



COMMONS REGISTRATION ACT 1965

Reference Nos 205/D/12, and
205/D/13, and
205/D/18 to
21 inclusive

In the Matter of Cessbank Common
(1) part in Sutton and (2) part in
Wincle, Macclesfield District,
Cheshire

DECISION

These six disputes relate to the registration at Entry No. 1 in the Land Section and at Entry No. 1 and No. 2 in the Rights Section of Register Unit (1) No. CL62 and (2) No. CL76 in the Register of Common Land maintained by the Cheshire County Council and are occasioned by Objection No. 12 (relating only to the CL62 Sutton part) made by Mr Raymond Maddock and noted in the Register on 2 February 1970 and by Objection No. 42 (relating to both parts) made by Mr J R Mellor and noted in the Register on 3 December 1970.

I held a hearing for the purpose of inquiring into the dispute at Stockport on 30 October 1979. At the hearing Mr Francis Harry Sellars and Mrs Kathleen Sellars on whose application the registrations and Rights Section Entry No. 1 were made, were present in person. Before the hearing in other proceedings Sutton Parish Council were represented by Mrs H T Shuttleworth their clerk and she said that her Council did not wish to support the CL62 registration.

The lands ("the Unit Lands") in these Register Units are separated from each other by the boundary between the parishes of Sutton and Wincle, here marked by stones wherever the boundary changes direction. The boundary so marked is a number of straight lines which as regards grazing and possible cultivation appear to have no significance. The Unit Lands are on all the maps I have, marked as one piece of land called "Cessbank Common", save that the west part ("the Quarry Part") of Register Unit No. CL62 (such part being OS No. 1410 containing 4.165 acres) is marked as "Quarry". In the Rights Section of both Register Units there are two Entries:- (1) On the application of Mr and Mrs Sellars of a right attached to Sutton End Farm to graze 14 cattle and 30 sheep over the land in both these Register Units except the Quarry Part; and (2) on the application of Mr D B Lomas of a right attached to Pott Lords Farm to graze 12 cattle over both these Register Units. In the Ownership Section Mr E M Heath of Hazel Farm is registered as owner of all or nearly all of the CL76 land (Wincle) and a comparatively small part of the CL62 (Sutton) land near the northeast corner of the Quarry Part and Mr R Maddock is registered as the owner of the Quarry Part.

The grounds of Objection No. 12 (Mr Maddock) are:- "The part of Cessbank Common 4.165 acres which adjoins the road was not common land at the date of registration. The right of common no longer exists. The RDC had no right to register the land which is the property of myself (see map marked Exhibit A)"; on such map the Quarry Part is delineated. The grounds of Objection No. 42 (Mellor) are that the land Cessbank Common was not common land at the date of registration.

As to Objection No. 42 (Mellor) I have letters dated 26 April and 16 October 1979 from Abson, Hall & Co, Solicitors of Stockport from which it appears that in a letter dated 9 December 1970 written on behalf of Mr Mellor to Cheshire County Council they said they were instructed to withdraw the Objection.



As regards Rights Section Entry No. 2 (Mr Lomas), I have a letter dated 20 October 1979 from Mr Lomas with which is enclosed (i) a copy of a conveyance dated 3 June 1960 by which he, Mrs G A Bainbridge and Mrs F M Jones as executors of Mr W Lomas (he died 22 April 1946) conveyed to him Pott Lords Farm comprising about 59 acres, 1 rood together with some adjoining land, (ii) a 1894 plan, and (iii) a modern plan; he provided some information as to how his family, his father and grandfather had used or exercised rights over the land in these Register Units.

I also had an anonymous manuscript letter addressed to me saying that on Cessbank Common there is a field enclosed by a walled fence with some sheds and concluding ~~with~~ a request to me to "give one of these young farmers a chance to survive".

At the hearing Mr and Mrs Sellars said (in effect):- They agreed with the Objection No. 12 made by Mr Maddock and that accordingly the Quarry Part should be excluded. Over the rest of the Unit Land they claimed grazing rights as registered; in 1944 they bought Sutton End Farm (a short distance north of the CL62 land) and then understood that the Farm had grazing rights on the whole of the Common. They had exercised these rights on and off. Part of the Common had in about 1952 been inclosed and reseeded, and some of it had been ploughed (the east part of which Mr E N Heath has been registered as owner); to this they had no objection. As far as they knew Mr Lomas had never exercised any grazing rights from the Pott Lords Farm; it is some distance away to the north.

The information I have being as above summarised, is quite insufficient to enable me to give anything but a somewhat arbitrary decision as to what should be done to these registrations. Because Mr and Mrs Sellars have known the Common for many years, I consider I ought to act on their statement that Objection No. 12 (Mr Maddock) was properly made. As regards the Rights Section Entries in relation to the rest of the Common: if the now withdrawn Objection of Mr Mellor had never been made, such registrations would have become final under section 7 of the 1965 Act; accordingly notwithstanding that Mr and Mrs Sellars gave no little detailed information in support of their claim and that Mr Lomas' statements are somewhat vague, I conclude that the grazing rights claimed do exist. It may be that the inclosures mentioned by Mr Sellars as done by Mr Heath are an interference with these rights; no objection has been made to the registrations by Mr Heath or anyone else concerned with Hazel Farm and I ought not I think treat the tolerance given to such interference as evidence of abandonment. I pay no attention to the said anonymous letter because (for among other reasons) I do not understand what the writer wants me to do.

For the reasons set out above, I confirm the registration at Entry No. 1 in the Land Section of Register Unit No. CL62 with the modification that there be removed from the Register the land delineated on Exhibit A referred to in Objection No. 12 made by Mr Raymond Maddock, I confirm the registration at Entry No. 1 in the Land Section of Register Unit No. 76 without any modification; and I confirm the registration in the Rights Section at Entry Nos. 1 and 2 of both these Register Units without any modifications save only such as is necessarily consequential on the removal of the said land from the CL62 Register.

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



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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 3rd — day of January 1950. ~~1951~~

a. a. Baden Fuller

Commons Commissioner