



COMMONS REGISTRATION ACT 1965

Reference Nos. 233/U/25
233/U/26

In the Matter of (1) Stockwell Heath Pool and
(2) land on the east bank of Moreton Brook, both
in Colton, Litchfield District, Staffordshire

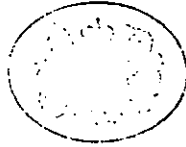
DECISION

These references relate to the question of the ownership of lands (1) known as Stockwell Heath Pool, and (2) bounded to the west by Moreton Brook (length about 26 yards from the High Street road bridge), to the north by High Street (length about 20 yards), to the south by walls of Church outbuildings and to the east by the entry road to the Church, both in Colton, Litchfield District being the lands comprised in the Land Section of Register Unit (1) No. CL. 73 and (2) No. CL. 74 respectively in the Register of Common Land maintained by the Staffordshire 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 these references no person claimed to be the freehold owner of the lands in question and no person claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Stafford on 11 February 1976. At the hearing Colton Parish Council were represented by Mrs I R Brown their clerk and Mr J C Price one of their members.

Mrs Brown who has been clerk of the Parish Council for the last 5 years, on their behalf claimed ownership of the CL. 73 Land (the Pool) because they had over a number of years cared for and protected this area against encroachment and pollution and had been the centre of discussion and encouragement of voluntary effort for care of the pool and its immediate area. In the course of her evidence she produced:- (1) Colton Parish Council Minute Book 1958-1967 which showed that on 22 March 1967 it had been recommended that the Pool be cleared and that on 25 August 1967 it was agreed that Mr Norman and Mr Goodall be thanked for doing this; (2) Colton Parish Council Minute Book 1967-1973, and (3) their Minute Book from 1973 to date both of which contained numerous references to the Pool; (4) letters from December 1972 to May 1974 between the Parish Council and the County and District Councils about the Pool; (5) letters from July 1973 to June 1974 between the Parish Council and the County Council and Mr Carroll or his solicitors as to the boundary of the CL. 73 land; (6) letters in 1975 between the Parish Council and Save The Village Pond Campaign. Mrs Brown said (in effect):- Stockwell Heath is a small hamlet a short distance from the built up area of Colton. The correspondence produced showed that the County Council do not claim ownership as highway authority; a claim of ownership made in 1969 by two persons of Longdon Green had on objection made by the Parish Council, been cancelled. Recently following the discussions recorded in the Minute Books produced, the Pool had been cleaned out by local residents.



Mrs Brown on behalf of the Parish Council also claimed ownership of the CL. 74 Land (the Moreton Brook Land) because they had over a number of years made payments for maintenance and care of this land, had organized voluntary labour for the same, and are looked upon by villagers as general guardians of this area. She relied not only on the Minute Books above mentioned which recorded payments on 21 March 1961 (£1-10-0), on 1 December 1966 (£1-5-0) and 10 October 1967 (£1-5-0) for mowing the "footpath leading from bridge along brook"/"Brook Side"/"Brook Bridge"; and that on 27 July 1972 Mr Price had offered "to cut the grass and nettles down on common land by Moreton Brook". Mrs Brown also produced some letters in 1974 between the Parish Council and Severn-Trent Water Authority and the County Council as to the improvements of the Brook and a planning permission on 1 January 1965 by the County Council upon an application dated 7 July 1964 by Mr J Price for a new access. She said (in effect):- A contribution of £75 offered by the County Council towards the improvement of this land, had only been refused because the remaining money £325 had not been available owing to the economic climate and pending large expenditure on burial ground.

Mr Price who was born in 1911, has been a resident in the Village for 27 years, and a Parish Councillor for the last 15 years, said (in effect):- He owned the Belamour Estate which adjoins the CL. 74 land (the Brook Land); such land had always been known as Parish Property. It is an attractive area usable for watering cattle. He had on behalf of the Parish Council for the last 10 years on a voluntary basis cut the nettles.

Two days after the hearing, I inspected the land. The CL. 73 land (the Pool) is an attractive area at a road junction; it is apparently well kept (there is a small island in the middle), and it is obviously a valuable amenity for those living nearby and for others; I conclude from the evidence of Mrs Brown and its appearance that the Parish Council are in possession and that it is practically certain that such possession will not be disturbed; possession in such circumstances is equivalent to ownership. The CL. 74 land (the Brook Land) appears to be public land by the side of the Brook, just south of the Bridge; I conclude from it always having been reputed to be Parish Property as it now appears to be, that it is by operation of law vested in the Parish Council.

For these reasons I am satisfied that the Parish Council are the owners of the lands, and I shall accordingly direct Staffordshire County Council as registration authority to register Colton Parish Council as the owners of the lands 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 19th day of March — 1976

a. a. Braden Fuller