



In the Matter of Lower Common, Verwood
Wimborne D., Dorset.

DECISION.

These disputes relate to the Entries at No.1 in the Land Section and No.2 in the Rights Section of Register Unit No. CL.51 in the Register of Common Land maintained by the Dorset County Council and are occasioned by

- Objection No. 50 made by A.S. Spreadbury, noted in the Register on 23 August 1971.
- Objection No. 58 made by J.H. Fairhall, noted in the Register on 23 August 1971.
- Objection No. 63 made by F.G. Rowe, noted in the Register on 23 August 1971
- Objection No. 88 made by B.D. Pierson, noted in the Register on 23 August 1971
- Objection No. 312 made by H.E. Morrish, noted in the Register on 23 August 1971
- Objection No. 1073 made by L. Nelhams, noted in the Register on 1st May 1973.
- Objection No. 1074 made by L.R. Saxby, noted in the Register on 1st May 1973.
- Objection No. 1075 made by Mr & Mrs Robertson, noted in the Register on 1st May 1973.
- Objection No. 1076 made by G. Hollick, noted in the Register on 1st May 1973.
- Objection No. 1077 made by J. Skonieczny, noted in the Register on 1st May 1973
- Objection No. 1078 made by J.F. Knight, noted in the Register on 1st May 1973.
- Objection No. 1079 made by S. Bendall, noted in the Register on 1st May 1973.
- Objection No. 1080 made by Mrs. Tucker, noted in the Register on 1st May 1973.
- Objection No. 1081 made by G.R. Graves, noted in the Register on 1st May 1973.
- Objection No. 1082 made by F. Watson, noted in the Register on 1st May 1973.
- Objection No. 1083 made by Mrs. E.M. Spencer, noted in the Register on 1st May 1973
- Objection No. 1084 made by Mrs. T. Andrews, noted in the Register on 1st May 1973
- Objection No. 1085 made by G.W. Bowdrey, noted in the Register on 1st May 1973.
- Objection No. 1086 made by A.G. Kirk, noted in the Register on 1st May 1973.
- Objection No. 1087 made by A.A. Aleandri, noted in the Register on 1st May 1973.
- Objection No. 1170 made by C. Wright, noted in the Register on 1st May 1973.
- Objection No. 1195 made by E. Waters, noted in the Register on 1st May 1973.
- Objection No. 1088 made by A.J. English, noted in the Register on 1st May 1973.
- Objection No. 1197 made by H.W. Dacombe, noted in the Register on 1st May 1973.

I held a hearing for the purpose of inquiring into these disputes at Dorchester on 8th July 1975.

Mr. R.E.O. Mackay, F.R.I.C.S. of Messrs Fox & Sons appeared for twenty of the objectors.

Mr. R.W. Burley of Messrs. Burley & Geach solicitors appeared for Mr. H.E. Morrish.

Mr. J.W. Crawford of Messrs. Dibbens solicitors appeared for Mr. A.J. English
Mr. T.H.S. Jones appeared in person.

The Verwood Parish Council, who registered the land at Entry No.1 in the Land Section of the Register, did not appear, having previously informed the office of the Commons Commissioners that they did not intend to support that Entry.



Mr. Jones, who by Entry No.2 in the Rights Section claimed grazing rights over the whole of the land in question, at an early stage in the hearing confined his claim to grazing rights over land owned by Mr. Morrish and Mr. English. The effective disputes were therefore between Mr. Jones on the one hand and Mr. Morrish and Mr. English on the other hand. Mr. Jones' farm adjoins the lands owned by Mr. English and Mr. Morrish on their Eastern boundaries. Mr. Jones, who did not have the advantage of legal representation, based his claim to rights on prescription. He told me that he had driven his cattle along tracks over the land in question. When I pointed out to him that the hearing was not concerned with rights of way, he maintained that his claim was not confined to rights of way but that he also claimed a right of pasture. He said that his cattle grazed while in transit and that while his land had been fenced against the common, as he believed it to be, the fence had fallen into disrepair and, thereafter, the common being unfenced, his cattle had gone on to the common. He also told me that he had not asserted his claims against Mr. English and Mr. Morrish prior to his application for Rights because the Commons Registration Act 1965 had been foreseen long before it came into force, and he believed that registration under the Act would be the most convenient way of enforcing his rights.

Mr. Morrish gave evidence and was a manifestly fair and honest witness. He leased his land to one or more tenant farmers and had no personal knowledge of the day to day activities on his land. However, in 1962 he obtained a reploughing grant for his land from the Ministry of Agriculture who required to be satisfied that the land was not common land and were, in fact, so satisfied. Then again in 1966 when Mr. Morrish was considering selling his land, he made inquiries from the Wimborne and Cranborne R.D.C. as to whether there were any subsisting common rights over his land. Mr. Morrish produced the relevant correspondence in the years 1962 and 1966. The information given to Mr. Morrish in 1966 was that his land had at one time been subject to rights of common, but that they had fallen into disuse and that they were not being exercised in 1962 or subsequently. Mr. Morrish did in fact plough part of his land and he also fenced off part of his land and Mr. Jones raised no objections. When asked by me why he raised no objections, Mr. Jones said that the ploughing would ultimately be beneficial to him and the fencing likewise would benefit him in that it would prevent his cattle from straying too far from his farm. I find these explanations unconvincing and I also find it difficult to believe that Mr. Morrish would not have learned of Mr. Jones' alleged grazing on his land from his tenant farmer at the time when he was engaged in making inquiries as to the existence of common rights.

Mr. & Mrs. English also gave evidence and Mr. English, in giving his evidence, displayed a marked hostility towards Mr. Jones. There was a direct conflict of evidence as to whether or not Mr. Jones' cattle had grazed on Mr. English' land. If there was any such grazing I am satisfied that it was minimal and occurred either when the cattle were in transit or when they strayed. My reasons for arriving at this conclusion are, first, that Mr. English left me in no doubt that if he had appreciated that Mr. Jones was claiming to graze on his land as of right he would have resisted that claim by all means open to him; secondly, Mr. English stated that there was no feed for the cattle on the land, save possibly in a small area close to a track, as the result of his allowing a neighbour to dump chicken manure there.



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The onus in these disputes lies on Mr. Jones and he has, in my view, failed to discharge that onus. I am satisfied that he has not openly grazed his cattle on the land of Mr. English or Mr. Morrish under a claim of right. If he had done so Mr. Morrish would, I am sure, have known of that claim and Mr. English would without doubt have resisted any such claim.

For these reasons I refuse to confirm the Entries at No. 1 in the Land Section and No. 2 in the Rights Section of the Register.

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 28th day of July 1975.

C. A. Settle.

Commons Commissioner.