



COMMONS REGISTRATION ACT 1965

Reference Nos 232/D/223
232/D/288

In the Matter of land at Perry,
East Quantoxhead, West Somerset
District, Somerset

DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section and at Entry No 6 in the Rights Section of Register Unit No CL. 85 in the Register of Common Land maintained by the Somerset County Council and are occasioned by Objection No O/143 made by East Quantoxhead Trust Company Limited and noted in the Register on.....(date does not appear in my papers; the Objection is dated 21 August 1970).

I held a hearing for the purpose of inquiring into the disputes at Taunton on 5 and 13 October 1976. At the hearing East Quantoxhead Trust Company Limited were represented on the first day by Mr J E Way solicitor and on the second day by Miss J E May solicitor of Risdon & Co, Solicitors of Taunton, Minehead and elsewhere.

The land ("the Unit Land") comprised in this Register Unit has already been the subject of many disputes, 19 of which were considered by me at a hearing on 5 June 1975 and dealt with in my decision dated 21 January 1976 under reference nos 232/D/117 to 135 inclusive. The Unit Land is, as originally registered, described in the Register as being in 10 pieces as set out in the first column of the Schedule to my said decision. They are all on the edge of or near to the very large area containing (roughly estimated) about 20 square miles and known as the Quantock Hills, most of which area is comprised in Register Unit No CL. 10. The piece ("the Disputed Piece") which is the subject of these two disputes is a triangular piece with sides (as I estimate from the Register map) about 50 yards long, situate at Perry by the side of the Bridgwater-Minehead road (A39). The grounds of Objection are in effect that the Disputed Piece is not common land: it is used for agricultural and forestry purposes.

On the first day of the October 1976 hearing no one other than the Trust Company and the County Council as registration authority, either attended or was represented; so with the consent of Mr Way I adjourned the proceedings to a more convenient day. On the second day of the hearing Miss May in the course of her evidence referred me to a Tithe Apportionment Award dated 5 May 1839 for the Parish of East Quantoxhead. Some of the lands in the Schedule to this Award are described as commons; but the Disputed Piece is not so described but is included amongst the numerous other pieces in the ownership and occupation of individuals. In the absence of any evidence that the Disputed Piece is subject to a right of common as described in any of the Entries in the Rights Section or to any right of common at all, I conclude that it cannot properly be regarded as common land within the meaning of the 1965 Act either when considered by itself or considered to be possibly part of the nearby area called the Quantock Hills. My decision therefore is that it was not properly registered in the Land Section.



Under the 1965 Act the Objection No O/143 in effect puts in issue the validity of all the registrations in the Rights Section (there are 6 Entries): some of these registrations are of rights over part only of the Unit Land; whether or not this reference (as did some of those considered by me in my said decision) relates to land affected by all or only some of these Entries, neither the evidence at the June 1975 hearing nor the evidence at the October 1976 hearing discloses any reason why I should not confirm all the Entries so far as they relate to the Unit Land other than the Disputed Piece and other than the lands to which I have in my said decision decided that Objection was successfully made; for this would be the result under the Act if the registrations of rights had been originally confined to the parts of the Unit Land which had not been objected to.

I understand that all the disputes relating to the disputed land have now been disposed of either by agreement or by my said decision or by this decision; accordingly so as to give final effect both to both these decisions I confirm the registration at Entry No 1 in the Land Section with the following modification that is to say that there be removed from the Register the Disputed Piece (within the meaning of this decision) and all the land which in accordance with my said decision of 21 January 1976 ought to be removed therefrom, and I confirm the registrations at Entry Nos 2, 3, 4, 5, 6, 7, 8 and 9 in the Rights Section without any modification but so that this confirmation shall not preclude the cancellation of any Entry which relates only to land removed from 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.

Dated this 3rd day of March

1977

a. a. Baden Fuller

Commons Commissioner