



COMMONS REGISTRATION ACT 1965

Reference No. 209/D/418

In the Matter of parts of
Hamel Down and Bonehill Down
(Manor of Natsworthy), in
Widcombe-in-the-Moor,
Teignbridge District, Devon

DECISION

These disputes relate to the registrations at Entry Nos. 1 to 8 inclusive, 17, 18, 19, 21, 23 and 26 to 55 inclusive (48 replaced by Nos. 62 and 63) in the Rights Section of Register Unit No. CL67 in the Register of Common Land maintained by the Devon County Council and are occasioned by Objections No. 240 and No. 241 made by Mr K S Fox as Lord of the Manor of Natsworthy by R J Michelmores, Steward of the Manor and noted in the Register on 23 and 26 October 1970.

I held a hearing for the purpose of inquiry into the disputes at Exeter on 11 April 1984. At the hearing: (1) Mr Keith Stephen Fox who made the said Objections, and who applied for the Rights Section registrations at Entry No. 11, 12, 13, 14, 15 and 16 and the Ownership Section registration at Entry No. 1 (being undisputed all final) was represented by Mr R J Michelmores chartered surveyor of Michelmores Hughes, Chartered Surveyors of Newton Abbot; (2) Lady Sylvia Rosalind Pleadwell Sayer who with Vice Admiral Sir Guy Bouchier Sayer applied for the registration at Entry No. 5 attended in person on her own behalf and as representing him; (3) Admiral Sir James F Eberle as successor of Mr David Miller Scott who applied for the registration at Entry No. 6 was also represented by Lady S R P Sayer; (4) Mr Frederick Archibald Mortimore who as tenant with Mr George Henry Ridd as owner applied for the registration at Entry No. 18, attended in person; (5) Mr Patrick Wrayford Coaker who with Mrs Edith Patricia Coaker applied for the registrations at Entry Nos. 27 and 28 attended in person on his own behalf and as representing her; and (6) Mrs Eleanor Nancy Smallwood who applied for the registration at Entry No. 47 was also represented by Lady S R P Sayer.

The land ("the Unit Land") in this Register Unit comprises two tracts, the westernmost ("the Hamel Down Part") being part of Hamel Down, and the easternmost ("the Bonehill Down Part") being part of Bonehill Down. The Hamel Down Part is about 1 mile long from north to south and about $\frac{3}{4}$ of a mile wide; its north and much of its west boundary adjoins another part of Hamel Down (the east and southeast parts of Register Unit No. 109); its south boundary adjoins another part of Hamel Down (being the east part of Register Unit No. CL67). The Bonehill Down Part is approximately triangular with sides of about $\frac{3}{4}$, $\frac{3}{4}$ and $\frac{1}{2}$ a mile long; its south boundary adjoins another part of Bonehill Down (being the north part of Register Unit No. CL68). In the Ownership Section Mr K S Fox is registered as owner of the whole of the Unit Land and such registration being undisputed is final. In addition to the said 43 (not including replacements) disputed registrations, there are in the Rights Section, 12 registrations (not counting replacements) which being undisputed have become final being Entry Nos: 9 to 16 inclusive, 20, 22, 24 and 25 (replaced by Nos. 66 and 67). The registrations at Entry Nos. 86 to 60 inclusive have been cancelled without any



replacements. The grounds of the said Objections are "No rights exist (as claimed)".

This Unit Land hearing followed my hearing about Blackslade and part Dunstone Down (Registered Unit No. CL69 which in the Manor of Blackslade and Dunstone) is situated about 1½ miles to the south (the Manor of Widecombe being in between); those present or represented at this Unit Land hearing were also present or represented at the said CL69 hearing and their Unit Land registrations are the same (except that they are over different land) as the CL69 registrations which I considered at my said CL69 hearing and about which I have given a decision ("my CL69 decision") of even date.

Mr R J Michelmores in the course of his oral evidence produced the documents specified in Part I of the Schedule hereto explaining that they were to the same effect as those he had produced at the CL69 hearing; except he mentioned —————→ that the records of the Manor of Natsworthy were in two parts: the earlier from 1818 to 1866 being in the Manor Book (copy ASF/3) not now held by him (the original of this Book was produced at the hearing held by me on the following day relating to Haytor Down, Register Unit No. CL25). He said (in KSF/1/i) a stint was agreed and no Commoners of Natsworthy registered excessive rights (Entry Nos. 9 to 16 inclusive, 20, 22, 24 and 25 are final). He said (in KSF/1/iv) Objection No. 240 related to persons having no land within the Manor but who were believed to be commoners on adjoining commons with a right (not registrable) to stray but no right to put out and graze. He asked that his evidence and arguments at the CL68 hearing be considered as repeated, that is KSF/1/ii, iii and iv show that the Rules of the Manor were essentially the same as those applicable to the Manor of Dunstone and Blackslade (CL69), although not set out so succinctly. None of the disputed registrations came within the Rules.

Lady Sayer said that those she represented made no claim to rights on the Bonehill Down Part. She gave oral evidence by reference to the statement specified in Part II of the Schedule hereto, being in effect the same as the statement (Sayer/403) produced at the CL69 hearing, with the addition that the Duchy had conceded the Forest (CL164) to be one great common and conceded venville rights over all commons owned by them adjacent to the Forest, including CL109 "which practically embraces CL67".

Mr Michelmores said that there was a wall between Two Barrows (pre-historic cairns) and Hamel Down Beacon Cairn, although there was no physical boundary between the Unit Land and the CL109 there were ownership stones.

Lady Sayer commented Hamel Down is a ridge running from north to south, the boundary is the line of the ridge.

Mr Coaker said (in effect):- His evidence as regards the Unit Land was the same as that which he had given at the CL69 hearing. Additionally they (he and his wife) had a right on the CL109 and there being no physical boundary his ponies go from there by the Unit Land.



Mr Michelmore pointed out that the Unit Land does not adjoin the CL70 Land, (the common nearest to Bittleford and Rowden Farms specified in Entry Nos. 27 and 28) and submitted that having a right on the CL109 Land (more remote from the Farms) conferred no rights on the Unit Land.

I shall treat the evidence given at the CL69 hearing as given at this hearing. I have dealt in my CL69 decision with the evidence and submissions made about CL69 by Mr Michelmore, Lady Sayer, Mr Coaker and Mr Mortimore and such decision should be treated as repeated herein. That the CL109 land adjoins the Unit Land in my opinion provides no good reason why the rights supported by Lady Sayer and Mr Coaker should be identical with those which by my CL109 decision dated 18 October 1984 were confirmed; such confirmation was based partly on the lack of any objection by the Duchy as owners; they may have conceded rights on the CL109 land on the basis that the rights over it should be the same as those confirmed on the Forest (CL164). So for the reasons set out in my CL69 decision of even date, I conclude that the registrations at Entry Nos. 5 (G B and S R P Sayer), (6) (D M Scott), 18 (F A Mortimore), 27 and 28 (P W and E W Coaker) and 70 (E N Smallwood) were not properly made.

In the absence of any evidence or argument in support of the other disputed Unit Land registrations, and for the like reasons as set out in my said CL69 decision, I conclude that these other registrations too were not properly made.

Accordingly for the above reasons I REFUSE to confirm the Rights Section registrations at Entry Nos. 1 to 8 inclusive, 17, 18, 19, 21, 23 and 26 to 55 inclusive (including Nos 62 and 63 which replace 48).

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.

SCHEDULE
(Documents produced)

Part I: by Mr R J Michelmore

- KSF/1 Papers prepared by Mr R J Michelmore, Steward (since his appointment in 1953) of the Manor of Natsworthy: (i) proof of evidence, (ii) extracts and notes from the Manor Book of Ilsington, Bagtor and Notsworthy 1818 to 1866, (iii) extracts and notes from the Manor Book of Natsworthy 1869 to 1955; (iv) notes about Objections Nos. 240 and 241, and reasons for concluding that the Natsworthy Manor Rules are the same as the Dunstone and Blackslade Manor Rules (CL69).
- KSF/2 Bound foolscap Book entitled "ATTESTED COPY NATSWORTHY MANOR COURT MINUTE BOOK" apparently begun in 1865 and containing contemporary manuscript entries from 29 October 1869 to 5 August 1955.
- KSF/3 Photocopy of Manor Book of the Manors of Ilsington, Bagtor and Notsworthy until 1866 (Manor of Notsworthy then sold)
a Jury and homage held on 3 Novemb



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and continuing for the Manor of Bagtor and Ilsington until a Jury and Homage held on 22 November 1923 and including rentals of the said Manors up to one year to Michaelmas 1936.

Part II: by Lady Sayer

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Statement

Dated this 22nd — day of April 1985.

A. A. Baden Fuller

Commons Commissioner