



COMMONS REGISTRATION ACT 1965

Reference Nos 221/D/13 &amp; 14

In the Matter of Burton Common,  
Burton-on-the-Wolds and Wymeswold,  
Charnwood District, Leicestershire

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DECISION

These disputes relate to the registrations at Entry No 1 and at Entry No 2 in the Ownership Section of Register Unit No CL. 11 in the Register of Common Land maintained by the Leicestershire County Council and are occasioned by these registrations being in conflict.

I held a hearing for the purpose of inquiring into the dispute at Leicester on 19 April 1977. At the hearing the most noble Percy Hamilton 18th Duke of Somerset on whose application the said Entry No 2 was made, was represented by Mr P R Fitzgerald solicitor of Walters Vandercom & Hart Solicitors of London. Present also were Mr D H Chawner watching on behalf of the Department of Transport and Mr T Eggleston a member of Burton-on-the-Wolds Parish Council watching on their behalf.

The land comprised in this Unit is a strip between 2 and 3 miles long between Six Hills and Burton-on-the-Wolds, containing about 100 acres. In the Rights Section, 9 rights of pasturage or pasture and 1 cowgate have been registered. At Entry No 2 in the Ownership Section the Duke of Somerset has been registered as owner of the whole; at Entry No 1 in the Section Mr Robin Royce Mason has (on his application) been registered as owner of a part at or near Six Hills, being a hatchet-shaped piece (at its east end much wider than the remainder of the strip) known as "Twenty Acre" and containing a little more than 20 acres. In a letter dated 30 March 1977 Ormsby-Taylor & Willis Solicitors of Burton-upon-Trent writing on behalf of Mr Mason said that he had contracted to transfer such as he might have in the land to the Duke and asked the Commissioner to pronounce ownership in his favour.

Mr Fitzgerald handed me a document signed on behalf of Mr Mason and the Duke requesting me to confirm the registration of ownership made on the application of the Duke and to refuse to confirm the registration of ownership made on the application of Mr Mason. Mr Chawner said that the Department of Transport were only concerned as purchasers under compulsory purchase order, being the Ministry of Transport (Highways No 134) (Bath-Lincoln Trunk Road, Six Hills to Widmerpool Improvement) Compulsory Purchase Order 1964.

In my opinion I ought to act on the said request made on behalf of the Duke and Mr Mason. If the registration at Entry No 1 had never been made, that made at Entry No 2 would have become final under section 7 of the 1965 Act, and no hearing before a Commons Commissioner would have been necessary; I consider I ought to produce the same result, notwithstanding that I had no evidence of the Duke's ownership.



or these reasons I refuse to confirm the registration at Entry No 1 and I confirm the registration at Entry No 2 without any modification.

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 22<sup>nd</sup> day of April ————— 1977

a. a Barclay Fuller

Commons Commissioner