



COMMONS REGISTRATION ACT 1965

Reference No.10/D/38

In the Matter of Copyhold Lane,
Winterbourne Abbas, Dorset.

DECISION

This dispute relates to the registration at Entry No.102 in the Land Section of Register Unit No.C.L.102 in the Register of Common Land maintained by the Dorset County Council and is occasioned by Objection No.310 made by Mr. P.M.B. Sutcliffe on behalf of the late Sir David Williams, Bt. and noted in the Register on 4th May 1971.

I held a hearing for the purpose of inquiring into the dispute at Dorchester on 1st March 1973. The hearing was attended by Mr. R.J. Hyde, Chairman of the Winterbourne Abbas Parish Meeting, which applied for the registration, and by Mr. D. Coombe, solicitor, on behalf of the personal representatives of the late Sir David Williams.

Copyhold Lane is an ancient highway, being referred to as being already in existence in the Winterbourne Abbas Inclosure Award, dated 3rd December 1810. It varies in width from 20 ft to 190 ft. It is divided from the adjoining fields by hedges and fences. Along its centre there runs an unmetalled cart track, which in places bifurcates into a sort of "dual carriageway". The land along the sides of the cart track, for most of its length, is covered by grass, but it is sometimes used by traffic when the track becomes unduly muddy, resulting in a shifting of the position of the track. From time to time persons occupying adjoining land have grazed animals on the grass verges of the lane and other persons have also put animals on it without any objection. While not admitting that such grazing was as of right, Mr. Coombe expressed himself as willing that the registration should be confirmed with the exclusion of the cart track, leaving it to me to decide the width of the track. However, I have come to the conclusion that I cannot so divide the land the subject of the registration, for it seems to me that there is nothing to rebut the prima facie presumption that the whole of the land between the fences and hedges is part of the highway. While parts of the verges are of a substantial width, I can see no reason for saying that they are not roadside waste. Indeed, the evidence about the occasional shifting of the track supports the presumption that the right of passage extends to the whole width of the lane. That being so, the whole width is excluded from the definition of "common land" in section 22(1) of the Commons Registration Act 1965.

For these reasons I refuse to confirm the registration.

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 March 1973


Chief Commons Commissioner