



COMMONS REGISTRATION ACT 1965

Reference No. 45/U/105

In the Matter of Carleton Green,
Carleton, Pontefract Borough
Yorkshire West Riding

DECISION

This reference relates to the question of the ownership of land known as Carleton Green, Carleton, Pontefract Borough being the land comprised in the Land Section of Register Unit No. VG.9 in the Register of Town or Village Greens maintained by the West Riding 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 Duchy of Lancaster 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 Wakefield on 6 February 1974. No person attended the hearing. On reading some letters on the file of the Clerk of the Commons Commissioners, it seems possible that the absence of any person representing the Duchy may have been due to a misunderstanding; I accordingly adjourned the hearing to London. At the further hearing at London on 26 February 1974, Miss S. Cameron of counsel (instructed by Frere Cholmeley & Co., Solicitors of London) appeared for the Attorney-General of the Duchy of Lancaster.

Miss Cameron said (in effect):- The 1965 Act applies to any interest of Her Majesty in right of the Duchy of Lancaster, see section 25; accordingly in this inquiry held under section 3, I must consider whether I am "satisfied" that the Duchy "is the owner", see subsection (2). The general position of the Duchy is as set out in Halsbury Laws of England (3rd edition 1954) volume 7 paragraphs 1172, 1173, 1178 and 1181; by the Duchy of Lancaster Land Act 1855, the Chancellor and Council of the Duchy may sell and purchase land; the form of words currently in use in a grant to the Duchy (adapting form Y in the Schedule to the Act) is "unto Her Majesty in right of Her Duchy of Lancaster". By the Assessionable Manors Award Act 1848 (by which certain sections of the Duchy of Cornwall Act 1644 were applied to the Duchy of Lancaster), deeds by which any land being parcel or possession of the Duchy are (among other things) sold leased or granted must be enrolled in the Office of the Duchy; and any copy signed and certified by the Keeper of the Records of the Duchy is to be admissible in all legal proceedings as proof of the original instrument, see section 6 and 14; see also Halsbury ib. paragraphs 1208 and 1245.

It was, Miss Cameron said, part of the Duchy's case that the Honour of Pontefract had for many years been in the ownership of the Duchy, and in support of this she relied on an Act of Feoffment made in 1475 and an Act of Parliament made in 1485, extracts from which are in The Charters of The Duchy of Lancaster translated and



edited by William Hardy published in London in 1845. By the Act of Feoffment His Majesty King Edward 4 intending to cross the sea in person for the recovery of the realm of France with the authority of Parliament enacted that the Archbishop of Canterbury and various other persons should hold various lands including "the honours, castles, lordships, and manours of Pountfret, Tikhull, Knaresburgh, and Pikeryng, with their membres and appurtenaunces, and all manours, lordships, londes, tenementes, rentes and services, parçil of the Duchie of Lancastre in the countees of York and Notyngnam with their appurtenaunces ... to th^e intent that the revenuez ... be employed to the perfourmyng and executyng of the last Wille that his said Highnes shall make ... or elles if the seid Highnes declare and make no Wille concernyng the premisses that then the (Archbishop etc.) ... be and stond seased and feoffees of and in the said honours castlex, lordshipes, manours, londes, tenementes and other prenysses to the use of His Highnes and his heires"; ib. pages 326 et seq. By the 1485 Act after reciting the 1475 Act of Infeoffment, it was enacted that "the King are Sovereigne Lord have hold, enjoye and possede, fro' the said xxi daie of August to him and his heyres for evermore all the honors, castells, lordshipes, manors, lands, tenements, rents revercions, services possessions and other hereditaments with their appurtenances in the said Acte conteyned ... that were parcell of the Duchie of Lancastre and in the hands or possession of the said Edward late King of Englund ..."; ib. pages 341 et seq.

The land ("the Unit Land") comprised in this Register Unit (according to the Register map) contains 2.7 acres and is bounded on the north by Carleton Road and on the east by Green Lane.

Mr. E. R. Wheeler who is clerk of the Council of the Duchy of Lancaster and Keeper of the Records gave evidence. He produced from the Duchy Records a bound volume entitled "Survey of Duchy Estates Volume 1" containing maps variously dated including a "map of the township of Carlton parcel of the manor of Tanshell in the Honour of Pontefract and West Riding of Yorkshire; May 1790"; on this map the Unit Land and the adjoining parts of Carleton Road and Green Lane are together marked "Waste". He also produced from the Duchy of Records, a bound volume entitled "Register of agreements Book 1" containing numerous documents dated in or about the year 1910 including a letter dated 5 December 1910 addressed to the Clerk of the Parish Council of Carleton setting out "the terms and conditions on which His Majesty's surface rights in the lands known as Carleton Green, within the Manor of Tanshell-with-Carleton, will be leased to the Parish Council of Carleton, for the purpose of placing them under proper local control. 1. The lands over which His Majestys surface rights are to be let are Carleton Green containing three acres or thereabouts coloured red on the tracing from the Ordnance map hereto annexed (this tracing showed the Unit Land including the adjoining roads). 2. The term will be thirty-one years from the 29th day of September last. 3. The rent will be the clear yearly sum of 5 shillings payable on the 25th day of March each year of the term. 4. ... 5. ... 6. ..." The letter is endorsed with the signature of the Clerk of the Parish Council agreeing to the terms and conditions. Mr. Wheeler said that the Duchy Records included the following grants: in 1950 an easement for a surface drain across the Green to the West Riding County Council, in 1962 a dedication of land for road widening to the Corporation of Pontefract, and in 1962 an easement for a sewer to the Corporation of Pontefract; and that the Records also show that the rent of 5 shillings payable under the 1910 "terms of condition" had ever since been paid by the Parish Council or its successors.



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On the evidence outlined above I am satisfied that the Duchy is the owner of the Unit Land, and I shall accordingly direct the West Riding County Council, as registration authority, to register Her Majesty in right of Her Duchy of Lancaster as the owner 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 13th day of March 1974.

a. a. Baden Fuller

Commons Commissioner