



COMMONS REGISTRATION ACT 1965

Reference Nos 241/D/17 & 18

In the Matter of Bowden Common,
Lacock, North Wiltshire D

DECISION

These disputes relate to the registration at Entry No 1 in the Land Section and the Entry at No 1 in the Ownership Section of Register Unit No CL. 34 in the Register of Common Land maintained by the Wiltshire County Council and are occasioned by Objection Nos 47 and 48 both made by Mrs D T Goley and both noted in the Register on 19 April 1971.

I held a hearing for the purpose of inquiring into the dispute at Trowbridge on 28 June 1977.

The hearing was attended by Mrs Goley in person and by Mr D R Doel chairman of the Lacock Parish Council and by Mr Gunstone on behalf of the Wiltshire County Council. The land was registered as Common Land by the Parish Council and the National Trust has by an Entry in the Ownership Section claimed ownership of the whole of the land. There are no Entries in the Rights Section.

Mrs Goley's Objections are limited to the land coloured red on the plan annexed thereto which is an access road to her property Bowden Hill House and she produced a conveyance dated 30 November 1959 whereby Major General Watkins conveyed the road to her which is identified on the plan annexed thereto. The National Trust's solicitors by a letter received at the office of the Commons Commissioners on 20 June 1977 stated that the National Trust had decided that they would be wrong to contest Mrs Goley's Objection. By the said conveyance there was reserved to Major General Watkinson and his successors in title a right of way for light wheeled vehicles over the said access road subject to a payment of £5 per annum as a contribution to the maintenance and repair thereof.

Mr Doel contended that the land was common land and he produced the sales particulars relating to the sale of Bowden House in 1927 from which it appeared that the road was made with the approbation of owners of Beast Leazes who refrained from exercising their rights over the road and that the road has been used as an access road since 1869. Such common rights as existed not having been registered are now extinguished and the access road can only be common land as defined by the Act of 1965 if it is waste of a manor, not subject to common rights. The land in order to be waste must be unoccupied. Mr Doel did not produce any evidence that the land was waste of a manor, if I understood him correctly he claimed that the land was common land by reason of the existence in the past of Beast Leazes. This contention cannot be sustained in the light of the decision in *Central Electricity Generating Board v Clwyd County Council* 1976 1 WLR 151. In my view even if Mr Doel had claimed that the access road was waste of a manor that claim was bound to fail because in my view Mrs Goley is and was at the date of the registration in occupation of the road. She and her predecessor in title not only used the road but also maintained it. It was conveyed to her as part and parcel of her property and she has occupied it as such.



For these reasons I confirm the Entry at No 1 in the Land Section modified so as to exclude the land the subject of Objection No 47 identified on the plan annexed thereto and I confirm the Entry No 1 in the Ownership Section as applicable to the modified Entry in the Land Section.

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 July 1977

Y. A. Little

Commons Commissioner