



COMMONS REGISTRATION ACT 1965

Reference No. 19/U/20

In the Matter of Swingfield and Acrise
Recreation Ground, Swingfield, Shepway D.,
Kent

DECISION

This reference relates to the question of the ownership of land of approximately 5 acres known as the Swingfield and Acrise Recreation Ground, Swingfield, Shepway District (formerly Elham Rural District) being the land comprised in the Land Section of Register Unit No. VG.32 in the Register of Town or Village Greens maintained by the Kent 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 claims were made by Acrise Parish Meeting and Swingfield Parish Council that the land in question belonged to both Parishes. No other person claimed to be the freehold owner of the land or 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 Dover on 27 November 1974. The hearing was attended (1) by Mr G.W. Gregory chairman of Acrise Parish Meeting, and (2) by Mr M.R. Bates clerk of Swingfield Parish Council.

Mr Bates in the course of his evidence produced the Swingfield, Minnis, otherwise Folkestone, Common Inclosure Award dated 27 January 1844 and made under the Swingfield Minnis otherwise Folkestone Common Inclosure Act 1840 (3 & 4 Vict. C.28 private). This Award contained an allotment (as expressly authorised by section XLVII of the 1840 Act) of "a piece or parcel of land mentioned and described in the Fifth Schedule ... to be for ever left open for the purposes of exercise and recreation of the Inhabitants of the Parishes of Swingfield and Acrise and the Neighbouring population and to be vested in the Churchwardens and Overseers for the time being of the Parishes of Swingfield and Acrise and to be held by them for the purposes aforesaid". The land allotted is described in the Fifth Schedule as being (among other things) Five Acres and Number 77 on the plan annexed; Mr Bates identified it with the land comprised in this Register Unit (it is on the east side of the main road from Folkestone to Canterbury).

Mr. Bates also produced extracts from the minutes of Swingfield Parish Council (formed in 1894) which showed the concern of the Parish Council with this land from 1898 to 1958. Throughout this period the land was with the concurrence of the Acrise Parish Meeting let (subject to it being made available for recreation when wanted).



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Mr Bates who has been Clerk of the Parish Council since 1968, said that a football pitch had recently been laid out on part of the land, and the above quoted allotment has been registered under the Charities Act 1960.

Mr Gregory who has lived in Acrise since 1948, been chairman of the Parish Meeting for the last 13 years, been for part of that time a member and chairman of Swingfield Parish Council and also been for some years a member of Elham Rural District Council, said that he confirmed the evidence given by Mr Bates.

I conclude therefore that the land is now vested jointly in the bodies who are now by operation of law the successors in title of the Churchwardens and Overseers. As to Swingfield, their successor as regards land allotted for recreation was in 1894 and still is the Parish Council, see Local Government Act 1894 section 6(c) (iii) and section 67. As to Acrise, their successor as regards land so allotted was in 1894 the body corporate by the name of the chairman and overseers of the Parish constituted by section 19 of the 1894 Act; this body was in 1934 succeeded by the representative body of the parish, also a body corporate comprising the chairman of the parish meeting and the parish representative on the rural district council, see section 47 of the Local Government Act 1933; this body was in 1974 succeeded by the Parish Trustees of the parish also a body corporate comprising the chairman of the parish meeting and the proper officer of the district council, see section 13 of the Local Government Act 1972.

For the above reasons, I am satisfied that the said Parish Council and Parish Trustees are the owners of the land, and I shall accordingly direct the Kent County Council, as registration authority, to register Swingfield Parish Council and the Parish Trustees of Acrise 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.

Dated this

9th

day of

December

1974

a. a. Bates Fuller

 Commons Commissioner