



COMMONS REGISTRATION ACT 1965

Reference No 213/D/54 & 55

In the Matter of The Green,
Elmstone Hardwick, Tewkesbury BC

DECISION

These disputes relate to the registration at Entry No 1 in the Land Section and Entry No 1 in the Rights Section of Register Unit No VG. 45 in the Register of Town or Village Greens maintained by the Gloucestershire County Council and are occasioned by Objection No OB 136 made by Miss M N Yates and noted in the Register on 11 November 1970.

I held a hearing for the purpose of inquiring into the dispute at Gloucester on 14 October 1976. The hearing was attended by Mr N Colman of Messrs Thomson & Badham on behalf of Miss Yates and by Mr J Dartington of Messrs Smith & Roberts on behalf of Elmstone Hardwicke Parish Council.

The land in question is divided into two pieces by what appears on the map to be a path and together they comprise 0.27 of an acre. The land has always been known as "The Green" and the Parish Council therefore in all good faith registered the land as a Village Green under the Act of 1965. The Parish Council however was unable to lead any evidence which satisfied me that the land is a village green as defined in Section 22 of the Act of 1965, in particular there was no evidence that the inhabitants of the parish had for a period of not less than 20 years indulged in lawful sports and pastimes on the land as of right. Having regard to the dimensions of the land and its proximity to a road it would have been surprising if there had been any such evidence. For this reason I refuse to confirm the Registration.

In the circumstances it would not be proper for me to express any view as to the claim to ownership of part of the land put forward on behalf of Miss Yates at the hearing. As regards Miss Yates' claim to a right of common to graze chickens I am of the opinion that chickens are not "commonable animals" and that no such right is known to the law.

Since both Miss Yates and the Parish Council have the advantage of professional representation it is to be hoped that they will be able to negotiate an agreement as to the use and ownership of the land in question which will be for the benefit of Miss Yates and the inhabitants of the village.

For these reasons I refuse to confirm the registration.

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 29th day of October

1976

C. A. Little

Commons Commissioner