



COMMONS REGISTRATION ACT 1965

Reference Nos. 16/D/28
16/D/29

In the Matter of Part of the Causeway,
Buntingford, Hertfordshire.

DECISION

These disputes relate to the registration at Entry No.1 in the Land Section of Register Unit No.C.L.222 in the Register of Common Land maintained by the Hertfordshire County Council and are occasioned by Objection No.45 made by the County Education Officer and noted in the Register on 1st July 1970 and by Objection No.46 made by the St.Albans Diocesan Board of Finance and noted in the Register on 17th July 1970. The objections relate to different portions of the land the subject of the reference and between them relate to the whole of the land.

I held a hearing for the purpose of inquiring into the disputes at Hertford on 13th March 1973. The hearing was attended by Mr. J.S. Meeke, solicitor, for the Buntingford Parish Council, which applied for the registration, and by Mr. P.F. Hogg, solicitor, for both the Objectors.

The land the subject of the reference is a long narrow strip on the south side of a road known as The Causeway. At its eastern end it widens into a triangle, from which there extends in a southerly direction another, but much shorter strip. There are trees on the main strip and there has been on the triangular piece for many years a seat used by the public.

Mr. Meeke contended that the land in question falls within the definition of "common land" in section 22(1) of the Commons Registration Act 1965 by being waste of the manor of Corney Bury. He was able to surmount the first hurdle of proving that the land is parcel of the manor by producing from the County Record Office, where it had been deposited by the lord of the manor, a map dated 1744, which bears the legend "A Survey of the Demesne Land of the Manour of Corney Bury together with the Sheepwalk thereunto belonging".

This map shows that the road now known as The Causeway lay between two areas known as Great Bartholomew Field on the south and Little Bartholomew Field on the north. Presumably these areas were at one time open fields of the manor, for they are traversed by parallel lines which appear to represent the ancient ridge and furrow pattern, but by 1744 they had been divided into parcels, the boundaries of which follow the ridge and furrow pattern, each parcel thus consisting of one or more of the strips into which the former open fields would have been divided.

Immediately to the south of the part of The Causeway relevant to these proceedings the map shows a series of five strips, wide from east to west and narrow from north to south. The strips are shown as divided by balks, with the width of the balks indicated in feet and inches. The total area of each strip is stated, and this is sub-divided into the areas of "arable or ploughed land" and "meadow, hedg (sic) greens, balks, etc." While access



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could be obtained to the northernmost strip from The Causeway, the only access to the strips to the south was by two roads or tracks which went along the eastern and western sides of the strips. The shorter arm of the land the subject of this reference appears to be on the line of the northern end of the eastern access road or track and the triangular piece is the site of its junction with The Causeway. The northernmost strip is shown as being separated from The Causeway by a hedge indicated as belonging to the strip, to the south of which there is a thin line which could represent a fence or the southern boundary of a bank on which the hedge was planted. The total area of this strip is stated to be 1a.2r.33p. and this is sub-divided into 1a.2r.0p. as "arable or ploughed land" and 33p. as "meadow, hedg green, balks, etc." I interpret the thin line as representing the boundary between the 33p. and the rest of the strip.

The next evidence in chronological order is the Tithe Map, dated 1838. This shows the land comprising the five strips of the 1744 map divided into three parcels, again wide from east to west and narrow from north to south and numbered from north to south as 404, 403, and 402. The eastern access road or track is no longer shown, the only access to the two southernmost strips (403 and 402) being along the road or track along their western boundaries. The northernmost strip (404) is shown as having on its northern boundary between it and The Causeway a very narrow unnumbered strip, which widens as its eastern end. The unnumbered strip and parcels 404, 403 and 402 are shown as divided from The Causeway and from each other by dotted lines, which are in marked contrast to the solid line on the opposite side of The Causeway, which has the conventional "T" sign indicating a fence repairable by the owner of the field on the north side of the road.

Still proceeding in chronological order, the next piece of evidence is an indenture dated 21st February 1913 by which Herbert Leonard Gawain Butt conveyed to the predecessors in title of the St. Albans Diocesan Board of Finance "all that piece or parcel of arable land situate in Great Bartholomew Field and adjoining the south side of the High Road known as The Causeway". The plan on the indenture, which is stated to be by way of identification and not of limitation, appears to show parcel 404 on the Tithe Map, with the exception of a small part at the western end, on which a building is shown as existing. Other evidence shows that this building was a school, for the purposes of which the land was conveyed. The narrow unnumbered strip dividing parcel 404 from the road on the Tithe Map is not indicated on the plan on the indenture.

Next comes the evidence of Mr. S.G. Attwood, the Clerk of the Buntingford Parish Council. Mr. Attwood played on the land the subject of the reference when he was a child 50 years ago. In those days there was no fence separating it from the school playing field to the south. Mr. Attwood said that the fence was put up when the County Council took over the former Church School and that some of the local residents objected to it. He remembers the seat on the triangular piece of land as always having been there.

Finally, there was produced to me a conveyance dated 6th July 1959 whereby the land immediately to the south of that the subject of the 1913



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indenture was conveyed to the County Council. This document does not throw any light on the matter in dispute, but it shows that the County Council now own the southern part of the short strip at the eastern end of the land in question.

After a careful consideration of this evidence I have come to the conclusion that the land the subject of this reference consists of part of the area described on the 1744 map as "meadow, hedg greens, balks, etc." Such land was shown on the map as being part of the demesne land of the manor. Being demesne land, it cannot have been part of the waste of the manor: see per Watson B. in Att.-Gen. v Hanmer (1858) 27 L.J.Ch.837, at p.840.

For these reasons I refuse to confirm the registration.

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 2nd day of March 1973

A handwritten signature in cursive script, appearing to read "G. J. Quibb".

Chief Commons Commissioner