



Reference No. 209/D/142

COMMONS REGISTRATION ACT 1965

In the Matter of Anchor Wood,
Fremington, North Devon District,
Devon

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL 217 in the Register of Common Land maintained by the Devon County Council and is occasioned by Objection No. 89 made by Mr Eric Metcalf and noted in the Register on 14 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Barnstaple on 10 May 1979. At the hearing (1) Mr Metcalf attended in person, and (2) Sticklepath Ratepayers and Residents Association were represented by Mr D G Rowe, solicitor with Jeremy Ferguson & Co, Solicitors of Bideford.

The land ("the Unit Land") in this Register Unit is a strip (according to the Register map) about 1/2 a mile long and containing about 6½ acres. The registration was made on the application of Fremington Parish Council. The grounds of Objection are:- "That the part shown in red on the accompanying plan was not common land at the date of registration". The attached plan shows a comparatively small rectangular area ("the Objection Area"), said in the below mentioned statutory declaration to be 100 feet long on the north side and 64 feet long on the east and west sides.

Mr Metcalf in the course of his evidence produced: (1) a conveyance dated 28 February 1967 by which Mr S and Mrs F G Lambert conveyed to him first the dwellinghouse Carrington, Lynhurst Avenue and the lands edged red on the plan, and secondly the adjoining land on the north edged blue on the plan, being the Objection Area; and (2) a copy of a statutory declaration made by Mr S Lambert on 24 February 1967. In his declaration Mr Lambert said that since a conveyance dated 2 May 1939 he and his wife had been in undisturbed possession of the Objection Area; and in the course of his evidence Mr Metcalf said that the Objection Area had been fenced in (with Carrington) ever since he purchased in 1967, and so he understood for many years before then, and that about 20 feet of it is orchard and the rest woodland.

On the above evidence I conclude that the registration as regards the Objection Area was not properly made. Accordingly I confirm the registration with the modification that the Objection Area (defined as above by reference to the Objection) be removed from the 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 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 21st — day of June — 1979

a. a. Baden Fuller