



COMMONS REGISTRATION ACT 1965

Reference Nos.209/D/1-3

In the Matter of Horner Hill,  
Stockland, Devon (No.1).

DECISION

These disputes relate to the registration at Entry No.1 in the Land Section of Register Unit No.CL 4 in the Register of Common Land maintained by the former Devon County Council and are respectively occasioned by Objection No.202 made by Mrs E.K. Turner and noted in the Register on 25th November 1970, Objection No.224 made by Mr D.W. Pike, and noted in the Register on 25th November 1970, and Objection No.424 made by Mr F.J. Shipp and noted in the Register on 16th November 1970.

I held a hearing for the purpose of inquiring into the disputes at Exeter on 23rd October 1974. The hearing was attended by Mr P.A.J. Browne, solicitor, on behalf of the Devon County Council, whose predecessor made the registration without application, and by Mr D.C. Kaye, solicitor, on behalf of the personal representatives of Mrs Turner and Mr Pike. Mr Shipp did not appear and was not represented.

By a deed of gift made 19th January 1952 between (1) Robert Thesiger Watkin-Williams (2) Devon County Council there was conveyed the manor or lordship or reputed manor of Stockland with the manorial rights incident thereto in respect of certain named commons, including Horner Hill. In the belief that Horner Hill was in truth a common, the registration the subject of these disputes was made on 17th February 1967, but had that registration not been made, a similar registration would have had to have been made in consequence of the later registrations of rights of common on the applications of Mr G. Bicknell and the Stockland Parish Council.

Further research has revealed that the commons and waste land in the manor and parish of Stockland were the subject of an inclosure award made 7th January 1824 under the Stockland Inclosure Act of 1807 (47 Geo.III, sess.2,c.9 (private; not printed)). By this award part of the commons called the Horner Hill Turbary was set out, allotted, and awarded to the Churchwardens and Overseers of the Poor of the Parish of Stockland for the poor settled inhabitants of the parish residing therein to dig or cut turf or furze for their own use but not for sale. The Act provided that such persons should not dig or cut any turf or furze without the leave or consent of the Churchwardens and Overseers. The Act also provided that allotments should be made out of the commons, wastes and other commonable lands in the parish to the owners of lands or tenements entitled to any common right on such land.

The effect of these provisions of the Act and the award was to extinguish all rights of common over the land allotted. It is, of course, not impossible in law for fresh rights of common to have been created subsequently, but Mr Browne was unable to adduce any evidence of this.



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For these reasons I refuse to confirm the registration.

Mr Kaye invited me to make an order for costs against the County Council in favour of his clients on the ground that the County Council only resolved the matter two weeks before the hearing. However, the documents which have provided the answer to the dispute are public documents which were as available to Mr Kaye's clients as to the County Council, and there seems to be no reason why the dispute should not have been resolved much earlier. In these circumstances I make no order as to costs.

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 26<sup>th</sup> day of November 1974

A handwritten signature in dark ink, appearing to read 'C. D. Lyubbe', written in a cursive style.

Chief Commons Commissioner