



COMMONS REGISTRATION ACT 1965

Reference No. 1/U/50

In the Matter of Land adjacent to Great Barford Bridge,  
Great Barford, Bedfordshire.

DECISION

This reference relates to the question of the ownership of land adjacent to Great Barford Bridge, Great Barford, being the land comprised in the Land Section of Register Unit No.V.G.27 in the Register of Town or Village Greens maintained by the Bedfordshire 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 Messrs. Arnold Brothers claimed to be the freehold owners 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 Bedford on 12th February 1974.

At the hearing Mr. G.C. Stephenson, of counsel, appeared for Mr. Frank James Arnold and Mr. George Hassell Arnold, and the Great Barford Parish Council was represented by Mr. D.K. Cassels, a former member and Chairman.

The land in question is bounded on its south-eastern side by the River Great Ouse and its north-western boundary is the south-eastern side of a footpath. The land in question was formerly part of the bed of the river. The land on which the footpath is situate then adjoined the river. It was supported by a brick wall and is said to have been used as a wharf. In 1947 the Great Ouse River Board dredged the centre of the river and put the dredgings against the wall. The effect of this work was to raise the level of the land in question, so that it no longer forms part of the bed of the river, though its level is still about 2 feet below the top of the wall and it is frequently flooded. No use is made of it and it grows nothing but a crop of nettles.

Mr. F.J. Arnold and his brother claim that before 1947 they were the owners of a section of the former wharf and that as riparian owners they were entitled to half the bed of the river, including so much of the land raised by the work done in 1947 as adjoins their section of the former wharf.

Although no arrangements had been made for the production of their title deeds at the hearing, Mr. Cassels accepted that Mr. F.J. Arnold and his brother are the owners of a piece of land adjoining the north-western side of the footpath, and it was admitted that the plan referred to in a conveyance to their predecessor in title in 1919 did not include the site of the footpath. Mr. Stephenson, however, contended that the non-inclusion of the site of the footpath on the plan was an error.

In support of this contention Mr. Stephenson relied first upon the particulars of sale of the property in 1919. The land now owned by



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Mr. F.J. Arnold and his brother formed part of one lot with the adjoining land to the north-east now owned by Mr. Cassels. The particulars of this lot (No.2) have appended to them a note: "This Lot is admirably adapted for a Wharf or other business purposes, having a Right-of-way to the Haling Way which has an extensive River frontage". It appears from the Great Barford Inclosure Award made in 1824 and the map referred to in it that the haling way terminated some way to the north-east of Lot 2 and that the present footpath leads to it. The right of way referred to in the note would be over the land lying between Lot 2 and the haling way. Unfortunately there is no plan with the particulars of sale, so that there is no positive evidence that Lot 2 included the footpath along what was then the edge of the river.

Further light is thrown on the history of the matter by the recollections of Mr. Arthur Geary, whose memory goes back to 1890, and of Mrs. Mabel Robertson, whose father purchased Lot 2 in 1919 and who lived on the property for 48 years until 1970. Mr. Geary remembers that from about 1890 until 1904 boats used the wharf to load and unload market garden produce and timber, which was taken into the property on the north-west side through gates situated in the boundary. Mrs. Robertson says that these gates were there during the whole of her memory.

It seems clear that the owners of the property behind the footpath (or wharf) have had uninterrupted access to it through the gates. This, however, is as consistent with some form of easement as with ownership. Mr. Geary says in his declaration that the owners of the land behind the wharf exercised "rights over the footpath and river-bed appurtenant to ownership". Mrs. Robertson also says that she exercised rights over the wharf "appurtenant to ownership". I do not feel satisfied on this evidence, which begs the question, that any use made of the wharf was as owner of the soil of the wharf rather than as owner of a dominant tenement. On the contrary, it seems to me that Mr. Geary is right when he describes the gates as being "situated on the boundary" of the land adjoining the wharf. I cannot accept as valid the suggestion that there was an error in failing to include the wharf in the conveyance of Lot 2. I find that the land between the gates and the river did not form part of Lot 2 and that the purchaser of Lot 2 acquired no more than an easement over the wharf. It therefore follows that he did not become a riparian owner entitled to half the bed of the river.

For these reasons I am not satisfied that any person is the owner of any of the land, and I shall accordingly direct the Bedfordshire County Council, as registration authority, to register the Great Barford Parish Council as the owner of the whole of the land under section 8(3) 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 5<sup>th</sup> day of March 1974

  
Chief Commons Commissioner