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COMMONS REGISTRATION ACT 1965

Reference Nos. 11/D/2
11/D/3

In the Matter of Iselfield Stones,
Wolsingham, Wear Valley D., Durham

DECISION

These disputes relate to the registration at Entry No. 1 in the Land Section and at Entry No. 1 in the Rights Section of Register Unit No. CL.3 in the Register of Common Land maintained by the Durham County Council and are occasioned by Objection No. 8 made by J.F.D. Ward and noted in the Register on 3 November 1970.

I held hearings for the purpose of inquiring into the disputes at Durham on 8 November 1972 and on 1 May 1974. At the first hearing, on being informed that Mr. J.F.D. Ward had died recently and that no grant had yet been made to his estate and after hearing Mr. J.J. Hugill, I adjourned the proceedings. At the second hearing (1) Mr. Hugill attended in person on his own behalf and as representing his wife Mrs. R. Hugill, (2) Mr. T.D. Ward and Mr. F. Ward were represented by Mr. L. Pattinson solicitor of Geo. W. Hodgson & Angus, Solicitors of Stanhope, and (3) Wear Valley District Council were represented by Mrs. J. Robson, solicitor and head of their legal service.

The land ("the Unit Land") comprised in this Register Unit is (according to the Register) a tract of about 13.2 acres. The right objected to (none other has been registered) is (according to the Register) attached to Dunskins Farm and is to graze 14 sheep over the whole of the Unit Land. Both Entries were made pursuant to an application dated 21 February 1967 and made by Mr. and Mrs. Hugill. The grounds stated in the said Objection are:- "The right claimed by John James Hugill and Rose Hugill does not exist at all. The land referred to in the claim is not common land, but belongs to me in fee simple, and no person other than myself has any right of grazing or otherwise over the land". Mr. J.F.D. Ward died on 7 July 1972 and Mr. T.D. Ward and Mr. F. Ward are his personal representatives under a grant of probate dated 10 December 1973.

The second hearing proceeded as follows:- Mr. Pattinson said that the Unit Land is (as appears on the Register map) divided into two pieces by a fence ("the Dividing Fence") and that his clients wish to limit the Objection to the part ("the Ward Piece") of the Unit Land which is on the east side of the Dividing Fence. Mrs. Robson said that the District Council were only concerned with the other part ("the Sewage Piece") on the west side of the Dividing Fence; their predecessors the Weardale Rural District Council ("the R.D.C.") wanting for sewage purposes, to use the Sewage Piece and another piece ("the Council Piece") adjoining the west, had between the years 1902 and 1904 acquired 115 out of 132 stints over the Sewage Piece and the Council Piece (the plan attached to a surrender dated 23 January, 1903 shows the area of these two pieces as 5a. 1r. 7p. and 4a. 2r. 33p. respectively) and had taken a lease from J. Ridley for 30 years of the remaining 17 stints and had ever since been in occupation of



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the Sewage Piece and the Council Piece. Mr. Hugill while conceding that the Sewage Piece was owned by the R.D.C. "by virtue of the stinted rights", pointed out that these rights had not been registered under the 1965 Act, and while conceding that the executors of Mr. J.R.D. Ward owned the Ward Piece, said that he (Mr. Hugill) was present at the auction held in 1962 at which Mr. J.F.D. Ward purchased Durham Road Farm (including the Ward Piece), and that at the auction he (Mr. Hugill) had claimed a right to graze 14 stints over Iselfield Stones. Oral evidence was given (1) by Mr. Hugill, (2) by Mr. E. Ransom (on behalf of Mr. Hugill), (3) by Mr. T.D. Ward (on behalf of himself and Mr. F. Ward), (4) by Mr. Pattinson (on their behalf), (5) by Mr. T. Vickers (on behalf of the District Council) and (6) by Mr. Pattison (recalled on behalf of the District Council). On the day after the hearing I inspected the Unit Land and its surroundings, it having been agreed that I might do so unattended.

On my inspection the appearance of the Unit Land was different in some respects from what I on the maps and plans produced at the hearing, had expected: so I record: (i) the plans exhibited by Mr. and Mrs. Hugill on their application for registration appear to be based on an edition of the O.S. map earlier and in some respects different to that on which the Register map is based, (ii) the Register map in some respects delineates the Unit Land and the lands near it, not as they are now; (iii) on the north boundary of the Ward Piece there is now a post and wire fence (with a gate) on a line slightly different from the line shown on the Register map as the north boundary; (iv) there is now no fence between the Sewage Piece and the Council Piece and there is no fence dividing the Council Piece into two fields, such as appear on both the application plans and the Register map; (v) there is a large field ("the North Field") extending (as appears on the Register map) adjoining the north boundary of the Unit Land and this field is not divided as shown on the application plans; and (vi) the fields between the North Field and the Main Road (from Bishops Auckland to Wolsingham and beyond up Wear Valley) are not now so numerous as those shown on the Register map.

The case put by Mr. Hugill in his evidence on behalf of himself and his wife can I think be summarised under four headings: (1) title deeds, (2) grazing, (3) 1962 auction, and (4) 1770 plan.

As to heading (1), title deeds:- By a conveyance dated 19 June 1953, Miss M.H. Battie conveyed to Mr. and Mrs. Hugill "ALL THOSE pieces ... of land containing ... thirty nine acres, three roods and twenty nine perches ... TOGETHER with the Farm house and other buildings thereon erected and known as Dunskins Farm and a stintage for sheep on Iselfield Stones Wolsingham aforesaid WHICH said premises hereinbefore described are comprised as to part as to a further part ... and as to residue mentioning five parts in all respectively comprised in four surrenders and one admittance dated 1896, 1910, 1911, and 1919. The documents of title handed over on completion included an abstract dated 1953 of the title relating to Dunskins Farm beginning with the will dated 8 October 1936 of W. Urwin which according to the abstract included a gift to the testators great niece Miss M.H. Battie of property described as follows: "ALL the estate and interest of and in the Farm Holding known as "Dunskin Farm" Wolsingham afsd and comprising Farm dwellinghouse and domestic and farm outbuildings 39 acres 3 roods 29 perches or thereabouts of land all situate near Durham and Crook Lane, Wolsingham afsd and all stintage and other rights in or upon Iselfield Stones near Wolsingham afsd and all other common rights held in respect of the said Farm



Holding which were then occupied by John William Waugh as tenant;" the abstract ends with an agreement conveyance and release dated 28 March 1939 by which various questions as to the validity of the several testamentary dispositions made by Mr. W. Urwin and as to their effect was comprised and in the Schedule Dunskins Farm including "a stintage for sheep on Isalfield Stones", was described substantially in the same words as those above quoted from the 1953 conveyance. Also included among the documents handed over on completion, was a tracing ("the undated tracing") of a map of the area around the Unit Land on which a piece of land corresponding to the Unit Land and to the western half of the North Field is marked as "Isalfield Stones" and with which was a slip of paper which is written "Fourteen Sheep Stints on Isalfield Stones"; the undated tracing is very tattered and has been pieced together with sellotape.

As to heading (2), grazing:- Mr. Hugill said that between 1953 and 1964 (1962) he farmed Dunskins Farm himself (since then his son-in-law has farmed it) and while he farmed it he grazed the Unit Land with sheep (no more than 6) for a period of 3 days in the year; during his cross-examination he said he put the sheep on at night and took them off in the morning.

As to heading (3), the 1962 auction: Mr. Hugill in his evidence in chief described what happened as follows:- "At the auction I attended in 1964 (meaning 1962), Durham Road Farm was sold by auction with vacant possession; Mr. Pattinson read the conditions of sale; I got up and claimed a right to graze 14 sheep stints on Isalfield Stones which forms a part of Durham Road Farm; after discussion with the auctioneer the farm was sold on the condition that I had 14 stints; the farm was sold to the late Mr. J.F.D. Ward (son of Mr. H.D. Ward for whom I used to work)." I set out below my views on the effect on this part of Mr. Hugill's evidence of his cross-examination by Mr. Pattinson.

As to heading (4), the 1770 plan:- Mr. Hugill produced a post-card size photograph of a plan held at the Bowes Museum; he also produced a map about 30 inches long which had been lent to him for the hearing by the Vicar of Wolsingham and which was apparently in all relevant respects the same as that held by the Bowes Museum; these plans were endorsed "The plan of Wolsingham East Town-fields in the Manor and parish of Wolsingham divided in pursuance of an Act of Parliament among the several proprietors thereof John Greenwell, Surveyor 1770". This plan apparently shows the land divided in pursuance of the Act where land comprises an extensive area on either side of the said Main Road including all the land now known as Dunskins Farm and including the part of Durham Road Farm which adjoins the Main Road on the south but not including the Unit Land or the North Field or the Council Piece which is apparently outside the division. In most places on the plan, the land surrounding the land divided is marked with the name of the owner; exceptionally the words "Isalfield Stones" are written across some part of this surrounding land, being the southeast part of the North Field, the north and east part of the North Field and the east part of the Ward Piece. Mr. Hugill said that the plan shows that Isalfield Stones extended over much larger area than the Unit Land and contended that the grazing rights granted to him by the 1953 conveyance extended over this larger area.



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Mr. Ransom who is 85 years old said (in effect): He attended the 1962 auction. Mr. Hugill made his claim to the stints. Mr. Pattinson got up and asked if a certain person bought the farm that night was he (Mr. Hugill) prepared to sacrifice his claim to the stints, Mr. Hugill answered no. Mr. Pattinson then asked if Mr. Hugill exercised his rights and Mr. Hugill's answer was: yes. Mr. Pattinson then asked how long ago, Mr. Hugill answered: two years ago. The auctioneer then said that they had all heard the claim made by Mr. Hugill was making and that they were buying the farm knowing about Mr. Hugill's claim to 14 stints.

Mr. T.D. Ward said he was born in 1920 at Durham Road Farm, of which his father Mr. H. D. Ward was tenant, and ~~that~~ he lived there until he was about thirty years old. He produced a conveyance dated 16th July 1962 by which Durham Road Farm including the Ward Piece and the North field was conveyed by Mr. W.E. Ridley and Mr. T.J. Ridley to Mr. J.F.D. Ward (the brother of Mr. T.D. Ward); the land was expressed to be "subject to all rights of grazing or other rights (if any) now existing on or over such part of the property as is shown verged green on the said plan (which said last mentioned property was formerly part of a stinted pasture known as Isalfield Stones Wolsingham aforesaid)". The North field and the Ward Piece are on the said plan edged green. Mr. T.D. Ward said: while he was living at Durham Road Farm nobody other than his father had ever grazed sheep on the North Field or the Ward Piece; the green land was what he knew as the Isalfield Stones area. He agreed with Mr. Hugill that he Mr. Hugill from 1922 to 1934, worked as a farm hand for Mr. H.D. Ward, that the Urwins owned and lived at Dunskins Farm until 1926 and that they then let it to Mr. Waugh and that on the death of Mr. Waugh in 1948, Mr. Hugill became the tenant. But Mr. T.D. Ward did not agree to the suggestion made to him by Mr. Hugill that either the Urwins before 1926 or Mr. Waugh subsequently had ever grazed sheep on the Isalfield Stones area.

Mr. Pattinson described what had happened in the 1962 auction.

Mr. Vickers, who is a Legal Assistant with the District Council produced seven documents (being conveyances, surrenders and a covenant to surrender) all dated between 30 December 1902 and 31 March 1904 and all mentioning the desire of the R.D.C. to acquire the premises for the purpose of the Public Health Act. Documents (1) to (6) relate particularly to the ten acres which I have in this decision called the Sewage Piece and the Council Piece; all contained a description to the effect that the ten acres was part of land called Isalfield Stones or Jackson's Batts. Some of the annexed plans show the Council Piece as "the Present Sewage Field" with the outlet of the Main Sewer, at its north west corner, and the Sewage Piece as "New Sewage Field". By documents (1) and (2) a 1/32 Share of the ten acres was conveyed. By documents (3), (4), (5) and (6), stints over the ten acres (being respectively 2, 9, unspecified and 85 stints) were conveyed. By document (7) land conveyed was described as: "ALL those two sheep stints or other the right of pasturage estate and interest of the vendor in certain closes of copyhold land commonly called Isalfield Stones or Jackson's Batts containing thirty-one and a quarter acres or thereabouts situate at Wolsingham aforesaid". Document (6) shows that the grantor of the 85 stints was J. Ridley, he having acquired them from W. Ridley in 1902.

Mr. Pattinson, on being recalled by Mrs. Robson, produced a conveyance dated 2nd December, 1920 by which A.E. Milburn conveyed to J. Ridley "ALL THOSE



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as the same are now in the occupation of the Purchaser together with all other the estate and interest of the Vendor (if any) in such stintages or pasture gates to HOLD subject, nevertheless to the lease granted to the Weardale District Council for sewerage rights in connection with such stints but with the benefit of the yearly rent thereby reserved...." Mr. Pattinson said in effect: J. Ridley died in 1929. His executors were his widow, Mrs. S. Ridley, his daughter Mrs. E.M. Pickering (wife of Mr. J.H. Pickering, the auctioneer at the 1962 auction), and Mr. T.R. Brown. The R.D.C. in respect of the sewage fields (meaning, I think, what I have called the Sewage piece and the Council piece) pay the executors a small yearly rent; Mr. Pattinson thought it was between £2 and £4. He knew about these things because his firm acted as solicitors for the executors (there was a trust for the grand-children) until about six years ago when the family left the district.

As to heading (1) above mentioned:- The 1953 conveyance is some evidence that Mr. and Mrs. Hugill under it became entitled to a "stintage for sheep on Iselfield Stones". But it is not (as Mr. Hugill seemed to think) conclusive evidence that he is so entitled.

In my opinion the undated tracing and the slip of paper with it is not any evidence of ~~his~~ entitlement to anything. On the undated tracing, a large area of land is coloured red, green, violet and yellow, nearly all of which is outside Dunskins Farm as shown on the plan attached to the 1967 application; the small part of this area coloured red, green and violet on the plan which is part of Dunskins is between Crook Lane and the Main Road. The slip of paper and the undated tracing when produced to me were not attached together (if they were so attached the attachment was so loose that they separated as soon as I tried to look at them.)

Neither the 1953 conveyance nor the 1953 abstract provide any indication of the nature and extent of the "stintage or other rights" referred to. So although the 1953 conveyance, the 1953 abstract, the undated tracing and the slip of paper might reasonably be regarded by Mr. Hugill as suggesting that proof from other sources could possibly be obtained, that he and Mrs. Hugill had acquired grazing rights which could somehow be linked to the number "14" over some land which could somehow be identified with Iselfield Stones, such documents considered by themselves in my opinion provided Mr. Hugill with no ground for deducing that he and Mrs. Hugill were entitled to "14 sheep stintages for unlimited period" as claimed in Part Five (Description of the Right of Common) of their 1967 application.

As to heading (2) above mentioned:-

Mr. Hugill claimed that he grazed the Unit Land because, being entitled under his title deeds to stints, he thought he should exercise them. Such grazing as he did was on such a small scale and done so secretly (neither Mr. Ridley or Mr. J.F.D. Ward could be expected to notice it) that it cannot, in my view, be regarded, either as showing that Mr. and Mrs. Hugill under the 1953 conveyance acquired a right or as indicating the extent of any right thereby expressed to be conveyed or as establishing a new right by prescription or otherwise.

As to heading (3) above mentioned:-

I had more detailed evidence about the 1962 auction than about any other aspect of this case. Mr. Pattinson (whose evidence I accept) said in effect:-
Mr. Pickersgill invited questions from prospective bidders. Mr. Hugill rose to his



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feet and claimed 14 sheep stints on Iselfield Stones. Mr. Pattinson then read a letter dated 24 May 1962 from R. Marquis & Co., Solicitors which they, apparently writing on behalf of their client Mr. Hugill, said that he did not press the matter of stintages of sheep on Iselfield Stones (this letter followed a letter dated 22 May 1962 which the same Solicitors recalling a letter dated October 1953, suggested the sale of such 14 stints). Mr. Hugill then said that the letter should not have been written and he stood by his claim (he said the same at the hearing, when he was cross-examined about these letters.) It was a general understanding among those present that Mr. J.F.D. Ward (the son of the late tenant) would be interested as a buyer; this was the reason why he asked the question mentioned by Mr. Ransom in his evidence. Mr. Pattinson then and there drafted a special condition of sale to deal with Mr. Hugill's claim; this special condition was read out by Mr. Pickersgill; the auction proceeded and the 1962 conveyance to Mr. J.F.D. Ward gave effect to such condition.

I find that Mr. Hugill did at the 1962 auction stand up and claim he was entitled to 14 sheep stints. Mr. Hugill in his evidence attempted to persuade me that the sale was on the condition that he Mr. Hugill should have 14 sheep stint, meaning that Mr. J.F.D. Ward, if he became as he did, the purchaser, would become in some way bound to Mr. and Mrs. Hugill to accept that Durham Road Farm, or the Iselfield Stone Area of it, was burdened with 14 sheep stints. Mr. Pattinson in his evidence made it clear that Mr. Hugill did not say definitely that he would give up rights if Mr. J.F.D. Ward became the purchaser and also made it clear that Mr. Pickersgill never conceded that such rights existed. Mr. Ransom, on this point in the course of his cross-examination, said: "He (meaning Mr. Pickersgill) would have been a fool if he had made any such concession;" with this view of the situation I agree.

The differences between Mr. Ransom's account of Mr. Pattinson's account of the 1962 auction, can, I think, be explained by their different interests in what was happening. Mr. Ransom was, I think, telling me as best he could the happenings as he remembered them; but I decline to infer that things which he does not remember, but which Mr. Pattinson does remember, did not happen. As between Mr. Pattinson and Mr. Hugill, I prefer the evidence of Mr. Pattinson. I find that at the auction, no agreement was made and no condition was imposed as to Mr. J.F.D. Ward, or anyone else accepting that Durham Road Farm, or any part of it, was for the benefit of Mr. & Mrs. Hugill or anyone else burdened by any sheep stints or other grazing rights.

As to heading (4) above mentioned:-

There is no mention in the 1769 Act of "Iselfield Stones". The area on the 1770 plan called "ISELFIELD STONES" is either a semi-circular strip of land along the boundary of the East Town field, not including the Unit Land, or is (as is, I think, more likely) a very large piece including not only the Unit Land, the Council Piece, and the North Field, but also land which is now and which has apparently been for some time used for railway or steel-works purposes. Nobody at the hearing attempted to tell me how the history of Iselfield Stones, as delineated on the 1770 map, could or might be written, and I consider that, without the assistance of someone with local knowledge, I cannot merely by looking at the Unit Land and piecing together the various references to Iselfield Stones in the documents put before me, write a reliable history of any time before



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that which those who gave evidence before me can remember.

Accordingly my general conclusion on the said four headings is that, apart from the 1953 conveyance, Mr. Hugill's contentions amount to nothing.

So the substantial question is what weight should I attach to the words: "a stintage for sheep on Iselfield Stones" as indicating that Mr. and Mrs. Hugill, under the 1953 conveyance, acquired a right of common, when balancing this item of evidence against the contra evidence that in 1953, no such rights existed.

As to "Iselfield Stones", Mr. Hugill's identification of the land so described with the Unit Land (as described in his application) was a guess on his part. It was not until he saw the map in the Bowes Museum that it occurred to him that Iselfield Stones might describe a much larger area extending far outside the lands held with Durham Road Farm or used by the R.D.C. Having regard to the railway and other changes in the landscape, Iselfield Stones could not in 1953 be given any meaning it may have had in 1770.

As to "a stintage for sheep", these words considered by themselves, have no certain meaning. Mr. Hugill, while giving evidence, made it clear to me (perhaps unconsciously) that he never had any idea what the words meant; although from the slip of paper he assumed that there were 14 stints, he did not know how or in what circumstances or for how long 14 sheep (assuming one stint equals one sheep) could be grazed.

No document from which the meaning of the words "Stintage for sheep" in this locality, could be deduced, was produced.

Nor can I deduce their meaning from any usage or repute locally known. Mr. Hugill said that before 1948 Mr. Waugh grazed his sheep over the Unit Land., but on this point I prefer the evidence of Mr. T.D. Ward, who said that Mr. Waugh did not do this. Mr. Hugill did not himself graze over the Unit Land between 1948 and 1953 while he was tenant and he made it clear that such grazing as he did between 1953 and 1962 was by reason of the words in the 1953 conveyance and as an attempt to exercise the right: he hoped he had thereby acquired in some way and without having any knowledge at all of the extent and nature of the right: . Although Mr. Hugill referred vaguely to grazing done since 1962 by Mr. S. Asquith (his son-in-law, who with his daughter, now occupies Dunskins) I had no evidence by either of them.

Against the case put by Mr. Hugill, I have the evidence of Mr. Ward (which I accept) that the land had never been grazed from his earliest recollections (say about 1928) until 1950, by anyone other than his father.

Balancing the conflicting considerations outlined above, I conclude that the 1953 conveyance is not a reliable indication that whoever was responsible for inserting the words "a stintage for sheep on Iselfield Stones" then had good grounds for thinking that such a right then existed, and in the absence of any other evidence that any other right of common then, or subsequently, came into existence and, having regard to the evidence of Mr. T.D. Ward, I conclude that the first sentence on the grounds of the Objection made by Mr. J.F.D. Ward, have been established and that at least as regards the Ward Piece the registration should not be confirmed.



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By the Commons Commissioners Regulations 1971, paragraph 19 (1), the District Council are entitled to be heard at the hearing of a dispute as to the registration of any land as common land. Both under this sub.-paragraph and in the exercise of any discretion which I may have, I consider that the District Council may properly ask me (as Mrs. Robson did) to refuse to confirm the registration as regards the Sewage Piece notwithstanding that Mr. Pattinson on behalf of Mr. T.D. Ward and Mr. F. Ward, Limited the Objection to the Ward Piece.

The documents produced, as summarised above in relation to the Sewage Piece, do provide some grounds for supposing that the Sewage Piece may be subject to a right of common by reason of one or more of the stints therein referred to. Mrs. Robson, as I understood her, produced these documents because she considered (rightly, I think) that she should not on behalf of the District Council, suggest that the Sewage Piece was not common land without disclosing to me that the District Council held these documents. She did not know why the R.D.C. did not apply for registration under the 1965 Act. In my view, their non-application, whether deliberate or unintentional, is of no significance to the question I am now considering. The R.D.C. may well have acquired under the Limitation Act 1939 a possessory title to an estate in fee simple in the Sewage Piece.

On the appearance alone, it would be extraordinary if grazing rights such as have been registered by Mr. and Mrs. Hugill, existed over the Sewage Piece and no other land. There is nothing to connect the stintage mentioned in the 1953 Conveyance with any of the stints mentioned in the documents produced on behalf of the District Council. In my view these documents do not support the case put forward by Mr. Hugill. Mr. Hugill at the hearing made no attempt to distinguish between the Ward Piece and the Sewage Piece, so that no clear distinction was made in the evidence between the grazing of these two pieces, and I conclude that the Sewage Piece had never been grazed, either by Mr. Hugill or his predecessors in any significant way. Upon the above considerations I conclude that the right claimed by Mr. and Mrs. Hugill over the Sewage Piece does not exist at all and that I should, on the application of the District Council, give effect to this conclusion. In case I am wrong in considering that I have insufficient information to write a history of the Islefield Stones Area, I now set out the history, which on the information I have, seems to me to be the most likely:- Looking around the Unit Land, my guess is that before 1769, there was a large area (the "Islefield Stones Area") including what is now the Unit Land, the Council Piece, the Northfield, some of the Steelworks land and some of the railway, all of which was not much higher than the bed of the River Wear and was therefore flooded from time to time and consequently appeared stony. Before the 1769 Act, East Town Fields and the Islefield Stones Area were treated as one Stinted Pasture because the River Wear was the only effective cattle barrier on the South. For some reason, the Islefield Stones Area was (perhaps because it was no part of the Manor) not included in the Inclosure effected under the 1769 Act; possibly the Area was thought to be worthless. After the Award made under the 1769 Act, those who formerly had stints over East Town Field, were treated as continuing to have rights over the Islefield Stones area. When the railway was built, the Islefield Stones Area was much reduced in size, but what was left was protected against flooding by the River and the grass improved. Sometime (perhaps long ago) the owners of the Steelworks encroached. In 1900 the R.D.C., not knowing who was the owner, managed to obtain a title sufficient for their purposes by purchasing the interests of anybody they could



find who claimed any interest as Stintholder or otherwise. About the same time, Mr. J. Ridley had the same idea; I was given a copy of a statutory declaration made on 1 August, 1967 by Mr. Pickersgill in which it was said that Mr. Ridley bought all the stints; this declaration was not relied on by Mr. Pattinson; I think it unlikely that Mr. Ridley ever acquired more than the rights of such of the stinholders as actually claimed some sort of entitlement. Nevertheless, in the result, Mr. Ridley and his successor, Mr. J.F.D. Ward became in effect the accepted owner of such parts of the Iselfield Stones Area, as had not previously been effectively appropriated for either railway, steel-works or sewage purposes. These activities would not necessarily lead to any alterations in the documents of title of those who, as former stinholders on the East Town Field, had stints on the Iselfield Stones Area, so that such documents would continue to contain words about stints: and these words might be copied into subsequent documents without anybody inquiring whether the stints referred to continued to have any effective existence.

A history on the above lines, even if it be correct, would not, in my opinion, advance the case put forward by Mr. Hugill, because I would certainly include in it a finding that it was apparent at least 50 years ago that those whose stints had not been acquired by Mr. Ridley or the R.D.C., must either assert their rights over the Iselfield Stones Area (or what was left of it) or abandon them altogether; and also a finding that any rights which any predecessor in title of Mr. and Mrs. Hugill may have had (not having been asserted over a long period) must be treated as having been abandoned, see Tehidy v. Norman 1971 2QB 528. My guess is that the words "a stintage for sheep" were used in one of the documents dated between 1896 and 1919 and mentioned in the 1953 conveyance and that the words were repeated in the 1953 conveyance without any consideration.

For the reasons set out above, I refuse to confirm the registrations. At the conclusion of the hearing it was agreed that I should make no order as to costs whatever my decision might be.

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 six 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

17th

day of

July

1974

COMMONS COMMISSIONER

a. a. Baden Fuller