



COMMONS REGISTRATION ACT 1965

Reference No. 209/D/297

In the Matter of Little Yennadon,
Walkhampton, West Devon District,
Devon

DECISION

This dispute relates to the registrations at Entry Nos. 1 (replaced by Nos. 32 and 33), 4, 6, 18 (replaced by Nos. 26 and 27) and 19 in the Rights Section of Register Unit No. CL38 in the Register of Common Land maintained by the Devon County Council and is occasioned by Objection No. 1002 made by Maristow Estate Trustees and noted in the Register on 11 September 1972.

I held a hearing for the purpose of inquiring into the dispute at Plymouth on 21 January 1983 (this Matter was listed with 9 other Matters for hearing on 24-28 May 1982, but there was no available time until January 1983). At the hearing Mr Ernest Frederick Palmer of Lambs Park, Sheepstor, Yelverton attended in person. There was no attendance by any persons entitled to be heard.

The land ("the Unit Land") in this Register Unit contains about 12 acres, is in Walkhampton and on its south side (a little over 150 yards long) adjoins Yennadon Down, a tract of about 295 acres in Meavy (Register Unit No. CL191). The Rights Section registrations at Entry Nos. 2, 3, 5, 7 to 17 inclusive being undisputed, have become final. In the Ownership Section Roborough Estate Trustees are registered as owner of all the Unit Land and this registration being undisputed has become final. The grounds of the Objection are that "the rights registered at the above numbers do not exist at all".

In a letter dated 14 December 1982 sent to the Clerk of the Commons Commissioners, Farrer & Co Solicitors of Loxon on behalf of the Roborough Trustees, say (in effect):-

As regards Entry No. 1 (now Nos. 32 and 33) being of a registration made on the application of Mr Colin Mark Northmore as owner of rights attached to Parktown Farm:- The Farm was sold by the Trustees to Mr Northmore by a conveyance dated 19 June 1964 (a copy of the draft of such conveyance had been sent to the Commons Commissioners showing that no express grant of any right of common was thereby made).

As regards Entry No. 4 being a registration made on the application of Mr Ilbert James Wakeham of rights attached to Burrator House in Sheepstor:- The land is outside the parish of Walkhampton; reference should be made to the Trustees' submission about the corresponding registration at CL188 Rights Section Entry No. 18.

As regards Entry No. 6, being a registration made on the application of Mr Frederick William Charles Stentiford of rights attached to Part South Lake Farm, Meavy:- The land to which the rights are alleged to be attached is outside the parish.



As regards Entry No. 19 being a registration made on the application of Messrs Robert Edwin Skelley, Robert Lewis Skelley and Winifred Buller Skelley of rights attached to Part Staddons Farm, Walkhampton:- In an effort to agree this Entry the Trustees wrote to the claimants on 30 June 1982 (suggesting turbarry be omitted and the number reduced to the NFU scale) but without any answer.

As regards Entry Nos 26 and 27 (replacing No. 18) being registrations on the application of Percy Robert Scutt and Arthur Cole & Arthur Cole:- the land to which the rights are alleged to be attached is outside the parish.

Mr Palmer said (in effect):- The Unit Land is in the Manor of Walkhampton; there is a Manor of Callisham and Knowle which is partly in Walkhampton and partly in Meavy parishes. The lands to which the rights at Entry Nos. 4, 6, 18 and 19 are alleged to be attached are outside the Manor of Walkhampton. Staddons Farm mentioned at Entry No. 19 is in the Manor of Callisham and Knowle.; Mr Hillson who was the former occupier made no claim to common rights over the Unit Land.

On the day after the hearing I inspected the Unit Land from the Yelverton-Princetown Road (B3212) and from the road leading off it (across the Unit Land) to Sheepstor. Between the Unit Land and Yennadon Down (part of the CL191 land) there is a distinctive boundary (being the boundary between two parishes), which could easily be crossed almost anywhere by humans and animals.

The Objection was in a form which puts the burden of proof on the persons who seek to support the registrations; in the absence of any evidence or information supporting registrations, I conclude that none of them was properly made. The information contained in the said December 1982 letter and given to me by Mr Palmer supports this conclusion. The appearance of the Unit Land is consistent with the rights of common over it not necessarily being the same as the rights of common over the adjoining parts (Big Yennadon) of the land in Register Unit No. 191. Upon these considerations I refuse to confirm the now disputed Rights Section registrations at Entry Nos. 1, 4, 6, 18 and 19 including registrations at Entry Nos. 26, 27, 32 and 33 which replace Entry Nos. 18 and 1.

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 20th day of June 1984

A. A. Baden Fuller

Commons Commissioner