



COMMONS REGISTRATION ACT 1965

Reference No.29/U/11

In the Matter of Westwell Gorse,
Westwell, Oxfordshire.

DECISION

This reference relates to the question of the ownership of land known as Westwell Gorse, Westwell, being the land comprised in the Land Section of Register Unit No.C.L.29 in the Register of Common Land maintained by the former Oxfordshire 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 no person claimed to be the freehold owner of the land in question and no one 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 Oxford on 31st January 1974.

At the hearing the Revd A.S.T. Fisher, a former Rector of Westwell (the living being vacant), informed me that this was charity land. After the hearing I caused inquiries concerning it to be made of the Charity Commission.

By the Inclosure Award, dated 20th November 1770, made under the Westwell Inclosure Act of 1770 (10 Geo.III, c.xxxvii), the land in question was allotted as a fuel allotment for the poor of the parish. It was the subject of a court order made 20th May 1859, which appointed the Rector, Churchwardens, and Overseers of Westwell to be the trustees by virtue of their offices and established a scheme of administration. The scheme allowed the trustees to let the land and to receive the income therefrom for the purpose of purchasing coal and fuel for annual distribution among the poor of the parish. Mr. Fisher informed me that the land has been let as a game covert since 1859. The rent of £15 p.a. is now received by the Rector and Churchwardens.

When the Overseers ceased to exist there should have been trustees appointed in their place by the Parish Council under art.9 of the Overseers Order 1927 (S.R. & C. 1927, No.55) or since 1961 under section 37(2) of the Charities Act 1960. Since no such trustees have been appointed, the only course open to me is to hold that the present owners of the land are the Rector, as a corporation sole, and the Churchwardens for the time being, and I shall accordingly direct the Oxfordshire County Council, as registration authority, to register the Rector and Churchwardens of Westwell 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 25th day of April 1974


Chief Commons Commissioner