



COMMONS REGISTRATION ACT 1965

Reference Nos. 210/D/33-42

In the Matter of Ibberton Long Down,
Ibberton, Dorset

DECISION

The disputes relate to the registration at Entry No. 46 in the Land Section of Register Unit No. CL.46 in the Register of Common Land maintained by the Dorset County Council and are occasioned by Objection No. 22 made by Rivers Estate Co Ltd and noted in the Register on 5th August 1969 and by Objection No. 193 made by Messrs Senior and Godwin as agents to the Trustees of the late Mr A E Browning, Objection No. 195 made by Messrs Senior and Godwin as agents to Miss E K Prideaux, Objection No. 330 made by Messrs Senior and Godwin as agents to the Executors of the late Capt G H L F Pitt-Rivers, and Objection No. 473 made by the Clerk of the former Dorset County Council and all noted in the Register on 3rd August 1971.

I held a hearing for the purpose of inquiring into the dispute at Dorchester on 6th January 1976. The hearing was attended by Mr D S Harper, solicitor, on behalf of the County Council, and Mr C George, of counsel, on behalf of the Prudential Assurance Co Ltd, the successors in title of the Trustees of the late Mr Browning.

Mr Harper informed me that the County Council wished to "withdraw" its objection and that he would support the application for the registration made by the Ibberton Parish Council.

The land comprised in the Register Unit was registered in the Land Section of the Register on 1st March 1968. At that time it belonged to the Executors of the late Capt Pitt-Rivers and was subject to a right of common of pasture for 60 sheep. By a conveyance made 23rd April 1968 between (1) Joan Chalmer Stebbings, Estella Edith Pitt-Rivers and Richard Trehane (2) Randolph William Courage and Edith Ruth Courage the right of common was released to the Executors. No right of common over the land in question has been registered, so that any rights other than that released in 1968 which may have then existed are now no longer exercisable by virtue of section 1(2)(b) of the Commons Registration Act 1965. In my view, I am bound by the decision of Goff J (as he then was) in Central Electricity Generating Board v. Clwyd County Council (1975) to hold that the existence of the right to graze 60 sheep on 1st March 1968 does not enable me to confirm the registration of the land as being land subject to rights of common, since the right had been released by the date of the hearing. It is therefore necessary to turn to the other limb of the definition of "common land" in section 22(1) of the Act of 1965 and to consider whether this is waste land of a manor not subject to rights of common. The land is shown as parcel of the Manor of Ibberton on an estate map made in 1781 for Lord Rivers, then the lord of the Manor. It seems highly likely that the lordship of the manor descended to the late Capt Pitt-Rivers and that it was vested in his Executors when the land was registered on 1st March 1968. However, the land has since been sold in parts to several different purchasers and the lordship of the manor was not conveyed to any of the purchasers. Therefore, if the land was still



waste land of the manor on 1st March 1968, it no longer has that status, having ceased to be parcel of the manor. Mr. [redacted] argued that the registration could be supported on the ground that the land was waste land of the manor when the registration was made. There was evidence that, although the land was parcel of the manor at that date, it had long ceased to have the physical characteristics of waste land, as defined by Watson B in Att. Gen. v. Hammer (1858), 27 L.J.Ch.337, but whether it was waste land of the manor at the date of the registration or not, it had lost that status by the time that I heard the dispute. In my view the decision in Central Electricity Generating Board v. Clwyd County Council, although relating to rights which had ceased to be exercisable by non-registration, is equally applicable to a case in which land ceased for any other reason to fall within the definition of "common land" after the date of registration and the date of the hearing.

For these reasons I refuse to confirm the registration.

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

February

1976

[Handwritten Signature]

Chief Commons Commissioner