



In the Matter of land at
 Keepers Cottage, Pennyfathers
 Lane, Harmer Green. Welwyn
 Hatfield District, Hertfordshire.

DECISION

This reference relates to the question of the ownership of land at Keepers Cottage, Pennyfathers Lane, Harmers Green being the land comprised in the Land Section of Register Unit No CL232 in the Register of Common Land maintained by the Hertfordshire 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 Mr Richard John Ernest Bradford and Mrs Marilyn Anne Bradford by their Solicitors (their letter dated 28 October 1988) claimed ownership of the land in question. 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 Hertford on 1 November 1988. At the hearing (1) Mr R J E Bradford attended in person on his own behalf and as representing his wife Mrs M A Bradford; and (2) Hertfordshire County Council as registration authority were represented by Miss Ann Pegrum of their Record office.

The land ("The Unit Land") in this Register Unit is approximately triangular with sides of about 20, 20 and 15 yards, and is situated where Vera Lane joins Pennyfathers Lane. There is no registration in the Rights Section of this Register Unit.

In the course of his oral evidence Mr Bradford produced or referred to the documents specified in the Schedule hereto, and said (in effect):- Recently he had spoken to Mrs Challis (now of 29 Warren Way, Digswell) who made the postcard (RJE3/1) who said that the photograph was taken by her husband in 1965 and developed by a Kodak in 1966 and that she still had the original in the form of a coloured slide. He with his wife had been in the cottage since they bought it in 1978, and it (the garden in front and the west wall of the cottage behind) had always looked like as it appears in the postcard, and they had maintained it in the same way. When they bought the cottage, the hedge enclosed the Unit Land with the garden as visible on the postcard. There is now a garage on the left (north). Access to the cottage is from Harmer Green (to the northwest). The access road a short distance after the cottage becomes a dead end.

The Solicitors in their said October 1988 letter asked me (in effect) to consider the following points: (1) The owner/occupier previous to the August 1978 conveyance had lived in Keepers Cottage from 1948, their client did not acquire any documentary title to the Unit Land, and it was apparent that the deceased former owner of the property had treated the Unit Land as part of his garden, having grown a hedge around it back in the early 1950s. (2) The Unit Land passed under the 1978 conveyance (RJE3/3) by the operation of section 62 of the Law of Property Act 1925.



On the day after the hearing, I inspected the Unit Land. Its appearance was as described by Mr Bradford. The delineation of the Unit Land on the Register map (based on the OS map published in 1923) is consistent with it having then been an open space at the junction of Pennyfathers Lane with Vera Lane which runs to the northeast of the cottage; however this may be, I conclude that at least since 1966 the Unit Land has been enclosed, enjoyed and occupied with the garden of the cottage. On the evidence in this decision summarised, I am satisfied that Mr and Mrs Bradford are the owners of the Unit Land, and I shall accordingly direct the Hertfordshire County Council, as registration authority to register Mr Richard John Ernest Bradford and Mrs Marilyn Anne Bradford both of Keepers Cottage, Pennyfathers Lane, Harmer Green as the owners 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.

SCHEDULE
(Documents produced)

RJEB/1	- -	Picture postcard entitled "Keepers Cottage, Harmer Green" and "photo by Mrs E Challis, Digswell W1", and on the back marked "Published by Hertfordshire Federation of Womens Institutes".
RJEB/2	5 September 1978	Copy land certificate, title no HD 110764: edged red on plan; northeast side of Pennyfathers Lane; title absolute; of R J E Bradford and M A Bradford his wife.
RJEB/3	25 August 1978	Copy, conveyance by Midland Bank Trust Company Limited as personal representatives of Ivy Gertrude Fuller who died 7 March 1978 to Mr R J E and Mrs M A Bradford of land in Pennyfathers Lane containing about 21 perches delineated on plan.

A. A. Baden Fuller

Dated this 30th day of January 1989

Commons Commissioner