



In the Matter of Waste Common,  
Tedstone Delamere, Malvern Hills  
District, Hereford and Worcester

DECISION

These disputes relate to the registrations at Entry No 1 in the Rights Section and at Entry No. 1 in the Ownership Section of Register Unit No. CL.163 in the Register of Common Land maintained by the Hereford and Worcester County Council, and are occasioned by objection No. 30 made by Major M.A. Bellville and noted in the Register on 21 September 1970, and by objection No.260 made by the Hon. Mrs E.M.K.Evans and Mr. Ancrum F. Evans (Trustees of the Lower Sapey Estate) and noted in the Register on 13 September 1971.

I held a hearing for the purpose of inquiring into the disputes at Worcester on 2 July 1975. At the hearing (1) Malvern Hills District Council were represented by Mr. G.C. Miles solicitor (employed by the Council), (2) Major Miles Aubrey Bellville and his son Mr. Richard Bellville were represented by Mr. P.C. Davis, solicitor of Foster and Finlay, Solicitors of Malvern, and (3) Mrs Anne Alice Kyffin Denniston attended in person.

According to the Register map the land ("the Unit Land") comprised in this Register Unit is O.S. plot no. 200 containing 4.614 acres. The registration in the Land Section (being undisputed, it became final on 1 August 1972) was made pursuant to the application of Bromyard Rural District Council. The registration in the Rights Section was made on the application of Mrs. Denniston, and is of rights attached to Church House Farm and land, to graze 2 horses and 6 sheep, of estovers and of piscary. The grounds of objection (Major Bellville's) to this right are: "The area of land known as Waste Common is owned by me since the death of my mother in October 1951. Prior to that date, my father purchased this area together with Tedstone Court Estate in 1908-9. To my knowledge, this area is solely a Waste of the Manor of Tedstone Delamere and I know of no rights exercised or ever claimed by anyone during this long period". In the Ownership Section, Major Bellville is registered as owner of the whole of the Unit Land. The grounds of objection (Mrs. B.M.K.Evans and Mr. A.F.Evans) to this registration are (stating their effect shortly, that the registration is contrary to an old estate map, that there are three gates from the Trustees land onto the common and <sup>that</sup> Mrs.Evans when a child had picnics on the Common.

Mr. Davis said (in effect) that Major Bellville had after the registrations were made conveyed the Unit Land to Mr. Richard Bellville. Mrs. Denniston said that Mrs. B.M.K.Evans who was her mother had died recently, and that Mr.A.F.Evans is her brother. Mr. Miles said that as the registration in the Land Section had become final, his Council as successor of Bromyard Rural District Council was not concerned with these disputes.



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After some discussion Mrs. Denniston said she would withdraw her claim to the rights registered, and Mr. Davis said that he would not on behalf of Major and Mr. Bellville ask for any order as to costs. Mr. Davis produced (1) a copy letter dated 23 May 1975 which had been given to him by the solicitors acting for Mr. A.K. Evans, (2) an indenture dated 2 February 1909, and (3) a conveyance dated 1 January 1952. By the 1909 conveyance, the Manor or Lordship of Tedstone Delamere and the hereditaments therein described were conveyed to Mr. H.A. Bellville (Major Bellville's father), and the hereditaments so described and delineated on the plan annexed thereto expressly include O.S. map plot no. 200. By the 1952 conveyance (which recited the death of Mr. H.A. Bellville on 30 September 1930) as surviving personal representative conveyed the lands therein described (including the Unit Land) to Major Bellville. By the 1975 letter, Mr. A.F. Evans said (in effect): that for the reasons he had therein set out he did not take the issue further. I am not at this hearing concerned with any devolution of the Unit Land after the registrations were made.

On the information summarised above, I conclude that the registration in the Ownership Section was rightly made and that the registration in the Rights Section should now be cancelled. For these reasons I confirm the registration at Entry No. 1 in the Ownership Section without any modification and refuse to confirm the registration at Entry No. 1 in the Rights Section.

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 24<sup>th</sup> — day of July 1975.

a. a. Baden Fuller

Commons Commissioner