



COMMONS REGISTRATION ACT 1965

Reference No. 10/D/7

In the Matter of The Drives, Puncknowle
Dorset (No.3)

DECISION

This dispute relates to the registration at Entry No.9 in the Land section of Register Unit No. C.L.10 in the Register of Common Land maintained by the Dorset County Council and is occasioned by Objection No.890 made by John Roddick Bridgman and noted in the Register on 29th January 1971.

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 7th March 1972. The hearing was attended by Mr. R.W. Cox, Chairman of the Puncknowle Parish Council, and Mr. P.J. Kneip for Mr. Bridgman.

Having refused to confirm the registration of rights of common over this land, it is now necessary for me to consider whether it has been rightly registered as common land, since the definition of "common land" in s.22(1) of the Commons Registration Act 1965 includes not only land over which there are rights of common, but also manorial waste not subject to rights of common.

At the outset of the proceedings it was suggested on behalf of the Parish Council that there was a public right of way over the two narrow strips of land by which access is obtained from Clay Lane and Look Lane to the main portion of The Drives. There was, however, no evidence of the existence of such a public right of way, and in my view the registration of the whole of the land stands or falls together.

The main portion of The Drives is shown on the tithe map for the parish without a number and had no tithe rent-charge apportioned to it. This land also has the legend "Waste" on it. The two narrow access strips leading to it are coloured brown in the same manner as roads.

The land was used for grazing cattle by Mr. John Laver, who died in 1924, aged 74, by his son Mr. Joseph Laver, who died in 1934, and since 1934 by Mr. Alec Laver and Mrs. Ellen Hale, son and daughter of Mr. Joseph Laver, until about 1962. Cattle belonging to other owners were on the land in the 1950's and some inhabitants of the village turned donkeys and horses onto it. The land was also used as a means of access to other land adjoining it. At least one of the persons so using it asked for permission from the lord of the manor each year.

In 1962 Mr. Lionel Joseph King, the then owner of the Puncknowle Manor estate, took down the fence between The Drives and his field to the south, and ploughed up the land, leaving a track 12 feet wide on the north side. Since then the land has not been used for grazing. Mr. King did not seek or obtain consent for his action under s.194 of the Law of Property Act 1925. On the other hand, no proceedings have been taken in respect of it.



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Although the land in question was not specifically conveyed to him, Mr.King claimed that it passed to him as manorial waste on the conveyance to him of the manor or reputed manor of Funcknowle. Since it has not been shown that the land was subject to any rights of common, there was no reason in law in 1962 why Mr.King should not cultivate it with his adjoining land. Furthermore, he was not under any obligation to give notice of his intention under s.31 of the Commons Act 1876. Indeed, even if Mr.King was wrong in believing that he was the owner of the land, the only person who could complain of what he did was the true owner, who remained silent.

For the purposes of these proceedings I will assume that the land in question was before 1962 manorial waste. There being then no rights of common, it was lawful for Mr.King to cultivate it. On being cultivated, the land ceased to have one of the essential characteristics of manorial waste. While this may be the sort of action which the Act of 1965 was passed to prevent, at the time it was done it was lawful.

For these reasons I refuse to confirm the registration. In coming to this conclusion I am not unmindful that not every square foot of the area included in the Register Unit has been cultivated, but it seems to me that what Mr.King did amounted to an improvement of the whole area.

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 March 1972

A handwritten signature in dark ink, appearing to read 'J. G. Quill', written in a cursive style.

Chief Commons Commissioner