



COMMONS REGISTRATION ACT 1965

Reference Nos: 213/D/155
to 164 inclusive

In the Matter of The Kings Stanley
Free Meadows, Kings Stanley, Stroud
District, Gloucestershire

DECISION

These ten disputes relate to the registrations at Entry Nos 1, 2, 3, 4, 7, 8, 10, 11, 12, 14 and 15 in the Rights Section of Register Unit No CL 99 in the Register of Common Land maintained by the Gloucestershire County Council and are occasioned by Objections Nos Ob674 to Ob683 inclusive made by Mr Ernest William Fox and noted in the register on 27 September 1972.

I held a hearing for the purpose of inquiring into the disputes at Gloucester on 23 November 1978. At the hearing (A) Mr B Symons solicitor of Bryan and Symons, Solicitors of Bristol represented (1) Mr E W Fox (the Objector; and in the Ownership Section registered as owner of the land), and (2) Mr Albert Edward Davies (Rights Section Entry No 9, not in question in these proceedings, was made on his application; and (B) Mr Ian McCulloch of counsel on the instructions of A E Smith and Son, Solicitors of Stroud represented the persons who are in the First Schedule/stated to have been represented by him. I also had before me letters received on 22 November 1978 by Gloucestershire County Council with reference to this inquiry from Mrs H E Nash of Homeside Bridge Road, Ebley, Stroud and Mr M Howell of No 2 Meadow Lane, Dudbridge, Stroud.

The land ("the Unit Land") in this Register Unit contains (according to the Register) about 131 acres and comprises 2 pieces: one a strip a little under a mile long north of, and (except at the east end) bounded by, the railway land formerly used by the now closed line to Nailsworth, and south of, and except in 2 places bounded by, the River Frome; and the other piece partly opposite and partly to the west about 600 yds long and having a variable width averaging about 100 yds or less, being bounded on the north in part by the River and in part by railway land.

The grounds of objection ~~are~~ in each case for the most part (at the end of the grounds in some cases special circumstances relating to the registration are mentioned) are:- "By a consent judgment in the Stroud County Court dated 18 December 1969 in an action entitled "Edgar Malpass and Joshua Davies suing on their own behalf and on behalf of the other resident occupiers of agricultural land in the Parish of Kings Stanley in the County of Gloucester - Plaintiffs - and Ernest William Fox (the Objector) - the Defendant". It was agreed that the said resident occupiers of agricultural land had the right to graze cattle and horses on this common land from 1 August to 14 November in each year and to graze sheep thereon from the 15th November in every year to the 14th February following, all dates inclusive. Objection is made to rights claimed beyond these dates as follows:- ...".



Mr McCulloch produced a certified copy of the said consent judgment and said in effect:- Those he represented (the persons now entitled to the benefit of the registration at Entry Nos 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13 and 15) had agreed to form a Commoners Association to which each member would make an annual contribution, which would keep records and accounts and which would arrange the marking of credited animals. They had agreed with each other and with Mr Fox as owner of the Unit Land as to how it should be grazed.

There was a discussion at the hearing as to how this agreement should be implemented, particularly because the registrations at Entry Nos 5, 6, 9 and 13 were not in question in these proceedings and because no one at the hearing represented those entitled to the registrations at Entry Nos 10 and 14. During this discussion Mr Symons obtained authority to represent Mr A E Davies (entitled to the benefit of Entry No 9). After a short adjournment, Mr McCulloch and Mr Symons on behalf of those they represented said they were agreed that I should modify each and every registration (except No 15) in issue before me by rewriting column 5 in accordance with the Second Schedule hereto. I understood that this agreed modification was part of a larger agreement with which I am not concerned; it relates to the formation and constitution of the Commoners Association in such ~~Schedule~~ mentioned and to how registrations at Entry Nos 5, 6, 9 and 13 which are not in issued before me, shall be modified in accordance with the 1965 Act and the regulations made thereunder without any decision by a Commons Commissioner.

In my opinion I can and ought to give effect to the agreement so made as stated by Mr McCulloch and Mr Symons. The letters of Mrs Nash and Mr Howell provide no contrary reason. So I am left only to determine validity or otherwise of the registrations at Entry Nos 10 and 14.

As to the registration at Entry No 10 made on the application of Messrs J W and D C Dickie of Redhill Farm:- The right registered is: "Right to aftermath over the whole of the land comprised in this Register Unit". This registration is either (a) inconsistent with all or many of the other rights registered, because if Redhill Farm has attached to it an unrestricted right to the aftermath, none of the other rights to graze can be effective; or (b) it is irregular in that if the right extends to part only of the aftermath the registration does not specify the part either by reference to the number of animals entitled to graze or in any other way. Messrs Dickie made no objection to the other rights registered and offered no evidence in support of their own registration. In these circumstances I conclude that in the absence of any concession from Mr McCulloch and Mr Symons I should refuse to confirm the registration at this Entry No. However they conceded that Redhill Farm as described in Column 5 should take the benefit of the agreement they had made as regards the other registrations as outlined above; accordingly ~~therefore~~ that the registration should be modified as thereby provided. my decision is:

As to the registration Entry No 14 made on the application of Mr A A Gordon:- I was handed a letter dated 10 April 1978 written by him to Mr T C Savage in which he says "... we are not interested in grazing on land belonging to Mr Fox". In the absence of any evidence to support the registration, and having regard to the letter, I conclude that the registration should not have been made.



For the above reasons I refuse to confirm the registration at Entry No 14 and I confirm the registrations at Entry Nos 1, 2, 3, 4, 7, 8, 10, 11, 12, 14 and 15 with the modification in each case that for the words now in column 4 there be substituted the words set out in the Second Schedule hereto omitting however in each case one of the figures appearing in such Schedule in accordance with the note at the end of the Schedule and so that such note being for the guidance of the Registration Authority, will not appear in the Register.

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.

FIRST SCHEDULE

Entry No 1: Objection No 674

Applicant:- Ernest William Cook (owner). Devolution:- (Stream Farm) After death of Mr Cook passed into 3 separate ownership:- (a) Mr Thomas Clifford Savage, and Mr Richard Savage, (b) Mrs P M Savage (wife of Mr Thomas Clifford Savage) and (c) Mr Edward King. Representation:- Mr T C Savage, Mr R Savage, Mrs P M Savage, Mr E King all represented by Mr McCulloch.

Entry No 2: Objection No 675

Applicant:- Mrs Isabel Smith (owner). Devolution:- (Beech House) She was succeeded by Mr M Maslin (see County Council letter 5 August 1976); he was succeeded by Dr W Cheney. Representation:- Dr W Cheney represented by Mr McCulloch.

Entry No 3: Objection No 676

Applicant:- Mr Gordon Frederick Niblett, Mr Geoffrey Lane Niblett, and Mr Maurice George Niblett, (owners) Devolution:- None. Representation:- Mr G F Niblett, Mr G J Niblett and Mr M G Niblett all represented by Mr McCulloch.

Entry No 4: Objection No 681

Applicant:- Mr Aubrey Wilfred Neal (owner). Devolution:- None. Representation:- Mr A W Neal represented by Mr McCulloch.

Entry No 5: No objection

Applicant:- Henry William King and Mr Edward King (several owners). Devolution:- (Part of Peaked Elm Farm) Mr H W King died about 37 years ago and was succeeded by Mr E King. (Rest of Peaked Elm Farm and land at Middledyard) none. Representation:- Mr E King represented by Mr McCulloch.



Entry No 6: No objection

Applicant:- Mr Edward King. Devolution:- (West Lea Farm) none. Representations:- Mr E King represented Mr McCulloch.

Entry Nos 7 and 8: Objection No 677

Applicants:- Mr William Joshua Davies (owner No 7 and tenant No 8).
Devolution:- (Middleyard: registrations by reference to CL2 registration)
Mr W J Davies was on his death succeeded by his widow Mrs Edith Rose Emily Davies who was herself succeeded by Mr Edward King, Mrs P M Savage and Mr Terence White Maul.
Representation:- Mr E King, Mrs P M Savage and Mr T W Maul, all represented by Mr McCulloch.

Entry No 9: No objection

Applicant:- Mr Albert Edward Davies. Devolution:- (Greenacre, registration by reference to CL 2 registration) none. Representation:- Mr A E Davies represented by Mr Symons.

Entry No 10: Objection No 678

Applicant:- Messrs J W and D L Dickie. Devolution:- (Redhill Farm) no information.
Representation:- None.

Entry No 11: Objection No 678

Applicant:- Mr Edgar Perciful Malpass (owner and tenant). Devolution:- (Land specified by OS Nos) none. Representation:- Mr E P Malpass represented by Mr McCulloch.

Entry No 12: Objection No 680

Applicant:- Mr Thomas Clifford Savage (tenant). Devolution:- (The Knapp) none.
Representation:- Mr T C Savage represented by Mr McCulloch.

Entry No 13: No objection

Applicant:- Mr D G Lusty (owner). Devolution:- (Stanley End Farm) Mr Lusty died in 1972 and was succeeded by Mrs May Mary Lusty. Representation:- Mr M C Lusty represented by Mr McCulloch.

Entry No 14: Objection No 682

Applicant:- Mr James Alexander Gordon (owner). Devolution:- (Gordon Park: registration by reference to CL2 registration) no information. Representation:- None.

Entry No 15: Objection No 683

Applicant:- Mr Douglas Walter Malpass. Devolution:- (Elm Farm) Mr D W Malpass died 17 April 1973 and was succeeded by his daughter Mrs A G Johnson (see Wellington and Clifford letter 18 October 1978). Representation:- Mrs A G Johnson represented by Mr McCulloch.

SECOND SCHEDULE

The right to graze from 1 August to 14 November (inclusive) 40 head of cattle or their equivalent over the whole of the land comprised in this register unit, provided that:-

- (1). At any one time the total number of cattle (or their equivalent) being grazed under this right and all the rights registered at Entry Nos *1, 2, 3, 4, 7, 8, ⁹12 and 15* of this Rights Section shall not exceed 40 head of cattle or their equivalent;
- (2). If and as often as any of the land to which this right and the said other rights are attached shall cease to be used for agricultural purposes the number 40 in the foregoing proviso (1) shall be reduced proportionately to the area of the land so going out of agricultural use to the total area of the said attached land;
- (3). No more cattle ~~should~~ ^{shall} be grazed under this right than are from time to time permitted by regulations made by the Committee of the Commoners Association established at the hearing before the Commons Commissioner on 23 November 1978 of this Matter; and
- (4). "Their equivalent" means one head of cattle equals 2 yearling cattle equals 4 sheep.

NOTE for Registration Authority:- In each registration one of the figures "1, 2, 3, 4, 7, 8, ⁹12 and 15 set out in proviso (1) above, and appearing between * * is to be omitted being that figure which is the number of the entry of the registration to which the modification relates; for example the relevant part of the modification of the registration at Entry No 3 will read: "at Entry Nos 1, 2, 4, 7, ⁹12 and 15".

Dated 3rd — day of January 1978

a. a. Baden Fuller

COMMONS COMMISSIONER