



COMMONS REGISTRATION ACT 1965

Reference No 20/U/96

In the Matter of Greenhead Well,
Foulridge, Penole District,
Lancashire

DECISION

This reference relates to the question of the ownership of land known as Greenhead Well, Foulridge, Penole District being the land comprised in the Land Section of Register Unit No CL. 200 in the Register of Common Land 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 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 Preston on 11 May 1978. At the hearing Foulridge Parish Council were represented by Mr W Tinniswood their clerk.

Mr J Sutcliffe who is 64 years of age, has lived in the Parish for the last 39 years and is now and has been for the last 14 years a member of the Parish Council said (in effect):- The land known as Greenhead Well is a triangular piece with sides of about 15 yards, one of which is open to and on the southeast side of the Old Skipton Road (now a quiet country road). At the southeast corner of the land there is the well; there is an old stone trough, visible, but covered with stones to prevent vandalism by children. The cottage to the north now known as Moorlands Cottage (so called on the Register map) was called Greenhead Cottage; he (Mr Sutcliffe) lived there from 1940 to 1949 and worked on Cragg Farm nearby, from 1940 to 1947. During the 1939-45 war two loads of limestone for filling up holes in the road and repairing bomb damage were tipped on the land (removed by Burnley RDC after the war). The land is obviously an old village well, of which there are four in the Village; about 30 years ago, someone regularly took his horse there to drink, but it has not since been used for this purpose, although it might be an asset for horse riders. There was some discussion as to whether the Register map correctly showed the land described by Mr Sutcliffe as Greenhead Well; he thought the edged red land was part of Moorlands Cottage garden. Mr Tinniswood was doubtful as to this and Mrs Cunliffe, who was attending the hearing for Lancashire County Council as registration authority, produced the application pursuant to which the registration was made, and the edged green land agreed with that delineated on the application plan.

On the day after the hearing I inspected the land. Clearly I think the land edged green on the Register map is part of what is apparently garden land belonging to Moorlands Cottage, and is not the land described by Mr Sutcliffe as being that known as Greenhead Well.



The description in the Land Section is two fold: (1) "land known as Greenhead Well..." and (2) "as marked with a green verge line...on the Register map". These two descriptions cannot sensibly stand together, because they each describe different pieces of land, and in accordance with the rules of law conveniently summarised in the maxim: *falsa demonstratio non nocet*, I conclude that description (2) is incorrect and should be rejected in favour of description (1); accordingly I deal with this reference on the basis that it relates to the land described by Mr Sutcliffe, being the triangular area shown on the Register map (inset 1/2500) just south of that now on such map edged green and thereon marked "S" (meaning a spring).

As to such land, on the evidence summarised above, I am satisfied that it has always belonged to the Parish in the popular sense of that expression and therefore in accordance with the principles established in *Doe v Hiley* (1830) 10 B&C 885 and *Doe v Terry* (1835) 4 A&E 274 and accepted in *Haigh v West* (1893) 2 QB 19 became vested in the churchwardens and overseers; and is therefore now vested in the Parish Council as their successors.

For the above reasons I am satisfied that the Parish Council are the owners of the land and I shall accordingly direct the Lancashire County Council as registration authority to register Foulridge Parish Council as the owners of the land under section 8(2) of the Act of 1965.

I suggest for the consideration of the Lancashire County Council that in exercise of the power conferred on them by regulation 36 of The Commons Registration (General) Regulations 1966, they correct the Register map by delineating on it the land known as Greenhead Well as described by Mr Sutcliffe and inspected by myself. In my opinion such regulation is not limited to errors or omissions for which the County Council is responsible and any such correction would be within it.

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 26th day of June — 1978

a. a. Baden Fuller

Commons Commissioner