



COMMONS REGISTRATION ACT 1965

Reference Nos 15/U/19
15/U/20
15/U/21

In the Matters of (1) Maund Common (2) Upper Maund
and Whitchurch Maund Commons and (3) Common Marsh
all in Bodenham, Leominster & Wigmore R.D., Herefordshire

DECISION

These references relate to the question of the ownership of lands known as (1) Maund Common (2) Upper Maund and Whitchurch Commons and (3) Common Marsh all in Bodenham, Leominster & Wigmore Rural District being the lands comprised in the Land Section of Register Unit No CL.2, No CL.30 and No CL.90, in the Register of Common Land maintained by the Herefordshire 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 these references no person claimed to be the freehold owner of the lands in question and no person claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Hereford on 22 February 1973. The hearing was attended by the Hereford County Council who were represented by Mr Walters of their Legal Department, by Mr D S Jenkins in person, and by Mr J E Gibbs in person. Mr Jenkins (jointly with Mrs Y M Jenkins) applied for registration of a right of common over the land CL.30 in respect of Halfway House this registration being undisputed became final on 1 August 1972. Mr Gibbs (jointly with Mrs R Gibbs) applied for registration of a right of common over the land CL 30 and this registration being undisputed became final of 1 October 1970. Mr Jenkins and Mr Gibbs were concerned with the lands CL.2 and CL.90 as local residents. It was agreed that I should hear all these references together.

The lands CL.2 and CL.30 were registered as Common Land by the County Council as Registration Authority without application under the power conferred on them by subsection(2)(a) of section 4 of the Act of 1965. Mr Walters explained that the County Council did this following the advice in a letter dated 17 December 1969 and sent by the Ministry of Housing and Local Government to all County Councils. He produced the Inclosure Award dated 28 May 1812 for the Parish of Bodenham (made under the Bodenham Inclosure Act, 42 Geo 3. chap 110); to this Award was annexed two maps; on one of these the lands CL.2 and CL.30 were delineated continuously with the highways; these lands were not mentioned in the body of the Award.

The land CL.90 was registered as Common Land pursuant to an application made by a person who also applied for the registration of a right of common of it.

The County Council could apart from the Award give no evidence of ownership. Mr Jenkins said he had heard that these lands or one of them belonged to the Lord of the Manor.

Although on the Award Map the lands CL.2 and CL.30 are treated in the same way as the other roads in the Parish, I cannot I think from this circumstance alone reach any conclusion as to ownership. In the absence of any other evidence I am not satisfied that any person is the owner of the lands and they will therefore be subject to protection under section 9 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

16th

day of March 1973

a. a. Baden Fuller

Commons Commissioner