch) of the land, and which passes through the middle point of the south boundary (running approximately east-west) of the land.

In the absence of any evidence, I am not satisfied that any person is the owner of the remaining part (the east part) 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 is sent to him, require me to state a case for the decision of the High Court.

Dated this 12th day of August 1977

a. a. Bader Fuller

Commons Commissioner