

COMMONS REGISTRATION ACT 1965



Reference No. 239/U/99

In the Matter of Tainters Hill Pleasure
Ground, Kenilworth, Warwickshire

DECISION

This reference relates to the question of the ownership of land known as Tainters Hill Pleasure Ground, Kenilworth, being the land comprised in the Land Section of Register Unit No. CL 30 in the Register of Common Land maintained by the Warwickshire 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 the Warwick District Council 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 Leamington Spa on 8 December 1982.

At the hearing the Warwick District Council was represented by Miss J Doran, its Deputy Secretary, and the Kenilworth Town Council by Mr H L G Sunley, the Town Clerk.

The only evidence which Miss Doran was able to produce was a copy of the bye-laws made by the District Council and confirmed on 23 June 1977 under section 164 of the Public Health Act 1875 with respect to the land. Section 164 of the Act of 1875 authorises the making of byelaws for the regulation of public walks or pleasure grounds purchased or taken on lease by an urban authority and public walks or pleasure grounds provided by any other person with the support or a contribution to their support of the urban authority. While I have to presume that the byelaws were made lawfully, it does not follow that the District Council must be the owner of the land, since the byelaws could be equally lawfully made if the Council had taken it on lease or had supported or contributed to the support of it when in the ownership of some other person.

On this evidence I am not satisfied that any person is the owner of the land, and it will therefore 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

15th

day of

December

1982

Chief Commons Commissioner