



In the Matter of Three Pieces of Waste by Rye Hill,
Epping Upland, Essex.

DECISION

This dispute relates to the registration at Entry No 1 in the Rights section of Register Unit No CL 67 in the Register of Common Land maintained by the Essex County Council and is occasioned by Objection No 486 made by Mr R B Norton and noted in the Register on 16 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Chelmsford on 18 January 1978. The hearing was attended by Miss Pegrum, the administratrix of the late Mrs F A Pegrum, the applicant for the registration, and by Mr G H Watts, the successor in title of the Objector in the ownership of Rye Hill House, to whom the Objector had given a mandate in writing to act on his behalf.

The registration is of a right of pasture for either 2 horses, 2 cows, 2 donkeys, 2 goats, 10 sheep or 25 geese over the whole of the land comprised in the Register Unit attached to Rivetts Farm.

Miss Pegrum had no evidence as to grazing by donkeys, goats, sheep or geese. So far as cows were concerned she relied on statutory declarations by Miss Henrietta Dickins and Mr George Trundle.

Miss Dickins' memory goes back to a period of approximately twenty years before 1909 when her cousin, Mr Frederick Trussell, was the tenant of Rivetts Farm. Miss Dickins remembers that Mr Trussell used to graze his cattle on the land comprised in the Register Unit and on a much larger area to the north, known as Rye Hill Common. When Miss Dickins and her sister went to stay with Mr Trussell they used to drive in the cattle from the land in question.

In 1909 Mr Trussell was succeeded in the tenancy of Rivetts Farm by Mr Trundle's father, the late Mr Frederick Trundle. Mr F Trundle was succeeded in 1923 by his sons, the late Mr Walter Simon Trundle and the late Mr Ernest Trundle, who remained until 1933. Mr G Trundle worked for his father on the farm from 1909 to 1912 and for a further period of about four years immediately after World War I, and he remembers that his father and later his brothers kept about 10 head of cattle, which they used to graze on Rye Hill Common and on the land in question.

The evidence regarding horses was given by Miss Pegrum, who has lived at Rivetts Farm since her late father bought it in 1961. In 1961 Mr Pegrum had no cattle, but about a year later he began to take in horses to graze on the farm and he used sometimes to tether one or two horses at a time on the land in question. After Mr Pegrum died in 1965 Mrs Pegrum continued this practice. No cattle were kept on Rivetts Farm from 1961 until 1974.

On this evidence I am satisfied that there was a prescriptive right to graze 10 cattle on the land in question attached to Rivetts Farm. However, since Mrs Pegrum applied for the registration of a right to graze only 2 cows, I cannot confirm any greater right.



The evidence concerning the grazing of horses covers too short a period for me to find that any prescriptive right to graze horses had been acquired at common law or under the Prescription Act 1832 or lost modern grant when Mrs Pegrum applied for the registration in 1969.

For these reasons I confirm the registration with the following modification:- namely, the deletion of the words "either two horses" and the words "two donkeys, two goats, ten sheep, or twenty-five geese."

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

3rd

day of

February

1978

Chief Commons Commissioner