



In the Matter of West Street Village Green,  
Crowland, Lincolnshire (No.1)

DECISION

This dispute relates to the registration at Entry No. 1 in the Ownership section of Register Unit No.VG.14 in the Register of Town or Village Greens maintained by the former Holland County Council and is occasioned by the conflicting registration at Entry No. 2 in the same section of the Register Unit.

I held a hearing for the purpose of inquiring into the dispute at Spalding on 19 April 1978. The hearing was attended by Dr D G Teall, the applicant for the registration at Entry No. 1 and by Mr P G Hughes, of Counsel, on behalf of the Crowland Parish Council, the applicant for the registration at Entry No. 2.

The land comprised in the Register Unit is an island site in West Street, Crowland now entirely covered with grass with some trees in it, and it can fairly be described as a piece of waste land. Formerly there was a stream running along the middle of the land, but this was enclosed in a tunnel in the late 19th century. It appears from the minutes of the Parish Council that the Council paid for repairs to the tunnel in 1912 and 1916. However, it also appears from the minutes that when asked to send representatives to a meeting convened by the North Level First and Newborough Internal Drainage Commissioners to consider the condition of this and other tunnels in 1936 it was agreed that the representatives should adhere to certain points, the first of which was "that the tunnels do not belong to the Parish Council". During the last 33 years, and possibly earlier, the Parish Council has paid for mowing the grass and eight or nine years ago the Council caused certain grips on the land to be levelled and paid for the work. Mr Hughes argued that on this evidence I ought to hold that the Council had acquired a possessory title to the land.

Dr. Teall, who is Lord of the Manor of Crowland, contended that the land in question was manorial waste and so vested in him.

Dr Teall is the successor in title of his mother, the late Mrs A M Teall, who acquired the lordship of the manor by a conveyance made 27 October 1967 between (1) Irene Beaumont and Peter Carr Benham (2) Agnes Mary Teall.

The parcels of this conveyance were the manor or lordship of Crowland "together with all such rights, franchises, fisheries, members, and appurtenances thereto belonging and all commons, wastes, minerals and mineral substances as may still form part of the same". Dr Teall relied upon the word "wastes" in this document. It being stated in particulars of sale dated 1831 that the manor of Crowland was co-terminous with the parish of Crowland, Dr Teall argued that any waste land in the parish of Crowland is waste land of the manor.



In my view, this is over-simplifying the matter. In the first place, the word "wastes" in the 1967 conveyance is governed by the words "as may still form part of the same". Even more important, the parcels in that conveyance are made subject to an indenture made 5 January 1886 between (1) James Charles Herbert Welbore Ellis, Earl of Normanton (2) Horatio, Earl Nelson and Edward James Herbert, Earl of Powis (3) Horatio, Earl Nelson and Edward Hyde, Earl of Clarendon (4) Henry Edwards Paine and Richard Brettell. Mr Paine and Mr Brettell were Dr Teall's predecessors in title, so the 1967 conveyance could not pass more than they had.

The 1886 indenture conveyed to Mr Paine and Mr Brettell the manor or lordship of Crowland except "all rights over and interests in or in respect of any and every "part of the said Manor which is not now held by copy of Court Roll thereof". Any land which was then waste land of the manor was ex hypothesi not held by copy of court roll and was therefore excepted from the parcels of the indenture. This effected a severance of the waste land of the manor from the lordship, so that the ownership of such land did not pass under the 1967 conveyance.

For these reasons I refuse to 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 5<sup>th</sup> day of July 1978

CHIEF COMMONS COMMISSIONER