



COMMONS REGISTRATION ACT 1965

Reference Nos 209/D/411
209/D/412

In the Matter of Brent Moor
including Dockwell Ridge,
Hickley Plain and Zeal Plains,
in South Brent, South Hams District,
Devon

SECOND DECISION

This second decision is supplemental to my decision dated 15 November 1985 and made in this Matter relating to the registration in the Rights Section of Register Unit No. CL161 in the Register of Common Land maintained by the Devon County Council after a hearing at Plymouth in July and November 1984.

This second decision relates to and only to the three registrations in the Rights Section: at Entry No. 51 made on the application of Wilfred John Edmunds of rights attached to land at Treeby, South Brent to take stone, turbarry, to graze 50 livestock units (NFU Scale) "over that part of the land comprised in this register unit lying south of the assumed Forest Boundary..."; at Entry No. 93 made on the application of John Henry Codd of rights attached to land being OS No. 1827, South Brent of turbarry, cut bracken rushes and heath, take sand and stone, graze 6 cattle and followers or 6 ponies and followers or 30 sheep and followers over the whole of the land in this Register Unit; and at Entry No. 129 made on the application of John Elliott and Ethel May Hodson as personal representatives of Gerald Lord Hodson deceased of rights attached to land at Underhill and at Thynacombe both in South Brent comprising the OS Nos. in the Register specified, of turbarry, cut reeds and bracken, take stone & sand, graze 262 cattle or ponies or 1310 sheep over the whole of the land comprised in this register unit.

This second decision is occasioned by a letter dated 1 January 1986 from Mr W J Edmunds to the Clerk of the Commons Commissioners in which as to Entry Nos. 93 and 129 he suggests (in effect) that confirmation of No. 93 should be refused (instead of being confirmed as appearing in paragraph 4(E) of the Third Schedule (Decision Table) to my said 1985 decision), because OS No. 1827 specified in Entry No. 93 is included among the OS Nos. in Entry No. 129 specified as comprising the land at Thynacombe therein mentioned; in his letter Mr Edmunds refers to the second paragraph of page 9 of my 1985 decision as showing when this or a similar point was at my hearing discussed.

The point made by Mr Edmunds is I think valid. About these 2 registrations in my decision there has been a mistake within the meaning of the penultimate paragraph of page 18; alternatively, I have made a clerical mistake or error arising from an accidental slip or omission within the meaning of regulation 33 of the Commons Commissioners Regulations 1971 which I ought to correct.



So I now decide that my said 1985 decision be corrected as follows:- At the end of the first paragraph on page 9 after the words "...and occupier" insert ",and to which the rights specified in the registration at Entry No. 129 are attached". At the end of the second paragraph of page 17 after the words "...properly made" insert a new paragraph:- "The rights at Entry No. 93 are attached to OS No. 1827 which is included at Entry No. 129 among the OS Nos. comprising the land at Thynacombe therein specified. Although Entry No. 129 is only in question by reason of SWDWB Objection No. 653 and Duchy Objection No. 986 the grounds of which do not put it wholly in question, such Objections give me jurisdiction to deal with the registration as may be requisite. Clearly, the registrations at Entry Nos. 93 and 129 cannot stand together. For the reasons given by Mr Edmunds above (27 November) recorded my decision is that the registration at Entry No. 93 was not properly made. At page 28 in paragraph 4(D) insert ",93" after "54" and before ",97"; and in paragraph 4(E) delete "93,".

In the result I REFUSE to confirm the registration at Entry No. 93 and I CONFIRM the registration at Entry No. 129 with the modifications as in my 1985 decision specified in paragraph 4(E) of the Third Schedule (Decision Table) thereto.

Additionally Mr Edmunds in his January 1985 letter suggested that the registration at Entry No. 51 made on his application should be modified in words identical to the modifications in my 1985 decision made applicable to Entry No. 49.

As regards Entry No. 51, paragraph 4(E) is not aptly expressed in that it is not clear whether there is or is not to be the verbal substitution below mentioned. Although it was I think generally accepted at the hearing that the 2 forms of words had the same meaning, the substitution would make the Register clearer and is therefore in the public interest.

Accordingly I correct paragraph 4(E) of the Third Schedule (Decision Table) on my said 1985 decision by after the words "as regards all such" inserting "(except No. 51)" and by inserting before "secondly in column 4" the words "and as regards Entry No. 51" modified in column 4 before the words "that part of the land comprising this register unit lying south of the assumed Forest boundary", substitute "the whole of the land comprised in this register unit except the part of such land hatched (doubly horizontally and diagonally) red and lettered A on the register map."

Because Mr B M Ogle and others possibly interested in the registration at Entry No. 93 may be prejudiced by this second decision which I am making without them having any opportunity of disputing it, and I give to him and such others and any other persons who may be concerned with the said registrations at Entry Nos. 51, 93 and 129 liberty to apply and set aside this second decision. Any such application should be made within THREE MONTHS or such extended time as a Commons Commissioner may allow of the date when this second decision is sent out and should in the first instance be made by letter to the Clerk of the Commons Commissioners in London.



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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 this decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 17th — day of March — 1986.

a. a. Baden Fuller

Commons Commissioner