



COMMONS REGISTRATION ACT 1965

Reference No.14/U/144

In the Matter of The Pit, Tote Hill,
Lockerley, Hampshire.

DECISION

This reference relates to the question of the ownership of land known as The Pit, Tote Hill, Lockerley, being the land comprised in the Land Section of Register Unit No.C.L.228 in the Register of Common Land maintained by the Hampshire 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 the Lockerley Parish Council claimed to be the freehold owner of the land in question and 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 Winchester on 10th January 1974.

At the hearing the Parish Council was represented by its Clerk, Mr. E.F. George.

The land in question was allotted by the Inclosure Award made 20th July 1815 under the Act for enclosing Butler's Wood in Lockerley of 1811 (51 Geo.III, c.47 (private, not printed) to the surveyor of highways of the parish of Lockerley as a public chalk, gravel or rubble pit.

By sections 25 and 67 of the Local Government Act 1894 the pit was transferred to the Romsey Rural District Council. On 15th January 1912 the Lockerley Parish Council wrote to the Rural District Council stating that the pit was completely exhausted and asking whether it could be sold. It appears from the minutes of a meeting of the Parish Council held on 25th March 1912 that the sale of the pit was left in abeyance for the time being and that enquiries were to be made as to its ownership. On 18th April 1912 the Parish Council decided not to proceed with the sale owing to the uncertainty as to ownership.

Despite the fact that the pit had earlier been said to be exhausted, approval to the sale of 20 loads of gravel was given by the Parish Council on 27th March 1916, and on 19th April 1920 permission was given for the sale of gravel and sand. However, the pit seems to have been really exhausted by July 1929, when it was resolved that it should be used as a village refuse dump. There are numerous references to the dumping of rubbish in the Parish Council minutes between 1929 and 1937 until in April 1937 notice was given to the Rural District Council of the withdrawal of consent to the dumping.

In October 1945 permission to graze on the land was given by the Parish Council. In October 1953 there was a proposal to sell the land and the Rural District Council stated that it would be in order to sell it. The land was



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not then sold and in June 1955 a parish meeting was called when it was decided not to sell.

It may be that the doubts as to the ownership of the pit expressed in 1912 were due to its having been exhausted. However, whatever the position may have been in 1912, the subsequent filling up of the pit and its use for grazing makes the case indistinguishable from Smith v. Stocks (1869), 10 B.& S.701, where it was held that the title of a surveyor of highways under an inclosure award had become extinguished by adverse possession. In this case there has, in my view, been an adverse possession by the Parish Council sufficient to extinguish the title of the Rural District Council.

For these reasons I am satisfied that the Parish Council is the owner of the land, and I shall accordingly direct the Hampshire County Council, as registration authority, to register the Lockerley Parish Council as the owner of the land 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 24th day of January 1974

Chief Commons Commissioner