



COMMONS REGISTRATION ACT 1965

Reference Nos 232/D/96
232/D/97

In the Matter of part of an area known
as West Quantoxhead Common, West
Quantoxhead, West Somerset District,
Somerset

DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section and at Entry Nos 1, 3 and 4 in the Rights Section of Register Unit No CL. 26 in the Register of Common Land maintained by the Somerset County Council and are occasioned by Objection No O/90 made by the Forestry Commission and noted in the Register on 22 July 1970.

I held a hearing for the purpose of inquiring into the disputes at Taunton on 5 and 7 October 1976. On the first day of the hearing: (1) the Forestry Commission were represented by Mr D F W Ungoed-Thomas of counsel; (2) Wessex Water Authority were represented by Mr D Hebblethwaite solicitor in their employ; (3) West Quantoxhead Parish Council (they applied for the registration in the Land Section) were represented by Mr J E Way solicitor of Risdon & Co Solicitors of Taunton and Minehead. The applicants for the registrations in the Rights Section namely, Mr J J A Hayman (No 1) Mr W C Towells (No 3) and Mr S J Barker (No 4) did not attend and were not represented. Owing to other business, I adjourned these proceedings until 7 October. On the second day of the hearing Wessex Water Authority were again represented by Mr Hebblethwaite, but no other person attended or was represented.

The land ("the Unit Land") in this Register Unit comprises Stowborrow Hill, part of an area known as the Deer Park to the east of West Quantoxhead and Staple, and is approximately square its sides being (as I estimate from the Register map) about 600 yards. The Unit Land adjoins a much larger area ("the Principal Area") known as the Quantocks Hills which has been provisionally registered under the 1965 Act as Register Unit No CL. 10 and which was the subject of proceedings, ("the Principal Proceedings") at Taunton on 5, 6, 12 and 14 October 1976. In the course of the Principal Proceedings and for the purpose of supporting an Objection by the Forestry Commission to the inclusion in the Principal Area of lands known as Staple Plantation and Vinny Combe Plantation (both of which are near to the Unit Land) oral evidence was given by Mr E Harrison, Mr A G Greswell, Mr R G Derrick, Mr L T J Thompson and Mr A J Bell; some of this evidence extended to the Unit Land and Mr Ungoed-Thomas who in the Principal Proceedings was also representing the Forestry Commission agreed that I should treat such evidence as given in these proceedings in relation to the Unit Land.

Mr Hebblethwaite on the second day of the hearing agreed that the evidence so given as stated above in the Principal Proceedings be treated as being given in these proceedings. In the course of his evidence he produced a conveyance dated



25 August 1959 in which the Minister of Agriculture, Fisheries & Food conveyed to the Rural District Council of Williton land containing 0.420 of an acre (being part of the Unit Land) "Together with the reservoir thereon". He said (in effect):- In 1961 the Council extended the reservoir. In 1963 the Council's water undertaking was taken over by West Somerset Water Board under the Water Resources Act 1963, and in turn the Board's undertaking was taken over in 1974 by Wessex Water Authority under the Water Act 1973. Since 1959 the land comprised in the 1959 conveyance has been operated as a supply reservoir and has at all times been completely enclosed; there is very little dry land there (practically the whole of the .420 acres being water).

The evidence given by the Forestry Commission in the Principal Proceedings is summarised in my decision in such proceedings of even date. As therein stated the Unit Land except the said 0.420 acres has been used for forestry purposes for many years.

The use of the Unit Land as described by Hebblethwaite in his evidence and as described by the evidence given as above-mentioned in the Principal Proceedings and the documents produced by the Forestry Commission in the Principal Proceedings and by Wessex Water Authority in these proceedings are all inconsistent with the Unit Land being subject to rights of common such as has been registered and with it being within the definition of common land in the 1965 Act. Nobody either on the first or the second day of the hearing contending to the contrary, I conclude that these registrations should not have been made.

For the above reasons I refuse to confirm the registrations.

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. Barber Fuller

Commons Commissioner