



COMMONS REGISTRATION ACT 1965

Reference No. 16/U/18

In the Matter of Therfield GreenTherfield, HertfordshireDECISION

This reference relates to the question of the ownership of land known as Therfield Green, Therfield, being the land comprised in the Land Section of Register Unit No. V.G.35 in the Register of Town or Village Greens 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 the Rector of Therfield and Kelshall claimed to be the freehold owner of the land in question and the Clerk to the Conservators of the Therfield Regulation 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 13th April 1972.

The Rev. A.T.H. Tebboth, Rector of Therfield and Kelshall was represented by his solicitors Limbach Banham & Co.

The provisional order scheduled to and confirmed by the Commons Regulation (Therfield) Provisional Order Confirmation Act 1888 (51 & 52 Vict.ch.clix) contains this recital:- "And whereas the said Common (meaning lands called or known as Therfield Heath and Greens) with the exception of the greens known as Ducks Green and Therfield Green is waste land of the Manor of Therfield of which the Ecclesiastical Commissioners for England are the lords, and as such are entitled to the soil of the said Common except as aforesaid and the said Greens known as Ducks Green and Therfield Green are waste land of the Manor of Therfield Rectory of which the Rector of Therfield is the lord and as such entitled to the soil of such Greens".

On behalf of Rev. A.T.H. Tebboth, evidence was given by Mr. G.F. Banham. He had lived all his life (born 1936) in Royston which is about 3 miles from Therfield Village and had lived at Royston ever since. He is now and has been since 1960 practising as a solicitor at Royston. He knew well Therfield Heath, Ducks Green and Therfield Green mentioned in the provisional order. He identified the Therfield Green so mentioned with the land which is the subject of this reference and a comparatively small piece of land on the south and west which is the subject of a reference numbered 16/U/19. His client, the Rev. A.T.H. Tebboth was and had been for the last 3 years the Rector of Therfield and Rector of Kelshall and is at present in possession of the land.

The Rev. A.T.H. Tebboth claims to be owner of the land not personally for himself but in right of his benefice.

The Conservators of the Therfield Regulation did not appear. A letter dated 10th March 1972 from their Clerk to the Clerk of the Commons Commissioners



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on the file referred to the above mentioned Act and supported the claim made on behalf of the Rector.

The Therfield Parish Council who would in the circumstances become owner under subsection (3) of section 8 of the Act if I was not satisfied as to the ownership of the Rector, did not appear.

I read the recital in the provisional order as recording the ownership of Therfield Green as being not in the then Rector of Therfield in his personal capacity but in the Rector of Therfield and his successors as an ecclesiastical corporation sole. There being no evidence that the Rector in 1888 or any of his successors has at any time since 1888 been dispossessed, the ownership of the present Rector and his successors is I think established.

For these reasons I am satisfied that the Rector of Therfield is the owner of the land, and I shall accordingly direct the Hertford County Council as registration authority, to register not the Rev. A.T.H. Tebboth, but the Rector of Therfield and his successors. (an ecclesiastical corporation sole) as the owner of the land.

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.

A. A. Baden Fuller

Dated this 10th day of May 1972

Commons Commissioner