



COMMONS REGISTRATION ACT 1965

Reference No. 226/U/48

In the Matter of Devon Ox Green,  
Kilsby, Daventry District,  
Northamptonshire

---

DECISION

This reference relates to the question of the ownership of land known as Devon Ox Green, Kilsby, Daventry District being the land comprised in the Land Section of Register Unit No. VG 13 in the Register of Town or Village Greens maintained by the Northamptonshire 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 Mr W J Mason in a letter of 2 November 1978 gave some information (amplified at the hearing as set out below) about the land in question, and Kilsby Parish Council claimed in a letter of 7 November 1978 to be the freehold owners. No other person claimed to be the freehold owner of the land 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 Northampton on 6 February 1979. At the hearing Kilsby Parish Council were represented by Mr W H N N Williams solicitor of Woodford Robinson Williams & Co, Solicitors of Northampton.

Mr Williams referred me to my decision dated 12 August 1977 about this land in which I held against an objection and a conflicting registration that it was properly registered as a town or village green. I shall as he suggested consider the oral evidence given at this 1979 hearing by Mr J J Thomas and Mr W J Mason against the background of that given by them at the 1977 hearing and summarised in my said decision.

At the 1979 hearing, Mr Thomas in the course of his evidence produced the Parish Council Minute Book from 1921 to 1958. It shows: (1) that at a meeting on 3 January 1950 there was handed over 10/- given by PSD Supplies for the use of the Village Green for a crockery sale, and that the Council decided that a charge be made for the use of the Village Green pending further inquiries; and (2) that at a meeting on 27 September 1951 a letter was read from Mr Bracebridge Cleasby dated 7 July 1951 "handing over to the parishioners any control he may have had of these Village Greens" and that the Council decided that this offer be accepted.

Mr Thomas said (in effect):- The Fairs (mentioned in my 1977 decision) were known as "The Kilsby Mop"; the last one was about 10 years ago; he understood they used to be annual, but they began to fall by the way about 20 years ago. Those that came (the Showmen) always paid something to the Parish Council (the last charge so made was £3). The Parish Council have treated this land and also the other green (Malt Mill) as their responsibility (eg keeping the grass mown).



- 2 -

Mr Mason said (in effect):- Mr William Edward Bracebridge Cleasby (mentioned in the 1951 minute) lived in Kilsby until the 1920's; he was reputed to be Lord of the Manor, eg he lived in the Manor House. He (Mr Mason) had seen in the Rugby Borough Library a cutting from an old newspaper (reporting a christening) in which it was said that Mr Cleasby was Lord of the Manor of Kilsby through his grandmother a direct descendent of Leofric Earl of Coventry who centuries ago owned the Village. He (Mr Mason) was at one time a tenant of Mr Cleasby (he had other tenants in the Village), and he told him in 1950 that he intended to give up the title of the Lord of the Manor, and the controls that went with it as he thought it old fashioned and outdated. When Mr Cleasby lived in the Village, any one who wanted to use the Green went to him, and was charged a nominal fee which he (Mr Cleasby) gave to the Church. Since the 1951 letter, the Parish Council had always exercised control.

On this reference I am concerned with the ownership of the legal estate in fee simple in the land, see section 22 of the 1965 Act. The 1951 letter mentioned in the Minute Book was not enough to transfer any such estate as Mr Cleasby then had to the Parish Council. But on the evidence summarised in my said 1977 decision and above, I conclude that the Parish Council have been in possession since 1951, adverse to Mr Cleasby (as he intended then to be), so that any outstanding estate he had has since been extinguished by the Limitation Act 1939. It is now practically certain that the possession of the Parish Council will not be disturbed; possession in such circumstances is equivalent to ownership. I am therefore satisfied that the Parish Council are the owners of the land, and I shall accordingly direct the Northamptonshire County Council, as registration authority, to register Kilsby Parish Council as the owner of the land under section 6(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.

Dated this 27<sup>th</sup> —

day of February 1979

*A. A. Baden Fuller*

Commons Commissioner