



In the Matter of Lower Kingsmead, Loudwater
Chepping Wycombe, Wycombe District

DECISION

These disputes relate to the registration at Entry No.1 in the Land Section and the registration at Entry No.1 in the Rights Section of Register Unit No.CL.76 in the Register of Common Land maintained by the Buckinghamshire County Council and are occasioned by Objection No.51 made by Carlson Ford Ltd and noted in the Register on 21 October 1970 and Objection No.60 made by G.H. Hedley Limited and noted in the Register on 21 October 1970.

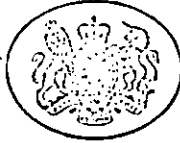
I held a hearing for the purpose of inquiring into the dispute at Aylesbury on 14 October 1975 and an adjourned hearing in London on 24 February 1976.

At the hearing at Aylesbury Miss Cameron, counsel instructed by Messrs Riders appeared for Messrs Danny as successors to G.A. Hedley Ltd., Mr. Hughes of Messrs Reynolds Parry-Jones and Crawford for Mr. Phillips the applicant for rights, Mr.J. Clarke of Messrs Clarke and Son for Argyle Securities Ltd., the successor to Carlson Ford Ltd and as to part of the land the successor to G.H.Hedley Ltd and Mr H.J.Crick appeared on behalf of the Chepping Wycombe Parish Council.

In the course of the hearing at Aylesbury the applicant for rights withdrew his application and his application being the only Entry in the Rights Section and the land clearly not being waste of a manor it became clear that in the light of the decision, Goff.J in Central Electricity Generating Board v Clwyd County Council E.G. Vol 235 p 299 I could not confirm any of the registrations. This development took Mr.Crick by surprise and he requested an adjournment.

At the adjourned hearing Miss Cameron appeared for both objectors. Mr.Crick produced a bundle of correspondence and extracts from the minutes of the Parish Council which related to an exchange for land at Kingsmead subject to common rights for other land not prior to the exchange subject to common rights and to other activities for the benefit of the inhabitants and the commoners. Mr.Crick produced copies of the two Orders of Exchange each dated 1st November 1923 from which it appeared that at that date the land in question was subject to commonable rights vested in individuals.

In 1966 the Ministry of Transport went on to the site and adjoining land for the purpose of the construction of the M 40 Motorway. Some evidence was given to me that the land in question had been grazed until the happening of this event. Miss Cameron told me that had it been necessary for her so to do she would have submitted that in 1966 the land ceased to be common land because it then became impossible to exercise the grazing rights. In the event which has happened I am not called upon to decide whether this was so or not. One possible explanation for only Mr.Phillips having registered grazing rights (a registration which he withdrew) is that they were no longer capable of being exercised. The Parish Council registered the land as Common Land in June 1968 after the construction of the Motorway had commenced, thus continuing to do everything possible to protect their parishioners including the commoners.



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However since no commoner now claims grazing rights I cannot confirm the Registrations in the Land Section and the Rights Section.

For these reasons I refuse to confirm the registrations.

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 9th day of March

1976

C. A. Settle

Commons Commissioner