



COMMONS REGISTRATION ACT 1965

Reference Nos. 32/D/7
32/D/8

In the Matter of The Village Green,
Fivehead, Somerset.

DECISION

These disputes relate to the registration at Entry No.1 in the Land Section of Register Unit No.V.G.20 in the Register of Town or Village Greens maintained by the Somerset County Council and are occasioned by Objection No.0/208 made by the Clerk of the Somerset County Council and noted in the Register on 9th November 1970 and Objection No.0/255 made by Dr. F.E. Butterfield, of Tudor Cottage, Fivehead, and noted in the Register on 5th November 1970.

I held a hearing for the purpose of inquiring into the disputes at Taunton on 1st November 1972. Since the hearing I have made an order under regulation 12 of the Commons Commissioners Regulations that both these matters shall be consolidated.

The hearing was attended by Mr. P.T. Cleary, the Clerk of the Fivehead Parish Council, Mr. Whitcutt, Assistant Solicitor of the Somerset County Council and Mr. T.H. McQueen, solicitor for Dr. Butterfield. The Objection by the County Council relates only to a strip along the side of the carriageway on the south side of the land in question. Dr. Butterfield's Objection relates to the whole of the land comprised in the Register Unit.

The Green consists of a triangular piece of land bounded on the south by the road, on the north by Dr. Butterfield's garden wall, and on the west by the churchyard wall. On it is placed the village war memorial. It is traversed by a long path leading to the churchyard and by a short path leading to Dr. Butterfield's house, and it is for the most part enclosed from the road by a line of posts connected by chains.

I heard a considerable amount of evidence about the use of the Green and its maintenance. It does not seem to me to be necessary to recapitulate this evidence in detail. Suffice it to say that I was not satisfied on the evidence that this land has ever been subject to a right of the inhabitants of the locality to indulge in lawful sports and pastimes on it. The evidence did not go beyond the sort of casual playing by children such as commonly occurs upon any piece of land in a village to which children can obtain access. The only piece of evidence about the playing of any specific game was given by Mr. Sidney Miller, who said that before 1914 some children played a game called "docker", which he said was rather like rounders. I am unable to hold on this meagre evidence that this land satisfies the definition of "town or village green" in section 22(1) of the Commons Registration Act 1965. This being so, it is unnecessary for me to consider the Objection of the County Council separately.

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.

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Dated this 17th day of November 1972

A handwritten signature in cursive script, appearing to read 'C. D. L. Jones', written over a horizontal line.

Chief Commons Commissioner