



Reference Nos: 209/D/209
209/D/210
209/D/211

In the Matter of (1) Ilkerton Ridge including Thornworthy Common, Lynton Town, and (2) two extensions of Ilkerton Ridge, Brendon and Challacombe, both in North Devon District, Devon

DECISION

These disputes relate to the registrations at Entry Nos 8, 9 and 14 in the Rights Section of Register Unit No. CL 151 in the Register of Common Land maintained by the Devon County Council and at Entry No. 7 in the Rights Section of Register Unit No. CL 177 in the said Register and are occasioned by Objections Nos 330 and 369 (relating to CL 151) and 370 (relating to CL 177) made by Badgworthy Land Co Ltd, and noted in the Register on 3, 27 and 27 November 1970 respectively.

I held a hearing for the purpose of inquiring into the disputes at Barnstaple on 25 March 1981. At the hearing (1) Mr Christopher Bowen and Mrs Eileen Mary Bowen as successors of Mr Frederick James Bowen on whose application the CL 151 registration at Entry Nos 8 and 9 were made, were represented by Mr G L Watts solicitor of Brewer & Barnes, Solicitors of Barnstaple; (2) Mr Kingsley Chugg as successor of Mrs Shirley May Chugg on whose application the CL 151 registrations at Entry No. 14 and the CL 177 registration at Entry No. 7 were made, was represented by Mr M Fudge solicitor of Beattie & Co, Solicitors of Barnstaple; and (3) Lady Mallett of West Ilkerton Farm as successor in title of Miss A L Tucker on whose application the CL 151 registration at Entry No. 3 and the CL 177 registration at Entry No. 2 were made, was represented by Mr D W Blackwell solicitor of Slee Blackwell & Slee, Solicitors of Braunton.

The land ("the Ridge Land") in Register Unit No. CL 151 is a tract which if the irregularities in its boundaries be disregarded, is approximately triangular measuring from north to southwest, from north to southeast, and from west to east about 2 miles, 2½ miles and 1½ miles. The land ("the CL 177 Land") in Register Unit No. CL 177 is two triangular pieces, the larger being near the southwest corner of the Ridge Land and having sides of about 120, 60 and 60 yards and the smaller being the northeast corner of the Ridge Land and having sides of about 60, 30 and 30 yards. There are 15 Entries in the CL 151 Rights Section and 7 Entries in the CL 177 Rights Section, all of which except those above-mentioned, being undisputed have become final. In the CL 151 and the CL 177 Ownership Section Badgworthy Land Co Ltd are registered as owners of all the Ridge Land and of all the CL 177 Land.

The registrations at Entry Nos ⁸ ~~7~~ and ⁹ ~~8~~ are (apart from turbary and/or estovers) of a right to graze 100 Units (NFU Scale) and 200 Units (NFU Scale) respectively. The grounds of Objection No. 330 are that the Units should be 15 and 25 respectively. Mr Watts produced a letter dated 24 March 1981 signed and sealed on behalf of Badgworthy Land Company Ltd ("BLC") withdrawing the Objection and agreeing that the number of Units be increased to a total of 70. Accordingly, Mr Watts being agreeable, I confirm the registration at CL 151 Rights Section Entry Nos 8 and 9 with the modification that for these figures "100" and "200" in column 4 there be substituted respectively the figures "27" and "43".



The registrations at CL 151 Rights Section Entry No. 14 and at CL 177 Rights Section Entry No. 7 are of a right attached to Thornworthy Farm of turbary and to graze 102½ Units (NFU Scale). The grounds of the Objections are: "That Somerset Allotment as shown on the plan attached & which is included in the Registration of No. 14 of CL 151/No. 7 of CL 177 having no right of common of pasture on CL 151/CL 177 & that therefore the number of Units in No. 14/No. 7 claim should be reduced to 40½ units".

Mr K Chugg in the course of his oral evidence produced a conveyance dated 2 December 1960 by Mr Bernard Chugg to Mr Ivor Frederick Chugg of Thornworthy Farm, an assent dated 6 July 1965 by his personal representatives in favour of Mrs S M Chugg (the applicant for the instant registrations) and a conveyance dated 12 July 1972 by her to himself (Mr K Chugg). He said in effect:- Mr B Chugg and Mr I F Chugg (both now deceased) were his brothers and that Mrs S M Chugg is his sister-in-law. The three pieces of land which together make up Thornworthy Farm (all included in the said conveyances and assent) all adjoin the Ridge Land; one of them being therein described as Exmoor Allotment: rough ground: 200 acres and being the same as the Somerset allotment mentioned in the Objections. Sheep from the Farm had been grazed on the Ridge Land for over 30 years. It would be hard to say how many: he had about 1,100 sheep on the Farm including those on the Common (meaning the Ridge Land). There would be between 500 and 600 sheep on the Common. Because his farm adjoins the moor, he thought he ought to have the biggest right.

If ^{were} the grounds of the Objections I intended to be that the number of animals registered ought to be associated with some formula depending on the nature of the land to which the right is attached, the evidence of Mr Chugg did not deal with the grounds in substance. But in the absence of any representation at the hearing of BLC, I do not know what the Objections were intended to put in question. As a general rule an Objector who does not attend ~~and~~ is not represented at the hearing must I think be assumed to be indifferent to the result of the proceedings. Applying such general rule, I consider the evidence of Mr Chugg is enough and accordingly I confirm the CL 151 registration at Entry No. 14 and the CL 177 registration at Entry No. 7 without any modification.

The information now before me raises some doubt as to whether my assumption about the indifference of BLC is in fact correct; this can be investigated if they choose to make an application under regulation 21 of the Commons Commissioners Regulations 1971 to re-open the hearing and set aside this decision. Because of this doubt, I have directed the Clerk of the Commons Commissioners to send a letter to BLC calling their attention to the regulation; ^{because} because there is a possibility they may make an application under such regulation ~~because~~ not I think ~~because~~ my decision. a note for me
10/1/72

As to the registrations made on the application of Miss A L Tucker; because they have become final I have no jurisdiction over them. Mr Blackwell raised a question as to the management of the grazing on the Ridge Land; after discussion I concluded that I have no jurisdiction to deal with it.

TURN OVER



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 7th day of May — 1981.

a. a. Baden Fuller

Commons Commissioner

CORRECTED by substituting "8 and 9" for "7 and 8" in
the first line of the last paragraph of para 1.

20 May 1982

a. a. Baden Fuller