



COMMONS REGISTRATION ACT 1965

Reference No. 231/U/26

In the Matter of Temes Green,
Ashford Carbonell, South Shropshire
District, Shropshire

SECOND DECISION

This reference relates to the question of the ownership of land known as Temes Green, Ashford Carbonell, South Shropshire District being the land comprised in the Land Section of Register Unit No. CL 76 in the Register of Common Land maintained by the Shropshire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

This second decision is supplemental to a decision dated 21 April 1980 and made by Mr Morris Smith Commons Commissioner after a hearing at Ludlow on 23 January 1979 and a hearing at Shrewsbury on 27 March 1980. Following upon public notice of this reference and before such hearings Mr T C Froggatt claimed to be the owner of the northern section of the land ("the Unit Land") in this Register Unit up to the middle of the River. The Commons Commissioner in his said decision said he was satisfied that the executors of Mr Claude Owen were the owners of the southern section up to the middle of the river, and later directed County Council to register Mrs Hilda Knowles Saxby and Mr Henry Clayton as owners of the part lying between the middle of the River Temes and the River Bed on the south side.

In a letter dated 13 October 1981 Norris & Miles, Solicitors of Tenbury, on behalf of Mr H G Froggatt applied for the hearing to be reopened, saying that he claimed ownership as successor in title of Mr T C Froggatt who died 25 February 1980. Mr Morris Smith Commons Commissioner granted this application limiting the reopening to the northern section of the Unit Land.

I held the reopened hearing at Shrewsbury on 24 February 1982. Mr H C Froggatt attended in person.

In the course of his oral evidence Mr Froggatt produced the documents listed in the Schedule hereto. Mr T C Froggatt was his father. He understood that the northern section of the Unit Land had been registered by mistake, although he thought the southern section being a gravel bed (unlike the northern section) could be used and was used ~~as~~ living locally, particularly by children.

That the registration of the northern section was a mistake is confirmed by a letter dated 29 August 1974 by the Clerk to Ashford Carbonell Parish Council who were the applicants for the registration. But there being no objection to the registration it has become final and I have no jurisdiction in these or any other proceedings to correct it.

From the plan on the 1965 conveyance it is clear that the northern section of the Unit Land was included in the land thereby conveyed. The 1980 assent ~~was~~ by *made* reference to this conveyance also clearly included it. The acreage given in the 1901 conveyance consistent with one half of ~~the~~ the adjoining river bed



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being treated as included ~~from~~ the lands thereby conveyed. Mr Froggatt said that both he and his father fished in the bed of the river on their side. On these considerations I am satisfied that Mr H G Froggatt is the owner of the land, and I shall accordingly direct the Shropshire County Council, as registration authority, to register Mr Herbert George Froggatt of Featherknowl, Ashford Bowdler, near Ludlow as the owner of the land under section 8(2) of the Act of 1965, *meaning the part of the Unit Land lying between the middle of the bed of the River Teme and the River bank on the north side.*

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.

SCHEDULE

HCF/1	29 September 1965	Conveyance by Mr W F D Hall to Mr T C Froggatt of the small holding Bridge House (formerly Bridge Cottage) containing about 9.057 acres as specified in First Schedule and edged red on the plan.
HCF/2	12 June 1965	Agreement for sale proceeding said conveyance.
HCF/3	24 July 1980	Probate of the will of Mr T C Froggatt (he died 25 February 1980) granted to T W Froggatt, H G Froggatt and J F Higgins.
HCF/4	1 December 1980	Assent by the said personal representatives in favour of Mr H G Froggatt of Bridge House as described in the said 1965 conveyance.
HCF/5	1965	Abstract of the title of Mr W ff D Hall commencing with an examined copy of a conveyance dated 24 September 1910 by Mrs M A Hall to her nephew Mr W D Hall of various lands (including Bridge Cottage containing 9a.1r.9p.) and including <i>including</i> continuing with probate dated 16 November 1927, the will of W D Hall (he died 23 September 1927) and an assent dated 11 September 1939 by his personal representatives in favour of Mr W ff D Hall..

Dated this 15th — day of March — 1982

a. a. Boden Fuller

Commons Commissioner