



COMMONS REGISTRATION ACT 1965

Reference No.16/D/8

In the Matter of North East Corner
of the Old Chalk Pit, Little Munden,
Hertfordshire.

DECISION

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No.C.L.172 in the Register of Common Land maintained by the Hertfordshire County Council and is occasioned by Objection No.11 made by Mr. H.S. Smith, and noted in the Register on 3rd July 1969.

I held a hearing for the purpose of inquiring into the dispute at Hertford on 16th January 1973. The hearing was attended by Mrs. A. Bolton, the Clerk of the Little Munden Parish Council which applied for the registration, and by Mr. R.E. Reed, solicitor, for Mr. Smith.

The land in question in this reference is situate at a place called Berry Butts and forms the north east corner of an area described on the Ordnance Survey map as "Old Chalk Pit". Evidence was given by Mr. Smith, who is aged 54 and has known the land all his life, that no one has taken any chalk during his time. However, the land consists of an open pit, now partly filled by the dumping of rubbish, and I have no doubt that it is the land referred to in a minute book of the manor of Little Munden, now deposited in the Hertfordshire County Record Office, as the subject of a presentment made on 15th July 1824 that "certain persons have encroached and dug chalk on certain parts of the waste of this Manor called Berry Butts whereby they have infringed on the rights of the Lord and copyholders of this Manor". It therefore appears that the land in question was waste land of the manor of Little Munden in 1824 and the reference to the rights of the copyholders of the manor indicates that they had rights of common on it.

On 1st May 1856 the Inclosure Commissioners for England and Wales issued a Provisional Order for the inclosure of Bennington Aston and Little Munden in pursuance of the Acts for the Inclosure, Exchange, and Improvement of Land, and authority for proceeding with the inclosure was given by the Second Annual Inclosure Act 1856. One of the Acts included in the collective short title was the Inclosure Act 1845: see section 34 of the Inclosure Act 1852. It is provided by section 12 of the Act of 1845 that no waste land of any manor on which the tenants of such manor have rights of common shall be inclosed without the previous authority of Parliament in each particular case. I was not furnished with either the Provisional Order or the Inclosure Award made under it, so I have no evidence that the enclosure of Berry Butts was authorised in the manner required by section 12 of the Act of 1845. I was, however, furnished with a certified copy of the relevant part of the map referred to in the Award, from which it appears that none of the land in question in this reference was allotted to anyone. From this I infer that it remained waste land of the manor.



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Evidence was given on behalf of the Parish Council by Mr. A.R. Livings, who has lived in the neighbourhood since 1926, and by Mr. Smith.

Although Mr. Livings and Mr. Smith were on opposite sides, their evidence did not differ in any material respects. While suitable parts of the land have been cultivated from time to time by two men named Art Phillips and Barney Wallis, it seems clear that no rights of common have been exercised during living memory, and I am prepared to infer that such rights have been abandoned by those formerly entitled to exercise them. But such abandonment does not affect the status of the land as waste land of the manor. In my view, there being no evidence that the ownership of this land has been severed from the lordship of the manor, it is still waste land of the manor, ^{and} not being subject to rights of common, it falls within para.(b) of the definition of "common land" in section 22(1) of the Act of 1965.

For these reasons I 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 25th day of January 1973

Chief Commons Commissioner