



COMMONS REGISTRATION ACT 1965

Reference Nos. 225/U/28
225/U/29
225/U/30

In the Matter of (1) Bradmoor Common,
(2) Pentney Common and (3) West Common,
Pentney, West Norfolk District, Norfolk

DECISION

These references relate to the question of the ownership of lands known as (1) Bradmoor Common, (2) Pentney Common, and (3) West Common, Pentney, West Norfolk District being the lands comprised in the Land Section of Register Unit (1) No. CL.204, (2) No. CL.205, and (3) No. CL.206 respectively in the Register of Common Land maintained by the Norfolk 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 Pentney Charity Trust wrote saying that these three commons are administered by five local Trustees on behalf of the parishioners of the village of Pentney, and that under a scheme drawn up in August 1864 the Charity Commissioners exercise control where necessary and presumably the freehold is invested with them. No other person claimed to be the freehold owner of the lands in question or 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 Kings Lynn on 27 November 1975. At the hearing the following persons being the Trustees of the Pentney Toffee Charities namely Rev. G.I.H. Strong (the incumbent for the time being of the parish of Pentney, ex-officio), Mrs A.B. Coulton, Mr G.A. Moore, Mr C. Beck and Mr D Hancock were represented by Mr D.H. Dodds solicitor of Kenneth Bush & Co Solicitors of Kings Lynn. Present also was Mr H.A. Ely who has been clerk of the Trustees since 1947 and clerk of the Pentney Parish Council since 1955.

Mr Dodds produced:- (1) The Pentney Inclosure Act 1807 (47 Geo.3: sess.2:c.17), (2) A copy of the relevant part of the Award dated 9 June 1809 made under the 1807 Act, and of the map referred to, (3) A copy of the part relating to the Poor's Allotments of Pentney of the 1833 Report of the Commissioners inquiring into Charities, and (4) A copy (certified by the Charity Commissioners) of the Scheme made by them on 19 August 1864 in the matter of the Charity called "The Toffeees Charity, otherwise The Poor's Land, The Fuel Allotment Charity, and Sawyers and others Charity in the Parish of Pentney". Mr D Cubitt, solicitor who was representing the County Council as registration authority, produced from the custody of the Council the said 1809 Award. Mr Ely produced a statement of account of the Pentney Charity Trust for the year ended 31 March 1975.

On the day after the hearing, I walked the length of Bradmoor Common and on part of Pentney Common.



Bradmoor Common (CL.204) contains about 20 acres, is on the northeast side of the A47 road a short distance north of Narborough; a large part of this Common is lake. Pentney Common (CL.205) and West Common (CL.206) together contain about 40 acres, are on the opposite side of the road and are separated from each other by the strip formerly used for the railway (now disused) between King's Lynn and Norwich. Pentney Common is much overgrown with trees and scrub.

By the 1807 Act, the Commissioners were required to allot unto the Lord of the Manor of Ashwood in Pentney, the curate of Pentney and the churchwardens and overseers of the poor of Pentney "in Trust...such part of the said Commons and Waste Grounds proper for the cutting of turves or flags within the said Parish of Pentney as...shall be sufficient to provide...for the Inhabitants...of every... Dwelling-house or Cottage within the said Parish of Pentney not occupying lands ...of more than the Yearly Value of Eight Pounds...a quantity not exceeding Four Thousand Turves or Four Thousand Flags...for Firing in every year to or for each and every such Inhabitant...".

By the 1809 Award the Valuers allotted for the said purposes 40 acres bounded by the turnpike road on the northeast and 22 acres and 26 perches bounded by the turnpike road on the southwest. The 1833 Report refers to this allotment. The 1865 Scheme, after reciting that the endowments of the Charity included (among other property) two allotments awarded under the Pentney Inclosure Act and containing together 60 acres 3 roods or thereabouts, provided that the legal estate in the said land should vest in the Official Trustee of Charity Lands and approved the Scheme therein set forth for the future regulation of the Charities.

Mr Dodds mentioned as examples of acts of administration by the Trustees, that during the second world war the gravel rights on Bradmoor Common were sold and the resultant money invested for the purposes of the charitable trusts and that at the present time the shooting and fishing rights and the right to gather timber in respect of Pentney Common have been let on a yearly basis, and that West Common has been let for grazing purposes. He said that by a conveyance dated 19 June 1972 the British Railways Board conveyed to the then Trustees the strip of land formerly used as a railway: to this, the consent of the Charity Commissioner was given by order dated 1 May 1972.

Mr Ely said (in effect):- A large part of the income of the charities was expended in providing fuel for the benefit of the Parish (much as was contemplated by the 1809 Award). Many consider the bird life of Bradmoor Common particularly interesting.

On the evidence outlined above, I am satisfied that the Official Custodian for Charities, as successor under the Charities Act of 1960 of the Official Trustee of Charity Lands is the owner of all the lands comprised in these register units, and I shall accordingly direct the Norfolk County Council as registration authority to register the Official Custodian for Charities as the owner of the lands under section 8(2) of the Act of 1965. I am not concerned with the ownership of the railway strip, and I have no jurisdiction to say whether such strip should or could now be registered under the 1965 Act.



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 1975

a. a. Baden Fuller

Commons Commissioner