



COMMONS REGISTRATION ACT 1965

Reference Nos 210/D/115-118

In the Matter of Eype Down,
Symondsburry, Dorset (No 2)

DECISION

These disputes relate to the registration at Entry Nos 1 to 8 (inclusive) in the Rights Section of Register Unit No CL. 48 in the Register of Common Land maintained by the Dorset County Council and are occasioned by Objections Nos 110, 221, 224, 225, 226, 309, 314 and 410 made by various Objectors to Entry No 48 in the Land Section of the Register Unit, Objection No 223 made by Mr G A Lee, Objection No 227 made by Mrs L Westcott, and Objection No 228 made by Mr and Mrs R Billen and all noted in the Register on 9th August 1971. Most of these Objections have been automatically resolved by my decision in In the Matter of Eype Down, Symondsburry (No 1) (1976), Ref Nos 210/D/107-114, to exclude certain land from the Register Unit. These references therefore resolve themselves into a series of disputes between Mr and Mrs Billen, the owners of the land remaining in the Register Unit, and the applicants for the registration of rights of common over that land.

I held a hearing for the purpose of inquiring into the disputes at Dorchester on 2nd June 1971. The hearing was attended by Mr Tranter of Messrs Nantes and Wylde, solicitors, to whom I gave leave to appear on behalf of Mr A G Lee, the applicant for the registration at Entry No 1, Mr H P Doble, the applicant for the registration at Entry No 3, Miss J M Baillon, to whom I gave leave to appear on behalf of her mother, Mrs E G Baillon, the applicant for the registration at Entry No 4, Mr E M Barnes, the applicant for the registration at Entry No 7, and Mr and Mrs Billen. Mrs R Colyer, applied for leave to appear on behalf of Mr R T Walbridge, the applicant for the registration at Entry No 8, on the ground that he was unwell. I refused this because Mr Walbridge had solicitors on the record to whom a notice of the hearing had been sent and there was no evidence that he had withdrawn his instructions from those solicitors.

It will be convenient to deal with the registrations in numerical order.

No 1. The application for this registration related to the whole of the land comprised in the Register Unit. Having confirmed the registration in the Land Section of the Register Unit with the exclusion of the land referred to in my decision in In the Matter of Eype Down, Symondsburry (No 1), I am satisfied for the reasons given in that decision that Mr A G Lee is entitled to the right which he claims over the whole of the land remaining in the Register Unit. I therefore confirm the registration.

No 2. Solicitors acting for Sir John Colfax, the applicant for this registration sent a letter to the Clerk of the Commons Commissioners before the hearing stating that he had "withdrawn" his application. I therefore refuse to confirm the application.



No 3. Mr Doble's root of title is an indenture made 29th September 1920 between (1) William Courtney (2) Page: Doble, the parcels of which include a right of pasturage of 100 sheep on a part of Eype Down identified on the Register Map by the number 282. This right was apportioned on a sale in 1939 and Mr Doble now has a right to pasture 50 sheep, the number specified in the registration. I therefore confirm this registration.

No 4. Miss Baillon was unable to produce any documentary evidence of the right to graze 5 sheep for 7 months of the year and 3 heifers for 5 months of the year and to tether any animals provided they are not entire males claimed by Mrs Baillon. She was, however, able to adduce oral evidence regarding the grazing of lambs. Mr Billen said that he did not dispute Mrs Baillon's right to graze 5 lambs from February to July. There was no evidence to support the claim to graze heifers. The claim to tether animals was, in my view, not validly registered, since it did not state the class or classes and the number of animals to be entered in the Register. I therefore confirm this registration with the following modifications, namely the substitution for the words "for 7 months of the" of the words "from February to July in each" and the deletion of the words "and 3 heifers for 5 months of the year. To tether any animals provided they are not entire males".

No 5. The Symondsburry Parish Council, the applicant for the registration, was not represented at the hearing. The right claimed was, however, clearly invalid, for it was stated to be the right of "Symondsburry Parishioners". I therefore refuse to confirm this registration.

No 6. Mr J F J Warren, the applicant for the registration, did not appear and was not represented. In the absence of any evidence, I refuse to confirm this registration.

No 7. This registration comprises the right to depasture 20 head of cattle and 100 sheep, the right to cut and take herbage and cut gorse, and the right to take rabbits on a part of Eype Down identified on the Register Map by the number 552. Mr Barnes was unable to produce any documentary evidence of these rights. He was born in 1927 and has known Eype Down all his life. I was not satisfied on his evidence that he had acquired any right of pasture by prescription, but Mr Billen accepted that he had a right to cut and take herbage and cut gorse. I am by no means satisfied that a right to take rabbits is a right of common, but since Mr Billen did not argue this point and said that he had no objection to Mr Barnes taking rabbits with snares, it seems that my proper course is to regard that part of the registration as being unopposed in so far as it related to the taking of rabbits with snares. There was no evidence that Mr Barnes has a right to shoot rabbits on Mr Billen's land. I therefore confirm this registration with the following modifications, namely the deletion of the words: "The right of common to depasture 20 head of cattle and 100 sheep", and the insertion after the word "rabbits" of the words "with snares".

No 8. In the absence of any appearance by or on behalf of Mr Walbridge, the applicant, I refuse to confirm this 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

15th

day of

June

1976

Chief Commons Commissioner