



COMMONS REGISTRATION ACT 1965

In the Matter of Common Land,
Great Haseley, Oxfordshire

DECISION

This reference relates to the question of the ownership of land known as Common Land, Great Haseley, being the land comprised in the Land Section of Register Unit No. CL 127 in the Register of Common Land maintained by the former Oxfordshire 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 the Great Haseley Parish Council and Sir Philip and Lady Hendy claimed to be the freehold owners of the land in question and no other 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 Oxford on 26 November 1976.

At the hearing the Great Haseley Parish Council was represented by Mr M H Cardiff, one of its members. There was no appearance by or on behalf of Sir Philip and Lady Hendy, but their solicitor sent to the Clerk of the Commons Commissioners statutory declarations made by Mr Henry Thomas Stockwell and Mr Robert Hayward. Mr Cardiff did not object to these statutory declarations being received in evidence.

At all material times before 1952 or 1953 the whole of the village of Great Haseley was in one ownership. Comprised in the estate was a property known as Whistler's Barn, to the west of which was a row of cottages. To the north of Whistler's Barn and the cottages was a grassy area, which is the land comprised in the Register Unit, and to the north of the grassy area was a road known as Back Way. At the beginning of the present century Whistler's Barn was let with Church Farm to a tenant farmer named Fuller, who used the grassy area for stacking corn, some of the stacks being built on staddlestones with wooden faggots and timber. Mr Fuller was succeeded by a Mr Hawken at some time before the 1914-1918 War. Mr Hawken stored harvested barley in Whistler's Barn. When the barley was threshed, the threshing box was positioned partly in and partly out of the barn, and the straw produced was immediately stacked on the grassy area. Mr Fuller and then Mr Hawken were the only persons who are known to have made use of the grassy area.

In 1952 or 1953 the Great Haseley Estate was broken up. Church Farm was then purchased by the sitting tenant, Mr Hawken. Mr Hawken died shortly afterwards and on 30 September 1953 his executors sold Church Farm to Mr Hayward's father. Mr Hayward farmed Church Farm at first with his father and then alone. Mr Hayward made use of the grassy area for parking tractors and other implements. He dumped soil on it and generally treated it as if it were part of the farm, although it was not fenced off from Back Way.



In 1967 Mr Hayward decided to sell Whistler's Barn to a Mr Jackson. Mr Hayward's solicitor pointed out to him that it was not clear from the plans on the title deeds that he had any title to the grassy area, so he decided not to offer to sell it with the Barn. After selling the Barn to Mr Jackson Mr Hayward did not use the grassy area because it was isolated from the remainder of Church Farm and he had no use for it. In 1968 Mr Jackson sold Whistler's Barn to Sir Philip and Lady Hendy.

The solicitors acting for Sir Philip and Lady Hendy accept that their clients have no title to the grassy area, but submitted in a letter to the Clerk of the Commons Commissioners, dated 25 November 1976, that Mr Hayward had acquired a title to it by adverse possession. They said that they had approached Mr Hayward through his solicitors to ask him if he would be prepared to convey to their clients such title as he has to the land. Mr Hayward's solicitors had heard nothing from him by 25 November, but the solicitors acting for Sir Philip and Lady Hendy asked that I should direct the registration of Mr Hayward as the owner of the land.

I should require the clearest possible evidence before I would direct that a person who had not appeared or been represented before me should be registered as the owner of land. In this case the evidence is by no means clear. While there is some evidence of what might be regarded as adverse possession by Mr Hayward and his father, I cannot shut my eyes to the fact ^{that} in 1967, when the evidence as to this was fresher than it is now, he decided after consulting his solicitor not to offer to sell the grassy area to Mr Jackson and that he has not thought fit to make any claim in these proceedings.

In these circumstances I am not satisfied that any person is the owner of the land, and it will therefore remain subject to protection under section 9 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 31st day of December 1976

Chief Commons Commissioner.