



COMMONS REGISTRATION ACT 1965

Reference No.19/U/34

In the Matter of Land adjacent to Peacock Inn,
St Cosmus and St Damian-in-the-Blean, Kent (No.2).

DECISION

This reference relates to the question of the ownership of six small pieces of land all comprised in the Land Section of Register Unit No.CL 61 in the Register of Common Land maintained by the former Kent County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Canterbury on 29th July 1975. There was no appearance at the hearing, and on 23rd August 1975 I signed a decision stating that in the absence of any evidence I was not satisfied that any person was the owner of the land, and that it would therefore remain subject to protection under section 9 of the Act of 1965. When giving that decision I was unaware that the solicitors for Whitbread Fremlins Ltd had sent to the Office of the Commons Commissioners with a letter dated 9th July 1975 an affidavit by Mr F.G.Burns, the tenant and licensee of the Peacock Inn.

Although this affidavit was not submitted in accordance with reg.12(1) of the Commons Commissioners Regulations 1971, I am willing to accept it without requiring the personal attendance of the deponent.

Mr Burn's affidavit relates to a part of one of the six pieces of land comprised in the Register Unit. Mr Burns has been the tenant and licensee of the Peacock Inn for over nineteen years, and during the whole of that period the land to which his affidavit relates has been used as a car park and beer garden appurtenant to the Peacock Inn without interruption by any person and has been maintained by and at the expense of Whitbread Fremlins Ltd.

On this evidence I am satisfied that Whitbread Fremlins Ltd is the owner of the land referred to in Mr Burn's affidavit, and I shall accordingly direct the Kent County Council, as registration authority, to register Whitbread Fremlins Ltd as the owner of the land under section 8(2) of the Act of 1965.

The remainder of the land, in so far as it is not registered under the Land Registration Acts 1925 and 1936, will remain 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 14th day of October 1975

Chief Commons Commissioner