



COMMONS REGISTRATION ACT 1965

Reference No. 225/U/16.

In the Matter of Drayton Drewray (?Drury),
Drayton, Broadland District, Norfolk.

DECISION.

This reference relates to the question of the ownership of part of the land known as Drayton Drewray (?Drury), Drayton, Broadland District, being the land comprised in the Land Section of Register Unit No. CL.328 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 this reference Drayton Parish Council stated that the land is registered with the Charity Commission, No.1443. No person claimed to be the freehold owner of the land in question and 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 Norwich on 16 July, 1975. At the hearing Drayton Parish Council were represented by Mr. W.J. Coleman, their vice chairman, and Mr. E.E. Pratt one of their members was present.

The land ("the Unit Land") comprised in this Register Unit contains (as I estimate from the information I have) about 70 acres, is situated about $1\frac{1}{2}$ miles north-west of Drayton and is approachable by a track leading off the road which runs parallel with and about 1 mile north of the A1067 road. The southwest part of the Unit Land containing (similarly estimated) about 25 acres, is registered at H.M. Land Registry freehold under Title No. P187823. So on this reference I am concerned only with the part ("the Referred Part") of the Unit Land which is not so registered.

Mr. Coleman in the course of his evidence produced (1) a manuscript book headed "Drayton Fuel Allotment known as Drayton Drury: Memoranda made by W.J. Winter of Drayton Lodge in July 1905", and containing Entries up to 22 November 1948; (2) a similar book from 3 October 1949 and currently in use; (3) a copy lease dated 18 July 1838.

The County Council produced the Inclosure Award dated 21 October 1813 for the Parish of Drayton and Bawburgh and the Parish of Hellesdon with a copy (bound with the Award) of the Drayton and Bawburgh, and Hellesdon Inclosure Act 1811 (51 Geo.3 c.44).

The Award contains an allotment of land to the "Lord of the said Manor of Drayton with Taversham the Rector of the said Rectory of Hellesdon with Drayton and the Churchwardens and Overseers of the Poor of the said Parish of Drayton as trustees of the poor of the said parish". From the Award plan and the



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evidence of Mr. Coleman I am satisfied that the land so allotted either was the same as, or included ~~in~~ the Referred Part.

The 1838 lease after reciting the 1811 Act and the 1813 Award demises the allotted land for 21 years at a yearly rent of £12.

The manuscript books show that rents received were applied in distributing coal.

Mr. Coleman said (in effect):- The persons who now act as trustees are the Rector (ex-officio), Mr. Pratt, Mr. B. Hunter, Mr. G. Suter and himself (all appointed by the Parish Council); Mr. D. Allen is secretary. The revenue has always been spent purchasing coal for Drayton residents living in properties having less than a rateable value formerly £7 but now with a view to suiting modern conditions altered by a ruling of the Charity Commissioners. The Trustees also have a small amount of investments.

After the hearing Mr. Allen wrote to the Clerk of the Commons Commissioners in effect confirming that the Trustees held no other documents relating to the Referred Part although Barclays Bank for them hold details of these small investments in War Loan and Conversion Stock.

On the evidence summarised above, I am satisfied that the Referred Part is subject to the charitable trust by the 1813 Award declared. ~~On~~ ^{On} this reference I am concerned to determine who are the owners of the legal estate in fee simple, see section 22 of the 1965 Act. On the information I have, I cannot name these persons, because I do not know whether the persons now managing the charity ^{ever} acquired such legal estate from their predecessors. Nevertheless, because an identifiable trust should not be prejudiced for want of a trustee, I record that I am satisfied that the Trustees of the said charity are the owners of the Referred Part, and I shall accordingly under section 8(2) of the Act direct the Norfolk County Council as registration authority to register as the owners of the land the Trustees of the charitable trust by an Award dated 21 October 1813 and made under the Drayton and Bawburgh and Helleston Inclosure Act 1811, declared concerning the land thereby allotted (being this land) for the poor of the parish of Drayton.

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 21st — day of August 1975

A. A. Baden Fuller

Commons Commissioner.

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Trustees,