



COMMONS REGISTRATION ACT 1965

Reference Nos. 10/D/64  
10/D/65

In the Matter of Morden Heath,  
Wareham St. Martin, Dorset (No.1)

DECISION

These disputes relate to the registration at Entry No.2 in the Land Section of Register Unit No.C.L.250 in the Register of Common Land maintained by the Dorset County Council and are occasioned by Objection No.1104 made by the Minister of Agriculture, Fisheries and Food and Objection No.1136 made by Morden Estates Company and both noted in the Register on 7th February 1973.

I held a hearing for the purpose of inquiring into the disputes at Dorchester on 26th February 1974. The hearing was attended by Mr. F. Mallows on behalf of the Minister of Agriculture, Fisheries and Food and by Mr. Giles Best, of counsel, on behalf of Morden Estates Company. The Ramblers' Association, which applied for the registration, was not represented. Mrs. J.M. Caver, who signed the application on behalf of the Ramblers' Association, was present, but desired only to be heard in relation to costs. Mr. E.H.V. Gee, whose application was noted in the Register under section 4(4) of the Commons Registration Act 1965 appeared by Mr. O. Coombe, solicitor, but only to apply for an adjournment, which I refused to grant. The Wareham St. Martin Parish Council, whose application was also noted in the Register, did not appear, having given notice on 7th December 1972 that it could produce no evidence in support of its application.

There being no evidence in support of any of the applications, I refuse to confirm the registration.

Both Mr. Mallows and Mr. Best applied for orders for costs against Mrs. Caver, the Ramblers' Association, and Mr. Gee.

On 29th July 1973 the Secretary of the Ramblers' Association wrote to the Clerk of the County Council asking for the Register to be amended to exclude this Register Unit. This was stated to be without prejudice to Mrs. Caver's claim that she was the author of the registration, should she wish to pursue her claim.

Mrs. Caver seems to have taken no active part in these proceedings, leaving that to the Ramblers' Association. She informed me that she made the application on the strength of a general suggestion by the Association that registrations should be made of all land which appeared to members to qualify for registration. Although Mrs. Caver seems to have had no specific authority to register this particular area of land, I accept that she did so in good faith. Whether she had authority or not, the Association, in my view, ratified her action.

Nothing more was heard of Mrs. Caver in connection with these proceedings



until the Clerk of the Commons Commissioners, not knowing whether she wished to support the application, notwithstanding the withdrawal of the Ramblers' Association, sent to her a notice of the reference. To this she replied that she had no part to play in any future proceedings.

I have come to the conclusion that it would not be right to make any order for costs against Mrs. Caver personally.

So far as the Ramblers' Association is concerned, I do not consider that it acted unreasonably in ratifying the application made on its behalf by Mrs. Caver until such time as it could satisfy itself that the application appeared to be insupportable. It might possibly be said that the Association was not very expeditious in coming to that conclusion, but it does not appear to me that the Objectors' costs have been materially, if at all, increased by the Association's failure to give notice of its intention not to proceed with the matter before 29th July 1973.

Unfortunately, I have to deal with the applications against Mr. Gee without the assistance of any argument on his behalf. It does not seem to me that it would be fair to the Objectors to assume that Mr. Gee made the application for registration in a bona fide attempt as a public-spirited citizen to protect the interests of the community. In the absence of any information as to the circumstances in which Mr. Gee came to make his application, I can see no reason why he should not suffer the usual fate of an unsuccessful litigant. I shall therefore make an order that he pay the costs of each Objector, to be taxed on County Court Scale 4.

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 29<sup>th</sup> day of March 1974

Chief Commons Commissioner