



COMMONS REGISTRATION ACT 1965

Reference No.20/U/7

In the Matter of Church Green, next to
St.Mary's and St.Michael's Church,
Urswick, North Lonsdale R.D., Lancashire.

DECISION

This reference relates to the question of the ownership of land known as Church Green, next to St.Mary's and St.Michael's Church, Urswick, North Lonsdale Rural District, being the land comprised in the Land Section of Register Unit No. V.G.10 in the Register of Town or Village Greens maintained by the Lancashire 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 but Mr.J. Melville, wrote to the Commons Commissioners saying that he is interested in local history, that in the Tithe List it would seem that the land known as Church Green is included in "Roads", and that this may have given the tenants the right to call the Green "Common Land". No other person claimed to have information as to the ownership of the land.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Preston on 20th June 1972.

The hearing was attended by the Parochial Church Council of Urswick who were represented by Dr. A. Ronald. On their behalf he gave evidence and claimed that the land was Church property.

The land is roughly triangular in shape, being bounded on the west by, and having a frontage of about 130 feet to, the road which runs south from Great Urswick (which is on the north), being bounded on the south east by the wall of the Church yard (the main gate to the Church is in the middle of this wall and there is a stile through the wall on the north east) and being bounded on the north east in part (for about 25 feet) by a wood gate and two short lengths of wall (the gate gives access to the track which leads to Great Urswick Tarn and there is a stile in one of the walls), and in the remaining part by a wall behind which stands the Church Room.

The greater part of the land is tar macadam providing a convenient car parking area for worshippers at the Church and users of the Church Room; the remaining and smaller part (at the north east) is grass, and on this part stands the War Memorial.

The macadam was put down by the County Council about 10 years ago at the request of the Parochial Church Council to help the parking of cars for Church purposes; before then the ground so macadamed had been muddy or dusty patches of grass; Dr. Ronald could not say who paid for the macadam.



The walls round the land were maintained from Church funds. The grass was cut by the vergier with a sickle, being too rough for a mower. Parishioners attending funerals assembled on the land before following the coffin into the Church.

Dr. Ronald who is the present Chairman of the Parish Council understood from his predecessor, Mr. Stable (I had a letter signed by him) that some old documents belonging to the Church had, within the memory of an old inhabitant, deteriorated and been disposed of. No tithe award or other document relating to the ownership of the land was produced to me.

The claim to Church ownership was based on:- (i) the appearance of the land being bounded (apart from the road and the 25 feet above mentioned) wholly by Church property and being very convenient for use of Church property and not significantly convenient for others (apart from such use as could be made of it as a village green); (ii) the name "Church Green"; and (iii) the local reputation that the land is and has always been Church property.

I conclude that this claim has been made out. In considering the weight to be attached to the evidence of Dr. Ronald, I can, I think, have regard to the circumstance that if I was not satisfied as to Church ownership, I should be obliged under the Act to direct the registration of the Parish Council as owner, that accordingly the only person concerned to dispute the claim of the Parochial Church Council that the land is Church property, is the Parish Council, that Dr. Ronald is the Chairman of the Parish Council, that members of the Parish Council (so he told me) consider this land to be Church property and that no one has appeared before me on behalf of the Parish Council to resist the claim put before me by Dr. Ronald on behalf of the Church. In my view I should not reject the claim merely because a tithe award has not been produced showing that the valuer concerned may have thought that this land was "roads"; he would not have been concerned to distinguish between Church land and roads because neither would have been tithable.

The Church has twelfth-century work in it, and I infer that it has been there from time immemorial. It would, I think, be inappropriate to presume a lost grant to the Parochial Church Council which cannot have been formed before the Parochial Church Councils Powers Measure 1921. I shall therefore presume that at some time not within living memory this land was granted to the Vicar an ecclesiastical corporation sole, to be held by him and his successors as part of the church-yard.

For these reasons I am satisfied that the Vicar is owner of the land and I shall accordingly, following the model entry in Schedule 2 of the Commons Registration (General) Regulations 1966, direct the Lancashire County Council as registration authority to register the incumbent for the time being of the benefice of St. Mary and St. Michael, Urswick, Lancashire, as the owner of the land.

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.

a. a. Baden Fuller.

Dated this 2nd day of August 1972

Commons Commissioner