



COMMONS REGISTRATION ACT 1965

Reference No.98/D/1

In the Matter of Foreshore adjoining the Sea Wall
at the Southern End of Marine Road, Oreston,
Plymouth, Devon.

DECISION

This dispute relates to the registration at Entry No.1 in the Land section of Register Unit No.CL 1 in the Register of Common Land maintained by the former Plymouth City Council and is occasioned by Objection No.1 made by A.L.Brotherton Ltd and noted in the Register on 23rd October 1968.

I held a hearing for the purpose of inquiring into the dispute at Exeter on 1st July 1975. The hearing was attended by Mr W.F.Worth, the applicant for the registration, Mr E.R.Harris, Chairman of the Plymstock District Civic Society, whose application was noted in the Register, Mr C.T.Roberts and Mr F.C.W.Kent, applicants for registrations in the Rights section of the Register Unit, and Mr A.Brotherton, managing director of the Objector.

The land the subject of the reference is part of the foreshore of the estuary of the River Plym, known as Catwater. Mr Worth contended that it fell within the definition of "common land" in section 22(1) of the Commons Registration Act 1965 by being subject to rights of common. Much of the evidence which he adduced in support of his case was concerned with rights of embarking and disembarking, the mooring of boats, and access to the foreshore for recreational purposes, which are not rights of common. The Rights section of the Register Unit contains a right to collect seaweed registered by Mr A.D.Rogers, who has since died, a right to collect driftwood registered by Mr Roberts, and a right of oyster fishery registered by Mr Kent. Of these rights, a right to collect driftwood is not, in my view, a right of common, because driftwood is not part of the natural produce of the soil. It would be possible for rights to collect seaweed and to take oysters to exist in law. However, Mr Worth's case in respect of the collection of seaweed was supported by seventeen statutory declarations, all more or less identical in form, each of which refers to the user of the foreshore "by myself and members of the public". It therefore appears that the rights on which this registration is based are those of members of the public and are therefore not rights of common. Mr Kent gave evidence that he himself had never gathered oysters from the land in question and that he made his claim on behalf of those who had a right to do so. There was no evidence as to who these persons were or the nature of their rights.

This evidence is wholly insufficient to prove the existence of any rights of common over this land. I therefore refuse to confirm the registration.

I am required by regulation 30(1) of the Commons Commissioners



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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 17~~th~~ day of July 1975

A handwritten signature in cursive script, appearing to read 'G. D. Laing', written in dark ink.

Chief Commons Commissioner