



COMMONS REGISTRATION ACT 1965

Reference No. 210/D/487-489

In the Matter of the tract of about 15 acres called  
West Halves in the Parish of Corfe Castle, Dorset

DECISION

This dispute relates to the registration at Entry No. 36 in the Land Section of Register Unit No. CL 36 in the Register of Common Land maintained by the Dorset County Council and is occasioned by the following Objections No. 327 made by the Trustees of the Corfe Castle Estates No. 391 made by Wareham and Purbeck Rural District Council (now Purbeck District Council and no. 437 made by H J R Banks Esq, and all noted in the Register on 28 January 1971.

I held a hearing for the purpose of inquiring into the dispute at Poole on 10 July 1980. The hearing was attended by the following. Mr R N Broome appeared for the Corfe Castle Parish Council. Mr Pitt of May, May and Merriman, Solicitors of London appeared for the Trustees of the Corfe Castle Estates and Mr Palmer of Gregory, Rowcliffe and Company also of London, appeared for Mr Banks.

Mr Broome referred to the Tithe Maps of 1543 and explained that 'Halves' was a corruption of 'Hawes' meaning an enclosed field and that the individual strips were known as 'Lawns' which is derived from 'Lawndes' meaning uncultivated field.

Mr Broome explained that on Lady Day the gates to the Halves were closed by the Hay Warden so that the hay could grow and were not reopened until Michaelmas Day. The owner of a strip could take the hay crop from that strip. On Michaelmas Day the gates of Corfe Common were closed and the gates to the Hawes were opened and beasts were pastured on the Hawes as a whole.

Mr R A Spiller, the Chairman of the Parish Council, who had lived in the Parish for 48 years, giving evidence said that the persons who claimed rights over Corfe Common were those who owned a strip of West Halves. The car park constructed by the former Rural District Council outlined in red on Plan 'G' annexed to Objection No. 391 was made by agreement.

*(affidavit by Vendor being 66  
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Mr Broome put in an affidavit by Mrs Annie Wills, which stated that in 1921 her father Joseph Paine had purchased a house called The Homestead, No 52 West Street, Corfe Castle with a garden and a piece of pasture land part of West Hawes. The Conveyance dated the 24 September 1921 was exhibited to her for life of the Calcraft Estate. In 1927 her father had fenced in the parcel of West Hawes at the bottom of his garden with a hedge; this caused great irritation in the village. Mrs Wills said she remembered her father's tenants in the period 1921-27 taking their animals to Corfe Common in the summer while the land stood for hay and bringing them back permanently in the winter when they would pasture all over the West Halves. The rights of common appurtenant to her father's property were either two horses or one horse and two cows, but she could not give the source of this information. Joseph Paine went to live on his property in 1936 and on his death in 1941 Mrs Wills and her husband went to live there. In 1960 her husband put the property in their joint names; he had acquired the property from her fathers personal representatives.



Mr Broome also produced a photostat copy of part of an Indenture made the 9 June 1713 between Abigail Goodwin, Widow of Gasport of the one part and Thomas Haskoli of Corfe Castle Mason of the other part whereby the former conveyed to the latter for the sum of £25 a messuage and orchard in West Street bounded on the east side by the Street and on the west side by a Common field, called the West Hawes, 'Together with common of pastures for all manner of Beasts and Cattle and all and singular other profits conditions and advantages. The original of the document is in the County Record Office. No evidence was called on behalf of the objectors.

Mr Pitt pointed out that no document had been produced in which the rights of common were specifically defined. Any rights were a matter of mutual arrangement. Mr Palmer said there was no evidence that the right to graze West Halves was enjoyed by a person who was not the owner of a strip. Part of Mr Bankes land on West Hawes had been sold to the former Rural District Council and was now a car park.

In all three of the cases which dealt with the Halves at Corfe Castle it was common ground that the owner or tenant of a Lawnd had a right of foreshare, that is a right to the first crop of hay from the Lawnd. It was also not challenged that a Lawnd holder could put his beasts on Corfe Castle Common from Lady Day until Michaelmas or from 6 April to 16 September in each year. What was in issue was whether each Lawnd holder was entitled to pasture a limited number of beasts over the whole Halves during the period from Michaelmas to Lady Day ie. the winter months.

There was at least one case on each Half of the holder of a Lawnd either fencing off his Lawnd or selling it to a third party with the result that the holders of other Lawnds on the same half could no longer graze the Lawnd, that had been sold. In passing I should observe that the Lawnd which the father of Mrs Wills purchased in 1921 and which he subsequently fenced is outside the area of the Register Unit CL 36. Mr Bankes had sold part of the area of the Unit CL 36 to the former Wareham and Purbeck Rural District Council which had turned it into a Car Park. There is no evidence as to whether Mr Bankes consulted the other Lawnd holders or whether, if he acted without their consent, there was any form of protest as there appears to have been when Mr Paine, the father of Mrs Wills, enclosed his Lawnd in 1927. It may be that the fact that the area was used to provide a public service affected the attitude of the other Lawnd holders.

Although the evidence in favour of the system of winter grazing is least strong in the case of West Halves, it was never suggested that, if the practice of winter grazing could be established, any one of the three Halves was in a different situation from the others.

I am satisfied on the evidence and find as a fact that each holder or tenant of a Lawnd on West Halves was entitled during the winter to graze beasts untethered on any part of the West Halves and that the practice continued up to the date of registration.

For these reasons I confirm the registration with the following modification:- namely the exclusion of the area shown edged red on the plan accompanying Objection No. 391.



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 6<sup>th</sup> day of October 1980

*George Herbert*

Commons Commissioner