



COMMONS REGISTRATION ACT 1965

In the matter of Hayne Down,
Manaton, Teignbridge District,
Devon

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos. 1 to 10 inclusive in the Rights Section or Register Unit No. CL 104 in the Register of Common Land maintained by the Devon County Council and are occasioned by Objections Nos. 431, 432, 433 and 434 made by Eric Thomas West Biggs and (Mrs) Pearl Biggs and noted in the Register on 24, 25 and 30 November 1970 and by Objection No. 528 made by William Gordon Warne and noted in the Register on 24 November 1970, and by the Rights Section registrations at Entry Nos. 9 and 10 being in conflict.

I held a hearing for the purpose of inquiring into the disputes at Exeter on 13 March 1984. At the hearing (1) Mr Nigel Lindsey Baverstock of Wingstone Farm Manaton as successor of Mr E T W and Mrs P Biggs who made the said Objections Nos. 431, 432, 433 and 434 and on whose application the Rights Section registration at Entry No. 7 and the Ownership Section registration at Entry No. 1 was made, attended in person; (2) Mr William Gordon Warne who made the said Objection No. 528 and on whose application the Rights Section registrations at Entry No. 4 was made, was represented by Mr C Thomas, Solicitor with Harold Michelmores & Co, Solicitors of Newton Abbot; (3) Mr Gilbert George Shilston and (4) Mrs Penelope Ann Keogh on whose application the Rights Section registration at Entry Nos. 2 and 5 were respectively made, attended in person; (4) Mr J H Hine of Wayside, Manaton as successor of Mr M J Bowden on whose application the Rights Section registration at Entry No. 6 was made, attended in person being helped by a neighbour Mr H F Pearce (next mentioned); (5) Mr Hedley Frederick Pearce on whose application with his wife Mrs Gwendoline Joyce Pearce the Rights Section registration at Entry No. 9 was made, attended in person and as representing her; (6) Mrs Marion Lettuce Bentley-Taylor on whose application the registration at Entry No. 10 was made was represented by Mr J M Osborne ARICS of Woosnam & Tyler of Dolgarreg, North Road, Bulth Wells, Powys and (7) Manaton Parish Council were represented by Miss M E Bindloss their chairman.

The land ("the Unit Land") in this Register Unit is a tract of about 253 acres situated about 1 mile southwest of Manaton. In the Ownership Section Mr E T W and Mrs P Biggs are registered as owners of all the Unit Land and such registration being undisputed has become final. Objection No. 434 is to the Land Section registration and its grounds are that the Unit Land was not common land at the date of registration; by sub-section (7) of section 5 of the Commons Registrations Act 1965 I must treat it as putting in question all the Rights Sections registrations. The other Objections are to the Rights Section registration: No. 431 to those at Entry Nos. 1, 2, 3, 9 and 10, right to graze does not exist at all or should be for fewer animals and be summer grazing only; No. 433 to



those at Entry Nos. 4 and 5, fewer animals; No. 432 to that at Entry No. 3, no estovers, turbary, piscary, take sandstone and gravel, wild animals, birds, fruit bracken ferns and rushes; and No. 538 to those at Entry Nos. 2, 3, 9 and 10; no rights to graze.

At the hearing:- The registrations at Entry Nos. 2, 6, 8 and 9 were withdrawn by the persons present and concerned as aforesaid to support them. It was agreed that I should confirm the registrations at Entry Nos. 4, 5, 7 and 10 with the modifications hereinafter specified by the persons concerned with them and with the Objections as aforesaid. About the registration at Entry No. 1, Mr Pearce said that Deal Cottage (therein mentioned) is a cottage with about 1 acre of land now owned by Mrs Stabb and that having spoken to her he understood that she did not now wish to pursue the registration. There followed some discussion during which it was said that those now grazing on the Unit Land were trying to make it pony free, that it was possible Mrs Stabb or her successors might at some time wish to graze on the Unit Land, and that for Deal Cottage one cattle or 4 sheep would be appropriate. No evidence or argument was offered in support of Entry No. 3.

The Objections but all the Rights Section registrations in question and in the absence of any evidence or argument in support of them, I consider that I can properly conclude that they were not properly made in any respect. For this reason I so conclude as regards Entry No. 3. But I need not so conclude as regards the other entries about which concessions have been made in some respects as aforesaid by those concerned to support the Objections; as to these I consider I ought to conclude that they were properly made to the extent conceded. It necessarily followed that the Land Section registration was properly made because in Section 22 of the 1965 Act, common land is defined as including land subject to rights of common; to be within such a definition one such right is enough.

On the above considerations my decision is as follows:- I confirm the Land Section registration at Entry No. 1 without any modification. I refuse to confirm Rights Section registrations at Entry Nos. 2, 3, 6, 8 and 9. I confirm registration at Entry No. 1 with the modification for "10 ponies, 50 sheep, 20 cattle" substitute "1 cattle or 4 sheep". I confirm the registration at Rights Section Entry No. 4 with the modification for "100 sheep, 20 cattle, 5 ponies" substitute "20 cattle and 60 sheep". I confirm the Rights Section registration at Entry No. 5 with the modification for "30 bullocks, 7 sheep" substitute "25 cattle and 50 sheep". I confirm the Rights Section registration at Entry No. 7 with the modification for "pannage to graze:- 100 cattle, 200 sheep, 20 ponies" substitute "To graze 120 cattle and 300 sheep". I confirm the registration at Entry No. 10 with the modification for "40 cattle or 20 horses or 90 sheep" substitute "10 cattle or 40 sheep".

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 3rd — day of August — 1984

A. A. Baden Fuller