



COMMONS REGISTRATION ACT 1965

Reference No.31/U/9

In the Matter of Squires Hill Turbary.Clun, Salop.DECISION

This reference relates to the question of the ownership of land known as Squires Hill Turbary, Clun, being the land comprised in the Land Section of Register Unit No.CL.36 in the Register of Common Land maintained by the former Salop 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 Clun Parish Council and Messrs.R.Williams, C.H.Rogers-Coltman, and G.D.Shrubsall 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 Shrewsbury on 11th and 13th June 1974.

At the hearing the Parish Council was represented by Mr.T.Beardsley, a member of the Council, and Mr.D.Salt, solicitor, appeared on behalf of the other claimants.

By the Inclosure Award, dated 18th September 1854, made under the Spoad Inclosure Act of 1845 (8 & 9 Vict.,c.8(private)) certain land was allotted to the second Earl of Powis to be used as a turbary for the use of the inhabitants of the township of Hobendred. The southern half of this allotment comprises the land the subject of this reference.

The Parish Council founds its claim upon a conveyance made 13th February 1973 between (1) George William Herbert and David Mark Herbert (2) the Parish Council. The assignors were the personal representatives of the surviving trustee of the Powis Settled Estates and the Schedule to the conveyance sets out the devolution of the title from the second Earl of Powis to the assignors.

Against this Mr.Salt produced deeds purporting to show that the land in question was vested in his clients as trustees of the settled land of David Alan Coltman Rogers, who died 21st December 1957. The earliest of these deeds was an indenture made 27th September 1901 between (1) William Gartside, Charles Hodgetts Hodgson and Fanny Elizabeth Craig (2) Thomas Herbert Williams (3) Charles Coltman Rogers. The recitals in this indenture do not go back beyond an indenture dated 30th September 1890, when Mr.T.H.Williams was said to be seised of the fee simple in the land. Mr.Salt informed me that a search had failed to disclose any document from the period between 1854 and 1900.

By a lease dated 5th May 1958 the trustees let the land in question with other land to Mr.Guy Coltman Rogers for a term of 50 years at the annual rent of £43, which rent has been duly received by the trustees. The land now forms



-2-

part of a conifer plantation about 14 years old and is the subject of a forestry dedication covenant under the Forestry Act 1947 made 3rd March 1961 and a supplemental deed dated 23rd April 1964.

Faced with these conflicting paper titles, I have come to the conclusion that the matter can only be resolved by reference to the events following the lease of 1958. The trustees have been in possession of the rents and profits of this land without challenge from anyone from that time. This is sufficient to give them a good possessory title. On the other hand, there was no evidence that Mr.G.W.Herbert and Mr.D.M.Herbert or their predecessors in title had ever been in possession of this land in living memory.

For these reasons I am satisfied that the trustees are the owners of the land, and I shall accordingly direct the Salop County Council, as registration authority, to register them as the owners of the land under section 8(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 28th day of June 1974

A handwritten signature in cursive script, appearing to read 'G.P. Lakin', with a horizontal line underneath.

Chief Commons Commissioner