

COMMONS REGISTRATION ACT 1965

In the Matter of (1) Step Green,  
and (2) Weir Green, Elmore,  
Stroud District, Gloucestershire

DECISION

This reference relates to the question of the ownership of lands known as (1) Step Green and (2) Weir Green, Elmore, Stroud District being the lands comprised in the Land Section of Register Unit (1) No. CL 237 and (2) No. CL 238 in the Register of Common Land maintained by the 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 this reference Penley, Milward & Bayley, Solicitors of Dursley said (letter of 25 June 1974) that these lands are vested in the Executors of Sir Anselm William Edward Guise Bart. No other person claimed to be the freehold owner of the lands in question or to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Gloucester on 21 November 1978. At the hearing Mr A H Fraser and Mr M A C Beaman were represented by Mr F C Penley solicitor of the said firm.

Mr Penley in the course of his evidence produced: (1) a settlement dated 22 January 1924 made on the marriage of Sir A W E Guise under which the Manor or Lordship of Elmore and lands comprising about 1,448 acres 2 roods and 11 perches were settled to the use of Sir A W E Guise for life, (2) a vesting deed dated 17 June 1939 by which the said premises (and other lands) were declared to be vested in him, (3) probate dated 10 June 1971 of his Will (he died 12 September 1970) limited to settled land granted to Mr A F G Renton, Mr A H Fraser and Mr M A C Beaman, and (4) a copy probate of the Will of Mr A F G Renton (he died 9 March 1975). Mr Penley also produced as written evidence a statutory declaration made on 7 November 1978

by Mr W F Littleton who is 72 years of age, who came to live in Elmore with his parents in 1908 and who for 33 years was a member and for about 14 years chairman of the Parish Council.

Three days after the hearing, I inspected these lands. Step Green comprises one strip about 600 yards long on the north side of and open to the road through the village, two smaller pieces on the opposite side of the road, and two pieces near the road junction on the east: altogether they contain about 2.78 acres. Weir Green is a short distance to the east, and is bounded by the River Severn; it contains about 0.712 acres. They are not included in the lands expressly described in the 1924 settlement and 1939 vesting deed, being uncoloured on the plans thereto annexed; however they are surrounded by lands so described.

Mr Penley contended that the documents produced showed a good title to the Manor, and that these lands were appurtenant to it; he relied on Mr Littleton's statement that they "are part of the Manor of Elmore". By section 62(3) of the Law of Property Act 1925 replacing section 6(3) of the Conveyance Act 1881, a conveyance of a manor shall be deemed to include all (among other rights) "... wastes ... commons ... appertaining." The appearance of the lands is consistent with them being in the same ownership as that of the surrounding lands. I consider therefore I can give full effect to the evidence outlined above. I am therefore satisfied that Mr Fraser and Mr Beaman are the owners of the lands and I shall accordingly direct the Gloucestershire County Council as registration authority, to register Mr Alastair Hugh Fraser of Coddendam, Ipswich, Suffolk, and Mr Michael Ardern Christopher Beaman of Lyne House Farm, Newent, Gloucestershire as the owners of the lands under section 8(2) 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 12<sup>th</sup>

day of December 1978

a. a. Bacon J. L. C.

Commons Commissioner