



COMMONS REGISTRATION ACT 1965

Reference No. 41/U/49

In the Matter of Calcutt Forty and Little Forty,
Cricklade, Wiltshire.

DECISION

This reference relates to the question of the ownership of land known as Calcutt Forty and Little Forty, Cricklade, being the land comprised in the Land Section of Register Unit No. CL 57 in the Register of Common Land maintained by the former Wiltshire 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 Mr F. Freeth claimed to be the freehold owner 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 Trowbridge on 25th June 1976.

Mr Freeth appeared in person at the hearing. He said that if he were to be registered as the owner of the land in question he would convey it to the Cricklade Town Council. While appreciating Mr Freeth's public spirit, I cannot have regard to his intentions in considering the only matter over which I have jurisdiction, namely the present ownership of the land. Mr Freeth was appointed hayward for the manors of Great and Little Chelworth 40 years ago and has throughout that time carried out his duties as hayward. He bases his claim to ownership on having farmed the land for 40 years and having thereby acquired a possessory title. It is, to say the least, somewhat surprising to find a manorial officer claiming to have ousted the possession of the lord of the manor, but it is not necessary to go into the possibility of that in law in this case, since the answer to Mr Freeth's claim is to be found in the Register itself. Entry No. 4 in the Rights section of the Register Unit is the unlimited right of pasture for 40 cattle and 6 horses over the whole of the land comprised in the Register Unit registered on the application of Mr Freeth in his capacity as owner of Kingshill Farm, Cricklade. This registration, being undisputed, became final on 1st August 1972 and is therefore by virtue of section 10 of the Act of 1965 conclusive evidence that Mr Freeth is entitled to the right of common registered on his application. Since the very basis of a right of common is that it is a right exercisable over the land of some other person, this, in my view, precludes the possibility that Mr Freeth could have acquired a title to the freehold of the land over which his right is exercisable. Had he acquired such a title, his right of common would have been extinguished.

A part of the land in question is the subject of the Hungerford-Hereford Trunk Road (Cricklade By-Pass) (Supplementary) Compulsory Purchase Order (No. SW5) 1974. Although notices to treat and enter have been served in accordance with the provisions of paragraph 4 of Part V of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act 1946 because it was not practicable to ascertain the name or address of the owner, there was no evidence before me that the



compulsory purchase procedure had been completed.

On this evidence 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 26th day of July 1976.

A handwritten signature in cursive script, appearing to read "J. L. Smith".

Chief Commons Commissioner