



Reference No. 216/U/99

COMMONS REGISTRATION ACT 1965

In the Matter of Bacons Green,  
Bramfield, East Hertfordshire  
District, Hertfordshire

DECISION

This reference relates to the question of the ownership of land known as Bacons Green, Bramfield, East Hertfordshire District being the land comprised in the Land Section of Register Unit No. CL 274 in the Register of Common Land maintained by the Hertfordshire 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: (1) in a letter dated 15 August 1988, Mr J W M Wallace said:-

"The piece of land in question was conveyed to my father and uncle in 1959. From that time until 1979 it was occupied by a tenant as part of his agricultural holding. From 1979 to the present time the land has been farmed by our family farming partnership. I confirm that my brother (Robert Wallace) and myself (John Wallace) claim ownership ... Mr John and Mr James Hay who occupy the farm house, are the sons of a previous tenant. They will confirm that the land has been farmed with Bacons Farm since before 1924 and during the whole of that time nobody has sought to exercise Commons Rights."

and (2) in a letter dated 19 September 1988, the Clerk to Bramfield Parish Council said that ownership of this piece of land is claimed by J & R Wallace, Broom Hall Farm, Walton-at-Stone, Hertford. No other person claimed to be the freehold owner of the land in question 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 Hertford on 1 November 1988. At the hearing Mr J W M Wallace attended in person, and Hertfordshire County Council as registration authority were represented by *Mr J W M Wallace*.

The land ("the Unit Land") in this Register Unit according to the Register contains 0.57 hectares (1.40 acres), and is the greater part of OS (1923), plot No. 142 containing 1.517 acres.

Mr J W M Wallace who was born in 1930 and has since 1956 lived at Watton-at-Stone about 3 miles from the Unit Land, in the course of his oral evidence said (in effect):- He confirmed his letter of 15 August 1988 above quoted. The Unit Land is not a separate piece of land, but part of a meadow of which the southern boundary is only vaguely discernible, and does not exist save as a bank. Bacons Farm including the Unit Land was part of the Panshanger Estate of Lord Desborough, and in the early 1950s inherited by Julian Salmon: he in 1953 sold the Estate in lots, and Bacons Farm was in 1953 bought by Mr Dean. The conveyance from Mr Salmon to Mr Dean shows the Unit Land as freehold part of the farm; on the plan or in the schedule it is not any different from any other part of the Farm. In 1959 Mr Dean sold Bacons Farm to his (the witness') father and uncle who



- 2 -

both died in 1969, and from then the Farm passed into the ownership of his (the witness') brother and himself. As to the occupation of the Unit Land, Mr James Hay will speak as to his tenancy: from 1969 to 1978 it was let to Mr Burgess and from 1978 to the present time it is owner occupied. From 1958 onwards the Unit Land has been (as is within his own knowledge) occupied by the occupiers of the Farm who have paid rent for it either to his (the witness') father and uncle or to himself, and no-one has attempted to exercise any "Common Rights".

Mr James Wilfrid Hay who was born in 1908 in the course of his oral evidence said (in effect):- On 19 March 1925 his mother became the tenant of Bacons Farm, and he, she and his brother moved in. The Unit Land is today a grass meadow; its southern boundary was an ordinary sort of bank, at the other side of which there was a ditch which does not run water now. On it the cattle had free range as if it was part of the meadow. He agreed that in 1958 he and his brother became tenants of the Farm and so continued until 1969 when they retired, and that for the whole of the period 1924 to 1969 his mother (she died January 1972) he and his brother paid rent. The owners to whom they paid were (successively) Lord Desborough (as owner of the Panshanger Estate), Mr Dean, and Messrs Wallace of Broomhall Farm, Watton-at-Stone. He agreed that the whole of the time they were at the Farm, no-one had exercised common rights over the Unit Land. He still lived at the Farm House, but there was not now living there anybody working on the Farm. He never knew that the Unit Land existed as a "green" until he saw it on the map; never in his lifetime did anybody call it "The Green"; his mother "never called it anything because she thought it was part of the meadow".

Next, Mr J W M Wallace produced the two conveyances specified in Part I of the Schedule hereto. On my pointing out that the documentary ownership evidence was deficient in that after the 1959 conveyance there was nothing to show how the title had devolved from Mr Walter Wallace and Mr Robert Wallace (both now deceased) on to Mr J W M Wallace and his brother, he said (in effect):- The (beneficial) ownership of Mr Robert Wallace (father of the witness) on his death passed to Mr Walter Wallace (uncle of the witness). On the death of Mr Walter Wallace his ownership (he being then entitled to both half shares) passed under his will. He having no children, left the residue of his estate equally to his nephews and niece, namely Mr Robert Wallace (brother of the witness), Mr J W M Wallace (the witness) and Mrs Elizabeth Ann Wallace Talviitie (sister of the witness); they agreed that the farm lands should be held by Mr Robert Wallace and Mr J W M Wallace (to the exclusion of Mrs Talviitie).

TURN OVER



- 3 -

I adjourned the hearing to London so that Mr J W M Wallace could produce the relevant documents and continue his evidence.

After the hearing I inspected the Unit Land being by Mr J W M Wallace shown it and its surroundings.

I held the adjourned hearing on 17 March 1989; at it Mr J W M Wallace produced the documents specified in Part II of the Schedule hereto.

Starting with the 1959 conveyance on sale (JWMW/1), the documentary title to the legal estate in fee simple in the Unit Land is straight forward; after the death of Mr Robert Wallace on 9 October 1969, Mr Walter Wallace as the surviving trustee of the trust for sale contained in the 1959 conveyance, by the November 1969 appointment (JWMW/4) appointed Mr Robert Wallace and Mr J W M Wallace as new trustees to act with him. Mr Walter Wallace died on 10 December 1969, so now Mr Robert Wallace and Mr J W M Wallace as survivors are as trustees of the 1959 conveyance owners jointly of the legal estate.

For the purposes of the Commons Registration Act 1969 ownership means the ownership of the legal estate in fee simple, see section 22. So I am not concerned to determine whether Mr Robert Wallace and Mr J W M Wallace as joint owners of the legal estate hold the Unit Land as claimed by Mr J W M Wallace on trust for themselves in equal shares. Having looked at the documents specified in the schedule hereto and produced by him, I have no reason to doubt his claim, but not being concerned with the beneficial ownership I make no finding about it. As to the documents after the November 1969 appointment, it is enough that I am satisfied that they (JWMW/3, 7 and 8) do not deal with the legal estate in any way with which I am concerned.

The oral evidence at my November 1985 hearing above summarised of Mr J W M Wallace and Mr J W Hay show that the Unit Land has been possessed in accordance with the 1959 conveyance and the 1969 appointment (JWMW/1 and 4). On such evidence and on the documents produced, I am satisfied that Mr Robert Wallace and Mr J W M Wallace are the owners of the Unit Land, and I shall accordingly direct Hertfordshire County Council as registration authority to register Mr Robert Wallace of Far Heath, Coton, Guilsborough, Northampton and Mr John Walter Murray Wallace of Broomhall Farm, Watton-at-Stone, Hertfordshire as the owners of the land under section 8(2) 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.

FOR SCHEDULE TERM USE



SCHEDULE  
(Documents produced)

Part I: at November 1988 hearing.

JWMW/1            21 August 1959            Conveyance by Edward Collingwood Chapman as personal representative of Charles Bradlaugh Dean (he died 27 December 1958 and his will was proved on 20 April 1959) of First land containing 222.096 acres described in the First Part of the Schedule thereto and the plan annexed coloured green, and Secondly land containing 194.867 acres described in the Second Part of the Schedule thereto and on the said plan coloured pink to Walter Wallace and Robert Wallace in fee simple subject to a conveyance dated 16 October 1953 (JWMW/2 below) upon trust for sale and upon trust to hold the proceeds of sale on the trusts of a deed dated 22 February 1946 and made between Walton Wallace and Robert Wallace as varied by a deed dated 25 September 1947 and also made between Walter and Robert Wallace.  
Note:- The Second Part of the Schedule includes "142: Pasture: 1.517" and Plan No 1 shows "Bacons Green: 142: 1.517".

JWMW/2            16 October 1953            Conveyance by Julian John William Salmon of land containing 222.096 acres described in the First Schedule thereto and coloured pink on plan No. 1 to Michael Theodore Pelloe and Charles Bradlaugh Dean.

Part II: at March 1989 hearing.

JWMW/3            24 June 1974            Conveyance in equity by Samuel Lyle Wallace as executor of Walter Wallace who died 10 December 1969 to John Walter Murray Wallace and Robert Wallace deceased's interest in Scheduled properties, including "5: ...", as for item 48 of the 1969 appointment below.

JWMW/4            11 November 1969            Deed of appointment between (1) Walter Wallace ("Appointor") and (2) Robert Wallace and John Walter Murray Wallace ("New Trustees") supplemental to conveyances particularised in the Schedule thereto of the lands described in the said Schedule by which the Appointor and the persons therein named became vested with the power of Trustees for sale of the said lands and after reciting the death of Robert Wallace on 9 October 1969 leaving the Appointor as the sole surviving trustee of the



- 5 -

said conveyances it was witnessed that the Appointor appointed to be trustees jointly with the Appointor of the said conveyances.

Note: in the same Schedule WW = Walter Wallace, RW = Robert Wallace; and Item 48 of it is "21.8.59 (date of conveyance): Personal Representative of C B Dean deceased (From): WW & RW (To): Bacons Farm, Bramfield, Herts. F. House, Cottages, Bldgs. & Land".

JWMW/5	22 February 1946	Deed of Trust made by Walter Wallace and Robert Wallace declaring the trusts applicable to lands they had purchased and intended to purchase with various agreements, powers and provisions.
JWMW/6	25 September 1947	Deed between Walter Wallace and Robert Wallace varying (among other deeds) the said 1946 deed (JWMW/5).
JWMW/7	12 November 1969	Conveyance by Robert Wallace, and John Walter Wallace (vendors) as executors of Robert Wallace to Walter Wallace (purchaser) pursuant to an option to purchase granted by Robert Wallace to the purchaser.
JWMW/8	29 September 1970	Equitable assignment by Robert Wallace and John Walter Murray Wallace at an estate duty valuation of the share of Robert Wallace in certain lands.

Note: does not include Bacons Farm.

Dated this 5<sup>th</sup> day of April — 1989.

*a. a. Baden Fuller*

Commons Commissioner