



COMMONS REGISTRATION ACT 1965

Reference No.209/D/41

In the Matter of Trinity Hill Common,
Axminster, Devon (No.2)

DECISION

This dispute relates to the registrations at Entry Nos.1 and 2 in the Rights Section of Register Unit No.CL.186 in the Register of Common Land maintained by the former Devon County Council and is occasioned by Objection No.15 (Land) made by the former Axminster Rural District Council and noted in the Register on 27th February 1974.

I held a hearing for the purpose of inquiring into the dispute at Exeter on 23rd October 1974. The hearing was attended by Mr T.J. Elliott, solicitor, on behalf of the East Devon District Council. I also heard Mr R.F. Alford, the son-in-law of Mr A.J. Hooper, the applicant for the registration at Entry No.1, who was unable to appear by reason of his advanced years. Mr W.J. Jenkins, the applicant for the registration at Entry No.2, did not appear and was not represented.

Mr Hooper's registration was of a right to graze 10 bullocks over the whole of the land comprised in the Register Unit and was stated to be attached to the land at The Bungalow, Trinity Hill. This land was the subject of an indenture of enfranchisement made 26th April 1900 between (1) The Ecclesiastical Commissioners for England (2) Henry Grant Madan Conybeare and Frederick Milloughby Ranken More. By this indenture the land was enfranchised with common of pasture on Trinity Hill. The land was conveyed on 1st November 1900 to John Hooper and by him on 4th October 1923 to Mr A.J. Hooper. The conveyances of 1900 and 1923 contain no reference to the right of common, but such right passed to John Hooper and from him to Mr A.J. Hooper by virtue of section 6 of the Conveyancing Act 1881.

Having had an opportunity of considering these documents, Mr Elliott informed me that the District Council no longer wished to pursue its objection. Mr Elliott also stated that it was not desired to contest the quantification of Mr Hooper's right at 10 bullocks.

In these circumstances I confirm the registration.

There being no evidence to support Mr Jenkins's registration, I refuse to confirm it.

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 11th day of November 1974


Chief Commons Commissioner