



Mr Jordan conveyed Twittocks Orchard to Mrs M A Dolman on 12 December 1968. Mrs Dolman conveyed it to Mr and Mrs B W Pain on 20 January 1972, and Mr and Mrs Pain conveyed it to Mr and Mrs Wilks on 6 June 1975. None of the conveyances contains any reference to a right of common attached to Twittocks Orchard, but any right to which Mr Jordan was entitled as owner of that land would have passed to Mr and Mrs Wilks by virtue of section 62 of the Law of Property Act 1925.

The conveyance of the land to Mr Jordan was not in evidence, but it appears from a covenant in a conveyance of a small area of land formerly part of Twittocks Orchard by Mr Jordan to the former Gloucestershire County Council, dated 30 May 1960, that Mr Jordan acquired the land from the Revd. P F Wigan by a conveyance dated 30 October 1946.

Mr Wigan owned and occupied a farm known as Puckrup Farm, of which The Twittocks formed a part. Mr L W Halling, who has known the area since the 1930's said that Mr Jordan bought The Twittocks when Mr Wigan sold his farm. Mr Halling's recollection was that Mr Wigan's livestock mostly consisted of pigs, and such cattle as he had were prize animals which did not go onto the Common. According to Mr Halling, Mr Jordan did not have any cows or sheep.

After hearing Mr Halling's evidence, Miss Cameron accepted that Mr Wigan had no right over the Common.

I therefore refuse to confirm the registration at Entry No. 5.

The registration at Entry No. 6 is of the right of pasture for 60 sheep at any time over the whole of the land comprised in the Register Unit attached to land called Duddage.

Mr Hawkes's right of common was the subject of an action in the Queen's Bench Division of the High Court - Warner v. Hawkes (1956), unrep. The servient tenement then directly in issue was only a part of the land comprised in the Register Unit, which had been requisitioned, but the evidence related to Brookeridge Common as a whole, and the learned judge decided the case by reference to the rights possessed before the requisition, and just as if it had not taken place. The plaintiffs were a number of pasture-holders, concerning whose rights there was no question, and the defendants, who were the late Mr Hawkes and his father, claimed to be entitled by prescription to pasture sheep on the Common.

The learned judge held that the defendants had established a right to graze 30 sheep on the Common. There was no dispute before me as to this number in relation to breeding ewes. The matter upon which the parties were not agreed was the length of time that lambs could remain on the Common. The Objectors alleged that there was a local custom that lambs should cease to be treated as lambs on 1 August in each year, while Mrs Hawkes, the widow and executrix of Mr F S Hawkes, gave evidence that the practice on Duddage Farm had been to let the lambs run with the ewes until they were sold at Gloucester Barton Fair at the end of September. Mr Ungood-Thomas at first asked me to modify the registration by reducing the number of sheep from 60 to 30 and adding the words "together with their followers until 1 August in each year", but later said that the Objectors would be content simply to have the number reduced. Mr Forge, on the other hand, asked for the number to remain at 60 so that the lambs could remain on the Common between 1 August and Gloucester Barton Fair.

In my view, it would not be right to leave the number of sheep at 60, for a registration in that form would cover 60 ewes all the year round with their lambs for part of the year. Nor do I consider that it would be right to insert into this registration any specific words about lambs. All the other registrations in the Register Unit are in the form "x sheep" simpliciter. It was accepted by both sides that a registration in that form includes the lambs of the x sheep. I am far from satisfied on the evidence that there is by local custom a fixed date on which lambs cease to be commonable. Mr Warner, who has been a haywarden for nearly 20 years, said that a lamb becomes a sheep on 1 August, but he also said that while many lambs go to Honeybourne Fair on the first Wednesday in August, others go to later sales, the last being Gloucester Barton Fair, and Mrs Hawkes said that she had seen other people's lambs on the Common during August and September. The impression left on my mind is that the sheep farmers of Twynning manage their flocks in the ordinary course of good animal husbandry without being governed by any fixed date for removing lambs from the Common.

For these reasons I confirm the registration at Entry No. 6 with the following modification, namely, the substitution of "30" for "60". I confirm the registrations at Entry Nos ~~13, 14, 15, 17, 18, and 20~~ with the agreed modifications, which will be incorporated in the notice of the final disposal of those registrations

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.

L'4,85  
 A<sup>2</sup> 22 524, and 26 528

Dated this

25<sup>th</sup>

day of

May

1982

*[Handwritten Signature]*

Chief Commons Commissioner