



COMMONS REGISTRATION ACT 1965

Reference No. 10/D/5

In the Matter of Knacker's Hole Common,
Punchknowle, Dorset (No.1)

DECISION

This dispute relates to the registration at Entry No.1 in the Rights section of Register Unit No. C.L.9 in the Register of Common Land maintained by the Dorset County Council and is occasioned by Objection No. 126 made by John Roddick Bridgman and noted in the Register on 17th December 1970.

With the assistance of Mr. J. Svensson, F.R.I.C.S., as Assessor, I held a hearing for the purpose of inquiring into the dispute at Dorchester on 6th March 1972. The hearing was attended by Mrs. Ellen Male, Mr. R.W. Cox, Chairman of the Punchknowle Parish Council and Mr. P.J. Kneip, solicitor for Mr. Bridgman.

Mrs. Male claims to be entitled in gross to a right to graze 12 head of cattle over the whole of the land comprised in the Register Unit, but during the course of the hearing she agreed that the land should be modified by the exclusion of the land comprised in enclosure No.130 on the Ordnance Map of the parish of Punchknowle (1902 Edition).

I heard this dispute at the same time as a dispute relating to similar rights of grazing over the land claimed by Mrs. Male's brother, Mr. Alec Laver.

Mrs. Male's grandfather and father lived at Home Farm, Punchknowle. Mr. Laver could remember each of them grazing up to 12 milking cattle on the land as far back as 50 or 60 years ago. Mrs. Male's father also put ponies and goats on the land and other people used to put animals on it. Similar evidence was given by Mr. Ernest Laver, another brother of Mrs. Male. After the father died in September 1934 Mrs. Male grazed her own cattle on the land until April 1937, when she went to live at West Bexington. She came back to Punchknowle in 1954, but did not resume grazing on the land because it was in a bad state. It has not been physically possible for Mrs. Male to put cattle on the land since 1961, because in that year Mr. Lionel Joseph King erected a fence with a gate for pedestrians across the only entrance from the road under a consent granted by the Minister of Agriculture, Fisheries and Food under s.194 of the Law of Property Act 1925 in order to enable Mr. King to clear the land of scrub and rabbits, drain it, clean the ditches and generally reclaim the land by ploughing it up and laying it down to permanent pasture. The fence erected by Mr. King is still there. Mrs. Male said that she accepted the fence as a temporary measure and had protested to the Parish Council about its not being removed.

Mrs. Male said that the origin of the right was unknown to her. Mr. Laver said that there was no grant of any rights by the lord of the manor to their father or grandfather, but Mrs. Male claims to have succeeded to the rights enjoyed by her father and grandfather. Mrs. Male's father by his will divided



-2-

his property equally between his four sons and four daughters, but there was no formal transfer of grazing rights. Mrs. Male's claim is, however, based on an allegation that each of the sons and daughters acquired by inheritance a right to graze the same number of cattle as her father and grandfather had grazed. Such a form of right could over the generations lead to an indefinite multiplication of the number of cattle to be grazed on the land. This would be utterly unreasonable and is not, in my view, capable of having any foundation good in law.

On this evidence I am not satisfied that Mrs. Male acquired through her father the right which she claims. Mrs. Male's own enjoyment of the grazing would not support a claim to a right by prescription. Since the Prescription Act 1832 does not apply to rights of common in gross (see Shuttleworth v. Le Fleming (1865), 19 C.B.D.S. 687), any such claim would have to be based on prescription at common law, and the period of enjoyment which Mrs. Male can show falls far short of what would be required for that purpose.

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 23rd day of March 1972

Chief Commons Commissioner.