



In the Matter of Northend Common, Turville,
Buckinghamshire (No. 2)

DECISION

These disputes relate to the registrations at Entry Nos 2 - 6 (inclusive) in the Rights section of Register Unit No. CL 5 in the Register of Common Land maintained by the Buckinghamshire County Council and are occasioned by Objection No. 74 made by Mr J C L Fane, Objections Nos 43 and 44 made by Mr V H Nairne, and Objections Nos 53, 55, and 57 made by the Turville Parish Council and all noted in the Register on 21 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Aylesbury on 27 June 1978. The hearing was attended by Mr P R Fitzgerald, solicitor, on behalf of Mrs P H Slater, the applicant for the registration at Entry No. 3, and by Mr J H Langford, the applicant for the registration at Entry No. 2, Mr B J Vaughan, the son of Mr J D Vaughan, the applicant for the registration at Entry No. 4, and Mr H H J Button, the Clerk of the Parish Council. There was no appearance by or on behalf of Mr Fane, Mr Nairne, the Trustees of the will of the late Thomas Dunn, the applicants for the registration at Entry No. 5, and Mrs K M Mortimer, the applicant for the registration at Entry No. 6, but by a letter dated 12 August 1976, addressed to the Clerk of the Commons Commissioners, solicitors for the Trustees stated that they wished to "withdraw" their application, and by a letter dated 22 March 1977, addressed to the Clerk of the Commons Commissioners, solicitors for Mr John Mortimer, Q.C., who had inherited Mrs Mortimer's property at Turville Heath, stated that he could not see himself in a position where he would wish to exercise the rights the subject of the registration at Entry No. 6.

This left contested only the registration at Entry No. 3. This registration is of (a) A common of pasture for 3 cows, 3 horses, 3 sheep; (b) A common of estovers. The land to which these rights are claimed to be attached is an area of 2 acres which formerly formed part of Home Farm, to which the registration at Entry No. 4 relates. Mrs Slater's land and Home Farm have a common root of title in an indenture made 15 February 1909 between (1) Elizabeth Ellen Piercy (2) Sidney Frederick Piercy (3) William Piercy, the parcels of which included all rights of common in or over or to depasture animals on North End and Turville Commons as were then appurtenant or belonging to or enjoyed with the farm and hereditaments thereby conveyed.

Mrs Slater has taken firewood from the land comprised in the Register Unit, but she has never turned animals out onto it because the grazing is not good. Mr Button did not contend that the indenture of 1909 did not operate to convey rights of common, but he said that a fair apportionment of those rights would not give to Mrs Slater's land the number of animals mentioned in her registration.

The apportionment should be in accordance with levancy and couchancy. Mrs Slater agreed that on this basis the number of animals mentioned in her registration was excessive, and said that her land would support 3 sheep or 2 cows or 1 pony. Mr Button accepted that this was a fair assessment.



For these reasons I confirm the registrations at Entry Nos 2 and 4 and I confirm the registration at Entry No. 3 with the following modifications, namely, the substitution for the words "3 cows, 3 horses, 3 sheep" of the words "3 sheep or 2 cows or 1 pony" and the addition after the word "estovers" of the word "(firebote)", and in the absence of any evidence I refuse to confirm the registrations at Entry Nos 5 and 6.

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 5th day of

July

1978.

CHIEF COMMONS COMMISSIONER