



COMMONS REGISTRATION ACT 1965

Reference Nos. 232/D/65.

232/D/66

232/D/67

232/D/68-69

In the Matter of Croyndon Hill, in part in
Dunster and in part in Luxborough
West Somerset District, Somerset.

DECISION.

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry No. 1 in the Rights Section of Register Unit No. CL.224 in the Register of Common Land maintained by the Somerset County Council, and are occasioned (D/65 and D/67) by Objection No. O/387 made by the Crown Estate Commissioners and noted in the Register on 20 July 1971, (D/68) by Objection No. O/388 also made by the said Commissioners and noted in the Register on 21 July 1971, and (D/66 and D/69) by Objection No. O/800 made by the Minister of Agriculture and Fisheries and Food and noted in the Register on 4 September 1972.

I held a hearing for the purpose of inquiring into the disputes at Taunton on 4 June 1975. At the hearing the Forestry Commissioners and the Minister were represented by Mr. F. Mallows (barrister-at-law) of H.M. Government Legal Service, and the Crown Estate Commissioner were represented by Miss. J. Phillips of their Legal Adviser's department.

The land (the Unit Land) comprised in this Register Unit is known as Croyndon Hill, is about 2½ rd miles long from north to south, and at most places between 1/3rd and 2/3rd's of a mile wide, and includes much of the high ground between Dunster and Luxborough. It was registered as common land in the Land Section in consequence of an application made by Mr. John Richard Lamacraft and Mrs. Dorothy Alice Lamacraft of Knowle House, Timberscombe, Dunster to register a right to graze up to 50 sheep and 30 cattle and rights of turbary and estovers over the Unit Land and other land. The grounds stated in the Objections were to the effect that the Unit Land (or the greater part of it) is not common land or that the rights claimed do not exist; O/388 relates to all and O/800 relates to nearly all the Unit Land.

Mr. F. Strawbridge, who is now and has been since 1961 head forester of the Brendon Forest of Somerset and North Devon in the course of his evidence produced a lease dated 6 March 1922 by which Mr. A.L. Luttrell demised the greater part (in the lease said to contain 78½ acres) of the Unit Land to the Forestry Commissioners for 999 years. Mr. Strawbridge said (in effect): From the records in his office it appeared that before 1922 the demised land was moor land and that it was subsequently planted (plantation was completed in 1930) with pines, firs and beech. In his time, about 100 acres had been cut and replanted. Nobody had ever exercised or (apart from the now Disputed Registrations) ever claimed to have rights of common over the demised land; there was no grazing land at all. On behalf of the Forestry Commissioners permission had been given to some to cut firewood, but no one had claimed a right to do this. The Commissioners had provided a picnic place and a forest trail, there were some bridle paths (public) and some forest roads (not public) Mr & Mrs Lamacraft have a riding establishment (he thinks started in about 1966) at Knowle House, where they provide riding and pony trekking for persons on holiday.



Miss. Phillips produced a conveyance dated 24th August 1956 of the Dunster Castle Estate (containing over 800 acres) to the King's Most Excellent Majesty in fee simple. The whole of the Unit Land is included in the Estate therefore conveyed. Miss Phillips explained that the parts of the Unit Land not held by the Forestry Commission under the 1928 lease with other lands adjoining are worked under the direction of the Forestry Department, of the Crown Estates Commissioners.

In a letter dated 3 June 1975 and sent to the Clerk of the Commons Commissioners, Dodson Harding and Couch, Solicitors of Wiveliscombe writing on behalf of Mr. & Mrs. Lamacraft, asked that their letter might be taken as their Client's formal request to withdraw the application to register common rights over the Unit Land.

In the circumstances outlined above I am satisfied that the registrations should not have been made and for these reasons I refuse to confirm either of them.

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 25th — day of June — 1975

a. a. Baden Fuller

Commons Commissioner.