



## COMMONS REGISTRATION ACT 1965

Reference Nos. 209/D/271  
209/D/272  
209/D/273

In the Matter of Bondleigh Moor,  
Bondleigh, West Devon District,  
Devon

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry No. 1 in the Rights Section of Register Unit No. CL 172 in the Register of Common Land maintained by the Devon County Council and are occasioned by Objections No. 42 and No. 692 made by Mr William John Branton and noted in the Register on 23 September 1969 and 30 November 1970.

I held a hearing for the purpose of inquiring into the disputes at Exeter on 13 October 1981. At the hearing Mr W J Branton was represented by Mr C E R Dowell assistant solicitor with Cann & Hallett, Solicitors of Exeter.

The land ("the Unit Land") in this Register Unit is a tract of about 38 acres; it is crossed by a road from Winkleigh on the north to North Tawton on the south. The Land Section registration was made on the application of the Chairman of Bondleigh Parish Meeting. The Rights Section registration (there is only one) is of a right attached to Rowtry Farm of estovers and to graze made on the application of Mr William Richard Weeks. The grounds of both Objections are that Bondleigh Moor belongs to the Objector and no rights are exercised over it by any other person.

I have a letter dated 14.12.71 addressed to the County Council and signed by Mr W R Weeks saying he agrees to his registration being cancelled.

Mr Branton in the course of his evidence produced: (1) an indenture dated 29 September 1915 by which William Wyndham and others conveyed to Henry Crawford Arthur Conybeare the Manor of Bondleigh and all the interest of William Wyndham as lord of the Manor in Bondleigh Moor containing 38 acres and 28 perches for the purpose of identification coloured pink on the plan annexed; (2) a conveyance dated 16 May 1922 by which the Public Trustee as trustee of the will of Mr H C A Conybeare (he died 10 March 1916) conveyed to William Hawkins the premises conveyed as aforesaid by the 1915 indenture; (3) probate dated 28 July 1924 of the will of William Hawkins (he died 30 May 1924) by which he devised all his real estates to his daughter Edith Jane Madge; (4) probate dated 7 May 1954 of her will (she died 28 March 1954); (5) an assent dated 31 December 1954 by her executrix Marie Edith Madge in favour of herself of East Heywood containing 72.421 acres, West Heywood containing 48.600 acres and part Rowtry containing 26.923 acres together with all such commonable grazing and other rights on or over Bondleigh Moor as were appurtenant thereto; and (6) an abstract of title which included an assent also dated 31 December 1954 by Marie Edith Madge in favour of herself of the Manor of Bondleigh and all the interests of Edith Jane Madge as lord of the Manor in Bondleigh Moor extending to about 38 acres and 28 perches as delineated on the plan attached to the 1915 Indenture.



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Mr Branton said (in effect):- The Unit Land <sup>is</sup> the same as that drawn on the plan on the 1915 Indenture. The part which is east of the said Winkleigh-North Tawton road (on the 1915 indenture map marked as OS No. 60 containing 20.269 acres) is now fenced from the road being partly ploughed land and partly grazed grass; he erected the fence about 20 years ago. The part of the Unit Land (on the 1915 map marked as OS No. 65 containing 3.360 acres) which is north-west of another road (running southwest, from a point near where the said road crosses the north boundary of the Unit Land) was sold off by him about 7 or 8 years ago. The remaining part of the Unit Land (on the said 1915 indenture map marked as OS No. 63 containing 14.545 acres) is open to the road having on it a lot of fern; it is reasonably level and could be ploughed. His farm, Heywood which contains about 176 acres which he bought in 1958, adjoins the Unit Land.

As regards the Rights Section registration I conclude from Mr Weeks' said 1971 letter, that it should not have been made.

As regards the Land Section registration, I have to determine whether it is or is not within the definition of "common land" in section 22 of the 1965 Act, the relevant words being "waste land of a manor". The documents produced by Mr Branton are some evidence that the Unit Land is of the Manor of Bondleigh, so I must consider whether it was at any relevant time waste land. As to this, I am satisfied that OS No. 60 was not on 4 December 1967 (the date of registration) waste land and that this part at least of Unit Land should not have been registered under the 1965 Act. This is more than half the Unit Land. If I left the remainder (OS Nos 63 and 65), the land registered would be quite different to that for the registration of which Bondleigh Parish Meeting applied. In the absence of any evidence or argument in support of such a registration, I conclude that Mr Branton has so far taken the Unit Land into his own farm, as to bring all of it outside the above quoted definition. I conclude therefore that this registration too was not properly made.

For the above 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 November — 1981

a. a. Baker J. J. J.

Commons Commissioner