



In the Matter of Semley and Gutch Commons,
Semley and Donhead St Mary, Wiltshire (No. 2)

DECISION

These disputes relate to the registrations at Entry Nos 1 to 26 in the Rights section of Register Unit No. CL 4 in the Register of Common Land maintained by the Wiltshire County Council and are occasioned by Objection No. 5 made by British Railways and noted in the Register on 12 October 1970 and Objections Nos 24 to 29, 32, 33, 36 to 39, 41, and 44, all made by Mr R J R Arundell and all noted in the Register on 2 April 1971.

I held a hearing for the purpose of inquiring into the dispute at Salisbury on 10 December 1980. The hearing was attended by Mr M A Shallcross, the agent for the applicants for the registrations at Entry Nos 5, 6, 9, 19 and 20, Mrs J Meikle, solicitor, on behalf of the Wiltshire County Council, the successor of the former Wiltshire County Council, the applicant for the registration at Entry No. 26, by Mr D M Morris, solicitor, on behalf of Mr Arundell, and by Mr G H Schofield of the Chief Civil Engineer's Office of British Railways. There was no appearance by or on behalf of any of the other persons entitled to be heard.

Objection No. 5 relates to the inclusion of certain railway land in the Register Unit and has been met by the exclusion of that land.

Before considering the individual registrations it is necessary to deal with a general matter affecting many of them and many of the Objections made by Mr Arundell. Many of the registrations are in the form "x leazes" and some of Mr Arundell's Objections are based on the fact that other registrations are not in this form. In my view, a registration in this form does not comply with the requirements of section 15 of the Commons Registration Act 1965, which makes it necessary for a registration to specify the class or classes of animals to be grazed and the number of animals of each class.

It appears from a survey made in 1769 that grazing rights in the manor of Semley have long been recorded as so many leazes. Mr Shallcross and Mr Morris agreed that a leaze is the right to graze one cow or heifer between 1 May to 1 November in any year. I shall therefore make such modifications in the registrations which I confirm as are necessary to specify the rights, by reference to that agreed definition of a leaze. I have jurisdiction to modify the registrations to which Mr Arundell did not object, because Objection No. 5 has by virtue of section 5(7) of the Act of 1965 to be treated as being also an objection to all the registrations in the Rights section of the Register Unit.

Entry No. 1. I confirm this registration with the following modifications, namely, the substitution of "6 leazes, each leaze being the right to graze one cow or heifer over the whole of the land comprised in this register unit between 1st May and 1st November in any year" for the words in column 4.

Entry No. 2. I confirm this registration with the following modification, namely, the substitution of "23 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 3. I confirm this registration with the following modification, namely, the substitution of "10 leazes as defined in Entry No. 1" for the words in column 4.



Entry No. 4. This registration is the subject of Objection No. 24, the grounds of which are:- "It is disputed that any rights are attached to Glebe Farm." Mr Morris said, however, that Mr Arundell now accepted that 3 leazes were attached to the land described in column 5 with the exception of a small area of 0.42^{ac} at the southern end. I therefore confirm the registration with the following modifications, namely, the substitution of "3 leazes as defined in Entry No. 1" for the words in column 4 and the insertion after the word "registration" in column 5 of the words "other than O.S. No. P. 261 having an area of 0.42 ac.

Entry No. 5. This registration is the subject of Objection No. 25, in which the right to 13 leazes is disputed and the right to 12 leazes is admitted. Mr Shallcross accepted the limitation to 12 leazes. I therefore confirm the registration with the following modification, namely, the substitution of "12 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 6. This registration is the subject of Objection No. 26, which states that there is no right. Mr Shallcross and Mr Morris informed me that it had been agreed that the registered right should be reduced from 8 leazes to 3 leazes. I therefore confirm the registration with the following modification, namely, the substitution of "3 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 7 and 8. Mr J E Major, the applicant for these registrations, stated in a letter dated 19 June 1980 that he accepted that these rights did not exist. I therefore refuse to confirm both registrations.

Entry No. 9. This registration is the subject of Objection No. 28, the grounds of which are that the right to graze 22 heifers should be 12 leazes and that the right is attached only to Amberleaze Farm and not to Glebe Farm or Musters Farm. Mr Shallcross accepted this, and I therefore confirm the registration with the following modifications, namely, the substitution of "12 leazes as defined in Entry No. 1" for the words in column 4 and the deletion of the references to Glebe Farm and Musters Farm in column 5.

Entry No. 10. This registration is of 13 leazes and rights of pannage, estovers, and turbarry. It is the subject of Objection No. 29, which admits the existence of 10 leazes and does not admit the other rights. In the absence of any appearance by Dr K M A Bliss, the applicant for the registration, I confirm the registration with the following modification, namely, the substitution of "10 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 11. I confirm this registration with the following modification, namely, the substitution of "12 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 12. I confirm this registration with the following modification, namely, the substitution of "22 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 13. This registration is the subject of Objection No. 32, the grounds of which are that the rights claimed should refer to "leazes" and not to "heifers". I confirm the registration with the following modification, namely the substitution of "3 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 14. This registration is the subject of Objection No. 33. It was agreed by the solicitors for Mrs P J L Flower, the applicant for the registration, in a letter addressed to Mr Arundell's agents that Mrs Flower is entitled to only



6 leazes. I therefore confirm the registration with the following modification, namely, the substitution of "6 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 15. I confirm this registration with the following modification, namely, the substitution of "30 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 16. I confirm this registration with the following modification, namely, the substitution of "15 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 17. I confirm this registration with the following modification, namely, the substitution of "5 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 18. This registration is the subject of Objection No. 36, the grounds of which are that 22 head of cattle should be 22 leazes. I confirm the registration with the following modification, namely, the substitution of "22 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 19. Mr Shallcross and Mr Morris informed me that it had been agreed that the dominant tenement described in column 5 really consisted of two tenements, to one of which, known as Church Farm, 10 leazes were attached, and to the other, consisting of the remainder of the land shown verged red on the supplemental map, 7 leazes were attached. I therefore confirm the registration with the modifications necessary to give effect to this agreement.

Entry No. 20. This registration is of the same right attached to the same land as that registered in Entry No. 19. It ought not to have been made, the proper course being to note the application for it in the register in accordance with reg. 9(5) of the Commons Registration (General) Regulations 1966 (S.I. 1966 No. 1471) I therefore refuse to confirm the registration.

Entry No. 21. This registration is of the same right attached to the same land as that registered in Entry No. 4. It ought not to have been made, the proper course being to note the application for it in the register in accordance with reg. 9(5) of the Regulations of 1966. I therefore refuse to confirm the registration.

Entry No. 22. I confirm this registration with the following modification, namely, the substitution of "19 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 23. This registration is of a right of estovers and is the subject of Objection No. 41. In default of any appearance by or on behalf of Mr R J Howell, the applicant for the registration, I refuse to confirm it.

Entry No. 24. I confirm this registration with the following modification, namely, the substitution of "3 leazes as defined in Entry No. 1" for the words in column 4.

Entry No. 25. I confirm this registration with the following modification, namely, the substitution of "17 leazes as defined in Entry No. 1" for the words in column 4.



Entry No. 26. Mrs Meikle and Mr Morris informed me that it had been agreed that the right consisted of 2 leazes and did not include the right to cut and take away firewood and that it was attached to only part of Church Farm. I therefore confirm the registration with the following modifications, namely, the substitution of "2 leazes as defined in Entry No. 1" for the words in column 4 and the substitution of "O.S. Numbers 376 and 377 in the Parish of Semley (1900, 2nd edition)" for the words in column 5.

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

18th

day of

December

1980

CHIEF COMMONS COMMISSIONER