



COMMONS REGISTRATION ACT 1965

Reference Nos. 210/D/53-57

In the Matter of Okeford Hill,
Okeford Fitzpaine, Dorset

DECISION

These disputes relate to the registration at Entry No. 51/1 in the Land Section of Register Unit No. VG.51 in the Register of Town or Village Greens maintained by the Dorset County Council and are occasioned by Objection No. 1096 made by Mr B Trowbridge, Objection No. 1097 made by Mr M W J Meaden, Objection No. 246 made by Mr C Ellis, Objection No. 469 made by the County Council, and Objection No. 961 also made by the County Council and all noted in the Register on 14th May 1973.

I held a hearing for the purpose of inquiring into the dispute at Dorchester on 8th January 1976. The hearing was attended by Mrs R Colyer for the Ramblers' Association, the applicant for the registration, Mr S R Wollen, solicitor, on behalf of Mr Trowbridge, Mr D M Morris, solicitor, on behalf of Mr Meaden, Mr S Rutter, solicitor, on behalf of Mrs J W Young and Mrs H V R Young, successors in title of Mr Ellis, and Mr D S Harper, solicitor, on behalf of the County Council, who informed me that he was instructed not to pursue Objection No. 469 and Objection No. 961.

The land comprised in the Register Unit has an area of about 132 ac. It lies to the south-east of the village of Okeford Fitzpaine, the top of the Hill being about a mile and a quarter from the village. Until the death of the late Capt G H L F Pitt-Rivers in 1966 the village and all the other land in the parish were in his ownership and had been owned by his predecessors in title for many years previously. Okeford Hill is approached from the village by means of two lanes and has several footpaths and bridleways on it. It is shown in the Tithe Apportionment of 1840 as "common" and seems to have been entirely open, until a little fencing was put up in 1927. It was completely fenced about 10 years ago. During the period of living memory people living in the neighbourhood have gone onto the land for a variety of purposes. Evidence as to this was obtained from a number of witnesses, some of whose memories went back to the early years of the present century.

Some of these witnesses remembered furze being cut and used for bonfires on the top of the Hill. These were on the occasion of Coronations and also on 5th November down to 1913. Some remembered rabbiting on Boxing Day, some saying it was rabbit shooting and others the hunting of rabbits with dogs and sticks. A part of the Hill called Merridge is very steep and was used by children for slides in dry weather as well as when there was snow on the ground. Children used to fly kites, and as some witness put it, "you could do what you liked up there". Some people used to walk on the Hill; others trained and rode horses on it; and others went picnicking; Girl Guides used to go tracking and have camp fires on the Hill; and boys from the village had paperchases.



In addition to these activities some people cut furze - it was said that "anybody used to go up there and cut it" - and took turf and moss.

Until the land was fenced, cleared, and cultivated it was very marginal land. The impression left on my mind by the evidence is that although parts of it were let with farms in the parish, it was of little value to the farmers, who took very little interest in it and did not interfere with whatever use their neighbours, who were fellow-tenants of the same landlord, chose to make of it. Indeed, it would probably have seemed churlish if the farmers had objected. This, however, is far from saying that the people living in the village used the Hill as of right. It seems to me that this is one more instance of the good-natured tolerance on the part of the owners and occupiers of marginal land which is happily so often found in the English countryside. It is quite foreign to the neighbourly relationship prevailing in a village community to seek to read into it some kind of legal relationship. I am not satisfied that such varied enjoyment of this land as the inhabitants of Okeford Fitzpaine had was had as of right.

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 1st day of February 1976

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Chief Commons Commissioner