

COMMONS REGISTRATION ACT 1965

Reference No. 260/5/29

In the Matter of Rodway Hill or Rodway Common,  
Mangotsfield Rural, Kingswood District, Avon

DECISION

This dispute relates to the registration at Entry No. 1 in the Rights Section of Register Unit No. CL. 63 in the Register of Common Land maintained by the Avon County Council (formerly Gloucestershire County Council) and is occasioned by Objection No. Ob 355 made by Mangotsfield Rural Parish Council and noted in the Register on 18 May 1972.

I held a hearing for the purpose of inquiring into the dispute at Bristol on 11 March 1976. At the hearing the Rt Hon John Robert Cecil Baron Manners (on whose application the said Entry was made), Captain P W H Studholme and Lady M E Cave were represented by Mr C B Evans solicitor of Osborne Clarke & Co, Solicitors of Bristol, and Mangotsfield Rural Parish Council were represented by Mr S A Rowley, solicitor of Lawrence & Co, Solicitors also of Bristol.

The land ("the Unit Land") comprised in this register unit is a tract of (according to the register) about 35 acres, and was registered as common land pursuant to an application dated 5 October 1967 and made by Warmley Rural District Council. This registration (in the Land Section) being undisputed became final on 1 October 1970. The Entry in the Rights Section is of rights attached to land (between 60 and 70 acres east of the Unit Land) at Rodway as shown on the supplemental map, to graze 50 cows or 2 horses and 100 sheep, and in the soil to take sand, gravel and stone. The grounds stated in the Objection are:-  
"(a) The right did not exist at all, (b) the right should not exceed 10 cows or 10 sheep over the whole of this registration unit". In the Ownership Section both the Parish Council and Lord Manners (therein called the Hon John Robert Cecil Manners) are registered as owners; but as appears from my decision of even date, those represented by Mr Evans and Mr Rowley are agreed that the Parish Council are the owners.

At the hearing Mr Evans said (in effect) that he could offer no evidence in support of the registration and that his clients had understood the grounds of the Objection as meaning that a right to graze 10 cows or 10 sheep was conceded. Mr Rowley said (in effect) that the Parish Council did not concede that there was any registerable right at all. I said that in my view the grounds of objection put in issue the existence of any right; Mr Evans said that he did not ask for any adjournment. Mr Rowley offered no evidence that the rights registered did not exist, and declined to ask for an adjournment to enable him to do so, contending (as I understood him) that it was for Lord Manners to state and prove his claim.



I record that even if I am wrong in thinking that the Objection puts in issue the existence of any right of common, I would under rule 26 of the Commons Commissioners Regulations 1971 have considered it just to allow the Parish Council to put this ground forward on terms as to an adjournment or otherwise, if any such terms had been asked for. None were asked for.

So the only evidence I have in support of the registration is the statutory declaration made on 26 June 1968 by Lord Manners in support of the application in accordance with the form prescribed in Schedule 1 (form 9) of the Commons Registration (General) Regulations 1966. The declaration does not in any way indicate how Lord Manners as "owner", became entitled to the right claimed. Mr Evans did not say how Lord Manners is now or could ever have been entitled, or how the other persons he represented could be concerned. The Parish Council are admittedly the owners of the Unit Land. In these circumstances I consider that the said declaration is not enough, and that it is for Lord Manners in some way to establish a case; because he has not done this, I conclude that the right registered does not exist.

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 17<sup>th</sup> day of March —

1976

a. a. Baden Fuller

Commons Commissioner