



COMMONS REGISTRATION ACT 1965

Reference No. 239/D/3

In the Matter of The Pound Piece and Greens,  
Pillerton Hersey, Warwickshire

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. VG.83 in the Register of Town or Village Greens maintained by the Warwickshire County Council and is occasioned by Objection No. 29 made by Miss Rhoebe Mills and noted in the Register on 21 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Stratford-upon-Avon on 1 November 1978. The hearing was attended by Mr T Cox, Solicitor, on behalf of the Stratford-on-Avon District Council and Mr T L Findon, a member of the Pillerton Hersey Parish Council.

Mr Cox and Mr Findon informed me that their respective authorities did not wish to support the registration in so far as it related to the land known as the Pound Piece and that the present owners of the remainder of the land comprised in the Register Unit did not wish to pursue the Objection.

In these circumstances I confirm the registration with the following modification, namely, the exclusion of the land known as the Pound Piece.

The Objector died on 19 August 1971 and on 17 September 1971 probate of her will was granted to Sir William Anthony Lewthwaite, Bt and Mr J R Brabazon. By a letter dated 26 October 1978 addressed to the Clerk of the Commons Commissioners Sir William Lewthwaite applied for any costs which he might be entitled to recover from the Registration Authority. The Registration Authority is the County Council, and I can see no ground for making an order for costs against that council, which appears to have carried out its statutory duties impeccably. It may be, however, that Sir William was intending to refer to the authority which applied for the registration. This was the former Shipston-on-Stour Rural District Council.

Mr Findon informed me that the Rural District Council applied for the registration at the request of some residents in the village of Pillerton Hersey who believed they had a right of access to the land known as the Pound Piece to use it as a car park. Whatever may have been the basis for that belief, it clearly did not bring the land within the definition of "town or village green" in section 22(1) of the Commons Registration Act 1965. However, ill-founded though the application may have been, there is no reason to think that it was not made in good faith.

The registration having been made in 1968 and the objection in 1970, there appears to have been a lack of activity by all the parties concerned in the matter until the autumn of 1977, when the Objector's Personal Representatives were proposing to sell the land known as the Greens. At this stage the dispute was brought to the notice of the Warwickshire County Secretary, who on 22 November 1977 wrote a letter to the Chairman of the Parish Council and sent copies of it to Mr Findon, the District Council and Sir William Lewthwaite.





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In his letter the County Secretary drew attention to the definition of "town or village green" in the Act of 1965, expressed doubt whether the Pound Piece fell within it, pointed out that costs have from time to time been awarded against unsuccessful parties, and explained that it was open to the parties to make an application for a decision by consent.

It appears that a Parish Meeting was held on 28 November 1977. I have no report of what took place at that meeting, but nothing was done by the Parish Council until 20 October 1978, when the Chairman wrote to Mr Cox. In his letter the Chairman stated that, since the Parish Council was satisfied that alternative land had been made available for car parking, it would have no objection to the District Council (as successor to the former Rural District Council) "withdrawing" the application for registration in respect of the Pound Piece.

On 27 October 1978 Mr Cox wrote to Sir William Lewthwaite and informed him of the Parish Council's decision.

It is apparent from the Parish Council's letter of 20 October 1978 that even at that late stage the Council had never applied its collective mind to the real issue in the dispute to which its attention had been called by the County Secretary in his letter of 22 November 1977. Had the Parish Council taken proper advice in addition to holding the Parish Meeting on 28 November 1977, it would (or at any rate should) have decided not to support the registration any longer and initiated negotiations for the preparation of an application for a decision by consent to refuse to confirm it. Since this was really a parish matter, the District Council was, in my opinion, justified in taking no action until the Parish Council decided whether or not to continue to support the registration.

In my view, the Parish Council must pay the costs incurred by the Personal Representatives of the Objector since 28 November 1977, such costs to be taxed on County Court Scale 2, if not agreed.

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 10th day of November 1978

  
CHIEF COMMONS COMMISSIONER