



COMMONS REGISTRATION ACT 1965

Reference No. 15/U/48

In the Matter of The Pond at Crossways and Common
from School to Church, Ballingham, South Herefordshire D.,
Hereford and Worcester County

DECISION

This reference relates to the question of the ownership of land known as The Pond at Crossways and Common from School to Church (extending to about 4 $\frac{1}{4}$ acres), Ballingham, South Herefordshire District (formerly Ross and Whitchurch Rural District) being the land comprised in the Land Section of Register Unit No. CL.25 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 no person claimed to be the freehold owner of the land in question and no person claimed 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 10 December 1974. At the hearing, there were present:- (1) Mr. B.C. Harding, chairman of the Parish Meeting; (2) Mr. E.C. Jackson who is now 57 years of age and who has lived in the Village for the last 30 years and been about the Village for 40 years; (3) Mr. V.A. Watkins on whose application rights attached to The Rock Farm of grazing 88 cattle/131 sheep and their lambs, of estovers and of piscary have been registered; and (4) Mrs. E.R. Williams on whose application rights attached to Haynes Farm of grazing 6 cattle/4 horses, of turbarry, of piscary, and of estovers have been registered.

Mr. Jackson described the land ("the Unit Land") comprised in this Register Unit, and since the hearing I have inspected it; one part consists of two wide strips of grass land on either side of the road leading from the Crossways in the middle of the Village to the Parish Church of St. Dubricius; another part adjoining and north west of these two strips consists of a triangular piece of rough grass land south west of the said road and south east of the road to Carey; the remaining part adjoining and south east of the two strips consists of a U shaped piece of land (including a pond) which almost completely surrounds the Church Yard. Mr. Jackson said that he always understood that the Unit Land belonged to the Lord of the Manor and that when his Holme Lacey Estate was split up, it reverted to the Parish. Since April 1974, the Parish was grouped with other parishes under a common parish council, the Hentland and Ballingham Group Parish Council.

Mr. Harding said there was as far as he knew no documentary evidence of ownership.



After some discussion as to whether I could conclude that the north west part at least was parish property because it was a Village Watering Place, Mr. Jackson gave evidence in the course of which he said (in effect):- When he first came to the Village, on this part there was a pond extending to about $\frac{1}{4}$ of an acre; people in the Village took the water away in carts (barrels for the water) mainly for cattle; the Village then (as now) was scattered. Piped water came to the Village about 12 years ago; up to then the inhabitants for domestic water supply mostly relied on underground storage tanks fed by rain water; additionally there was a pump about $\frac{3}{4}$ mile down the hill (not on the Unit Land). The pond he mentioned is now no more, although the site is apparent from a depression in the ground.

Section 124 of the Public Health Act 1936 provides (in effect) for the vesting in a local authority of "all public pumps, wells, cisterns, reservoirs, conduits and other works used for the gratuitous supply of water to the inhabitants ..." I cannot I think properly conclude that any part of the Unit Land is within these words and is accordingly now in the ownership of the Parish Council (a conclusion which was I understood favoured by those present at the hearing); I have no jurisdiction to vest the Unit Land in the Parish Council merely because it is expedient. In my view the information given me at the hearing does not amount to any evidence of ownership.

In the absence of any evidence I am not satisfied that any person is the owner of the Unit 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 20th

day of December 1974

a. a. Baden Fuller

Commons Commissioner