



COMMONS REGISTRATION ACT 1965

Reference Nos 232/D/174 to 186

inclusive.

In the Matter of Pieces of land known
as Cooks Peak and Compton Bishop Hill
Compton Bishop, Sedgemoor D. Somerset.

INTERIM DECISION

These disputes relate to the Registrations at Entry No.1 in the Land Section Nos 1-27 inclusive and 29 to 46 in the Rights Section and No 2 in the Ownership Section Register Unit No. CL.23 in the Register of common land maintained by the Somerset County Council and are occasioned by Objection No. O/45 made by Mr. F.S. Lee and noted in the register on 4th May 1970, Objection No. O/153 made by the Bristol Water Works Company, and noted in the register on 23 April 1971, Objection No. O/261 made by the Compton Bishop Estate and noted in the Register on 23 April 1971 and Entry Nos 7, 32, 36 and 37 in the Rights Section of the Register all of which conflict with Entry No.42 in the Rights Section of the Register, and are deemed to be subject to Objection No. O/261 made by the Compton Bishop Estate and noted in the register on 23rd April 1971.

I held a hearing for the purpose of inquiring into these disputes at Taunton on 22nd May 1975.

Mr. Edwards appeared for the Somerset County Council.
Mr. Jacobson of Messrs. Bircham & Co. appeared for Sir Nigel Mordaunt.
Mr. Miles of Messrs. Bevan Hancock & Co. appeared for the Bristol Water Works Company.
Mr. Frankpitt of Messrs. John Hodge & Co. appeared for the applicants for common rights other than Mrs Gunn and the Trustees of J.E. Wookey decd.
Mr. Bellow of Messrs. Veale Benson & Co. appeared for the Compton Bishop Estate.
Mr. Morgan of Messrs Clark Wilmot & Clark appeared for the trustees of J E. Wookey decd.
Mr. Gunn appeared for his wife Mrs. Gunn and I gave leave to Mrs. Joyce to appear in person.

The objections to the Entry No.1 in the Land Section of the Register and a claim by Mrs. Joyce to ownership of part of the land in question as being part of her garden and therefore not common land were all made on the footing that the land the subject of these objections had been wrongly included in the Registration. All those



-2-

who attended the hearing whose interests were adversely affected by the objections and Mrs Joyce's claim were agreed that the objections were well founded and were content that I should confirm the entry at No 1 in the Land Section of the Register modified so as to exclude

- (1) The land identified on the plan attached to Mr. Lee's objection No O/45.
- (2) So much of the land identified on the plan annexed to the Bristol Water Works objection No. O/153 as is part of Unit CL 23.
- (3) that part of Unit CL 23 which is claimed by Mrs Joyce to be in her ownership and which forms part of her garden to be identified on a plan to be supplied by Mrs Joyce and agreed by the Somerset County Council.

I now turn to the Entry No 2 in the Ownership section of the Register. Mr. Jacobson on behalf of Sir N.J. Mordaunt accepted that the land O.S.225 was in the ownership of the Compton Bishop Estate and I therefore confirm Entry No.2 in the Ownership Section modified so as to exclude O.S. No.225.

Lastly I must refer to the registrations in the Rights Section of the Register all of which are provisional and which I have a discretion either to confirm with or without modification or to refuse to confirm. In the course of the hearing it emerged that if I confirmed all the registrations without modification the land in question would be very substantially over grazed. Mr. Gunn invited me to take this course but in my view I would be failing in my duty if I accepted this invitation.

Whilst it is no doubt the fact that the land in question is not currently being overgrazed the possibility that farmers or their successors in title will seek to exercise rights the registration of which has become final cannot in my view be ignored and there is the further point that registered rights add to the value of the land to which they are appurtenant and a purchaser may be prejudiced if he pays for rights which may be of little value owing to overgrazing. I take the view that not only is it my duty but that it is also in the best interest of all the commoners to ensure that so far as possible the final registrations of rights shall be viable.

For this reason I am unwilling to confirm the rights registrations without modification and I adjourn this hearing in order to give the commoners an opportunity of putting forward a viable scheme for grazing the land in question or alternatively to make their submission to a Commons Commissioner possibly sitting with an Assessor as to what modified rights he should confirm.



-3-

As regards the conflicting Entries in the Rights Section of the Register the convenient course in my view will be for the Compton Bishop Estate to withdraw their Entry at No. 42 and for the Estate to be substituted at Entry Nos, 7, 32 36 and 37 for their respective tenant farmers at the adjourned hearing.

This decision disposes of Reference Nos 232/D/174 to 177 inclusive and reference No. 232/D/186. As regards these references 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 13th day of June 1975

C A Settle

.....
COMMONS COMMISSIONER