



COMMONS REGISTRATION ACT 1965

Reference No 213/D/24

In the Matter of Wortley Green,
Wotton under Edge, Stroud D

DECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No VG. 67 in the Register of Town or Village Greens maintained by the Gloucestershire County Council and is occasioned by the Objection No OB 662 made by Mrs F E E Young and noted in the Register on 20 November 1972.

I held a hearing for the purpose of inquiring into the dispute at Gloucester on 15 October 1976. The hearing was attended by Mr D T Hodsman of Messrs Crossman & Thurstons on behalf of Mrs Young and Mr Dornwell, clerk to the Wotton under Edge Parish Council on behalf of his Council.

There are no Entries in the Ownership Section but Mrs Young in her Objection states she is the owner of the land in question. The Parish Council does not admit that Mrs Young is the owner of the land and since there is no dispute as to ownership before me I do not propose to say anything on the question of ownership.

I invited Mr Dornwell to open to me the facts on which he relied as establishing that the land is a village green as defined by Section 22 of the Act of 1965. He told me that the land is approximately half an acre, triangular in shape, adjoining a road which does not carry a great deal of traffic and it is unenclosed. It is not large enough for either a football or cricket ground. He and one witness he had available said it was habitually used by children for playing games and he spoke of donkey races having been held on the land.

It was not disputed that until the land was registered as a village green Mrs Young's son had kept the land tidy, but thereafter he ceased to do so and the Parish Council has awaited this hearing before taking any steps to care for the land. In the result the land has gone to waste over the last 8 years and in its present state is now unsuitable for any sort of game however impromptu. I have referred to the state of the land because Mrs Young denies that the land has been used by children for their games. It would be surprising if children in the village did not from time to time avail themselves of this small parcel of open ground to kick a football about or even to pitch a set of stumps and play with bat and ball, but in my view children playing impromptu games cannot be said to amount to the use of the land by the inhabitants of the village for lawful sports and pastimes. The children are only a small section of the inhabitants and it is the nature of children to play on any available open land, and if by so doing they conferred upon the land the status of a



village green almost every unenclosed piece of land might be said to be a village green. In my view this was not the intention of Parliament when it defined a village green, inter alia, as "land on which the inhabitants of any locality have indulged in lawful sports or pastimes as of right for not less than 20 years". There is the further point as to whether young children ever considered or were even capable of considering that they were playing on the land as of right."

Mr Dornwell read to me a statement and referred to other documents but nothing he either read or told me suggested that the land came within the definition quoted above. For this reason I refuse to confirm the Registration.

Mr Hodsmen asked for costs but I am satisfied that the Parish Council in making the Registration did so in good faith and in my view this is not a case in which I should make any order as to costs.

Mrs Young did at the hearing indicate that she has the interests of the Parish and the children at heart and it is to be hoped that the differences which have arisen as the result of the understandable error on the part of the Council in making the registration will not stand in the way of Mrs Young and the Council cooperating for the benefit of the Parish.

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 31st day of October 1976

C. A. Lett

Commons Commissioner