

COMMONS REGISTRATION ACT 1965

Reference Nos. 13/U/190
13/U/191
13/U/192

In the Matter of (1) a strip of land on the Itchington Road,
(2) Itchington Platt and (3) Common Alm, all in Tytherington,
North Avon District, Avon

DECISION

These references relate to the question of the ownership of lands (1) being a strip O.S. parcel No. 295 on the west side of the Itchington Road and containing about 0.56 of an acre, (2) being another strip further south on the same side of the road known as Itchington Platt and containing about 0.475 of an acre, and (3) being a piece O.S. parcel No. 435 known as Common Alm and containing about 1.181 acres, all in Tytherington, North Avon District, being the lands comprised in the Land Section of Register Unit (1) No. CL. 399, (2) No. CL. 400, and (3) No. CL. 401 respectively in the Register of Common Land maintained by the Avon County Council (formerly Gloucestershire 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 Mr J H F Pullin through his solicitors, claimed ownership of Common Alm (the CL. 401 Land), saying that this piece of land had been occupied and worked by him personally for over 50 years and by his father before him. No other person claimed to be the freehold owner of any of the lands in question and no other 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 lands at Bristol on 10 March 1976. At the hearing Tytherington Parish Council were represented by Mr W T Humphries their clerk.

Mr Humphries who has been clerk of the Parish Council for the last 29 years and has lived in the Village all his life (he was born there in 1925) said (in effect):-

The CL. 399 Land is a grass strip by the side of the Itchington Road; this is a tarmacaded road being the road usually taken when going from the Village to Bristol. The land is now partly used (perhaps irregularly) as a lay by.

The CL. 400 Land was, or may have been comprised in a deed of declaration made in the 1930's by Mr Hardwicke Lloyd Hardwicke under section 193 of the Law of Property Act 1925; on the CL. 400 Land, there is a notice in accordance with the Act (the wording of the notice is: "LAW OF PROPERTY ACT 1925 : section 193 : NO CAMPING allowed on this common : Penalty 40/-"). He produced a copy of a deed of declaration dated 24 February 1932 and made by Mr R L Hardwicke under the section, but was unable to identify the CL. 400 Land with any of the pieces of land described in the Schedule to this deed. Mr Hardwicke who died in about



1935, was the local squire (Lord of the Manor of Tytherington). About 10 years ago, the County Council put up a shed (still there) on the CL. 400 Land, and uses it for highway purposes. No claim to the CL. 400 Land has been made by any successor of Mr H L Hardwicke, although his widow, until her recent death, was much interested in the Village (she gave a recreation ground to the Village); he knew of no successor to the Hardwicke Estate. Apart from keeping up the Notice, the Parish Council had done nothing to the CL. 400 Land.

The CL. 401 Land is grass land with some scrub and oak standing. It is fenced in. Mr Pullin (on whose behalf the above quoted letter was written) is the present chairman of the Parish Council; he invited the Parish Council to go and cut the wood on the CL. 401 Land for old people in need, and on one occasion asked the permission of the Parish Council to cut down a tree. The land is reputed to be common land, it being said locally that in certain circumstances gypsies were entitled to use it.

In my opinion the evidence above summarised falls short of establishing that the Parish Council or anyone else is the owner of any of these lands. For these reasons I am not satisfied that any person is the owner of the lands and they will therefore be 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 16th day of March _____ 1976

A. A. Borden Fuller

Commons Commissioner