



In the Matter of Mud Wharf,  
by Clisby's Bridge, Iver, Bucks

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DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL 227 in the Register of Common Land maintained by the Bucks 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 Iver Parish Council claimed ownership of the land in question ("the Register Unit") and Bucks County Council claimed ownership of part of the Register Unit. 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 Aylesbury on 22 February 1979.

The hearing was attended by Mr D E Barlow, the chairman of Iver Countryside Association, who was authorised by the Parish Council ("the Parish") to represent them, and by Mr R E Earl, Solicitor to the County Council ("the County").

The Register Unit is a mud wharf, about .42 of an acre, at the edge of the River Colne. It consists of two sections, one ("the north section") to the north, and the other ("the south section") to the south, of the road which passes over Clisby's Bridge. The Parish claims ownership of both sections, the County ownership of the south section.

By an Award made in 1804 both sections were allotted "for the use of the Inhabitants of the Parish of Iver for the purpose of watering cattle and of throwing mud out of the River Colne." The Award did not contain words expressly granting an estate in the Register Unit to any person so as to create ownership.

The Parish Rating Book showed that in 1844 Iver Parish was described as "proprietors" of the Register Unit, and the Parish Minute Book shows that from 1932 onwards the Parish was paid a nominal rent by a tenant. Earlier than this there was an Agreement entered into in 1918 with a Miss Turner under which a rent was payable to the Parish. Mr Barlow stated (and I accept) that in January 1939, when the County took over the land, the Parish stopped taking rent, but resumed in September 1978.

In the County's evidence there was produced a conveyance dated 13 October 1937 whereby Miss J. S. Turner and Miss D H Kitson ("the Vendors") conveyed to the County at a price of £23,326 Huntsmoor Park Mansion House and Huntsmoor Farm coloured pink and blue on the plan on the conveyance, together with the part of the bed of the River Colne coloured green on the plan - the green part being on the Iver (and Huntsmoor Park) side of the river. It is clear from the plan that the south section of the Register Unit was included in the property conveyed. The land



comprised in this conveyance was in 1938 declared to be Green Belt land.

Mr Barlow's submission was in essence that after the formation of the Parish Council following the local Government Act 1894 it took over the Register Unit, probably from the overseers, and thereby acquired ownership. Whilst it no doubt took over the management of the Register Unit in the years subsequent to its formation, it did not, in my opinion, thereby acquire ownership unless ownership was then vested in the overseers. The Award did not in terms vest ownership in the overseers and Mr Barlow did not contend that it was effectual to do so. There is a possible argument that it did have this effect, based in Section 17 of the Poor Relief Act 1819 which provides that the churchwardens and overseers shall and may take and hold, as a body corporate, buildings, lands and hereditaments belonging to the parish. But I do not think the Award on its proper construction resulted in the Register Unit "belonging to" the Parish, since its expressed purpose was no more than to confer rights of watering cattle and of throwing mud on to it. (cp. *Wyld v Silver* 1963 Ch. 243 at p. 271).

Mr Barlow did not, as I understood, base a claim on the alternative ground of a possessory title arising by adverse possession on the part of the Parish, nor I think could such a claim succeed, as the evidence of the Parish's management of the land did not sufficiently establish adverse possession by the Parish and in any event it is difficult to see how, after the Award, a right of action to recover the land could ~~arise~~<sup>accrue</sup> to the true owner.

In the result I am satisfied that the County is the owner of the south section and shall accordingly direct its registration as owner under Section 8(2) of the Act of 1965. I am not satisfied that any person is the owner of the north section, which will therefore remain subject to protection under section 9 of that Act.

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

5 July

1979

*L. J. Morris Smith*

Commons Commissioners.