



COMMONS REGISTRATION ACT 1965

REFERENCE NOS 214/D/16 to 23

In the Matter of Bartley Heath and Hook Common  
Hook, Newnham, Odiham Hart D and Basingstoke D

DECISION

These disputes relate to Entries No 1 2 4 5 10 13 14 17 23 24 26 27 32 and 34 in the Rights Section of Register Unit No. CL.4 in the Register of Common Land maintained by the Hampshire County Council and are occasioned by Objection Nos 420 417 419 and 414 all made by Walters and Hart and respectively noted in the Register on 31 December 1970, 18 December 1970 30 December 1970 and 22 December 1970 and by Objection Nos 579 and 457 both made by Corpus Christi College Oxford and respectively noted in the Register on 11 January 1971 and 13 January 1971 and by Objection Nos 430 and 431 both made by Mrs A V Maclean and respectively noted in the Register on 8 January 1971 and 13 January 1971.

I held a hearing for the purpose of inquiring into these disputes at Winchester on 3 May 1973.

Mr P R Fitzgerald of Messrs. Walters Vanderboom and Hart appeared for Messrs. Walters and Hart, Mr P Bradley appeared for Corpus Christi College. Mr Trenhaile, Counsel, instructed by Messrs. W Bradley Trimmer and Son appeared for Mrs Hicks the applicant for rights under Entry No. 23. Mr P Dunsay of Messrs. Foster Wells and Coggins appeared for Mrs Champion and Mrs F J S Jones the applicant for rights under Entry No 34 appeared in person. *Mrs W Withers appeared for Mr A L Henderson the applicant under Entry No 27.*

Mrs Maclean, whose successors I was told are Mr Byass and Mr Chamberlain, did not appear nor did her successors.

It is necessary to mention at the commencement of this decision that the Unit Land was at the date of the Registration owned as to part by the Earl of Malmesbury, as to part by Corpus Christi College and as to part by Mrs Maclean and their respective registrations in the ownership Section of the Register are final.

Each of the objectors only objected to the rights the subject of his objection insofar as they affected the land in his ownership.

Corpus Christi College objected to Entries Nos 10 13 14 23 32 and 34.

Ms Hicks and Mr Jones at the hearing withdrew their claims to exercise rights over Corpus Christi land, the other applicants whose claims were the subject of the Colleges objections did not appear to establish their claims. I shall therefore if I confirm any of the Entries the subject of the Colleges Objections modify those Entries so as to limit <sup>the</sup> exercise of rights to land other than Corpus Christi land. Entry No 10 is replaced by Entry No. 58.

I turn now to the objections made by Messrs. Walters and Hart which are to Entries Nos 1 2 4 10 13 14 17 23 24 32 and 34.



-2-

Mr Fitzgerald told me that as against the Earl of Malmesbury's Land the claims for rights under Entries 1 10 17 23 and 32 had been withdrawn. The applicant for rights under Entry No 13 did not appear to support his claim and if I confirm that Entry I shall modify it so as to limit the exercise of rights to land other than the Earls land.

There remain Entries 2 4 14 24 and 34. At the request of Mr Fitzgerald I shall confirm these Entries in each case with the modifications hereinafter set out.

It remains for me to consider Mrs Macleans Objections which were to Entries Nos 1 2 4 5 10 13 14 17 23 24 26 27 and 32.

Only the applicants under Entries 23<sup>and 27</sup> appeared and in the absence of the objector I must confirm that Entry as applicable to the Maclean land.

Cases in which neither the applicant nor the objector appears are to say the least unsatisfactory. The view which I take is, that since in the absence of an Objection an Entry automatically becomes final and since an application is supported by a statutory declaration, I must in the absence of the objector treat applications as unopposed and I confirm all the Entries the subject of Mrs Macleans objections, insofar as they affect the Maclean land.

As I have already said it is unsatisfactory to have to deal with disputes in the absence of any of the parties, and if so requested by Mr Byass and Mr Chamberlain I will consider whether or not I should reopen References 214/D/16 and 19.

There is one further point that I must mention namely that some applicants for rights have claimed to graze over this unit and adjoining units for the same animals. In order to avoid duplication these Entries will be modified so as to ensure that the numbers of animals to be grazed at any one time over the several units shall not exceed the appropriate number.

My decision on the respective rights the subject of these disputes is, in accordance with what I have said above, as follows:-

Entry No. 1 I confirm modified by inserting in column 4 after the words "the whole of the land" the words " other than Corpus Christi land and the Malmesbury land".

Entry No. 2 I confirm modified by inserting at the end of column 4 the following proviso viz:-

"Provided that the rights exercisable over the Malmesbury land shall be limited to the rights to graze 3 horses or cattle and 5 goats or sheep and the right to take bushes from that land for mending outside fences of the commoner's land where they bound the Malmesbury land such taking of bushes to be by arrangement only with the wood-ward or agent of the Lord of the Manor

Entry No. 4 I confirm modified so as to exclude the references to 30 chickens and to limit the exercise of rights over the Malmesbury land to the right to graze 2 horses and to take bushes from only that part of the Malmesbury land which lies North of the A30 road, the right to take bushes being limited to those required for mending outside fences of the commoner's land where they bound the said part of the Malmesbury land, such taking of bushes to be by arrangement with the wood ward or Agent of the Lord of the Manor.



-3-

Entry No. 10 now 58 I confirm modified by inserting in column 4 after the words "the whole of the land" the words "other than the Malmesbury land and the Corpus Christi land".

Entry No 5 now No.38 I confirm modified by excluding from column 4 the references to 12 chickens.

Entry No. 13 I confirm modified by inserting in column 4 after the words "the whole of the land" the words "other than the Malmesbury land and the Corpus Christi land and by excluding the reference to 50 fowls.

Entry No. 14 I confirm modified by excluding from column 4 the reference to 50 fowls and by inserting after the words "the whole of the land" wherever they appear in column 4 "the words "other than the Corpus Christi land" and by inserting at the foot of column 4 the following proviso:-  
"provided that the rights exercisable over the Malmesbury land shall be limited to the right to graze 2 horses or 2 cows and the right to take bushes for mending the outside fences of the commoner's land where they bound the Malmesbury land the taking of bushes to be by agreement with the woodward or the agent of the Lord of the Manor.

Entry No 17 now No 50 I confirm modified by inserting in column 4 after the words "sheet 33 of the register map wherever they appear the words "other than the Malmesbury land".

Entry No 23 I confirm modified by inserting in column 4 after the words "register unit" the words other than the Malmesbury land and the Corpus Christi land".

Entry No 31 now No 60 I confirm modified by inserting at the foot of column 4 the following proviso:-  
"Provided that the rights exercisable over the Malmesbury land shall be limited to the right to graze 12 cattle or 12 horses and to take bushes for the mending of the outside fences of the commoners land adjoining the Malmesbury land such taking of bushes to be by arrangement with the wood ward or the agent of the lord of the Manor and provided that the number of animals grazed over this unit and units Nos 61, 162 and 21, 163 or any two of them shall not exceed 12 cattle or 12 horses and provided also that no rights shall be exercisable over the Corpus Christi land.

Entry No 26 I confirm

Entry No 27 I confirm

Entry No 32 I confirm modified by inserting in column 4 after the words "register unit" wherever they appear the words "other than the Malmesbury land and the Corpus Christi land".

Entry No.34 I confirm modified by inserting in column 4 after the words "Register Unit" wherever they appear the words "other than the Corpus Christi land" and by adding at the foot of column 4 the following proviso.  
"Provided that the rights exercisable over the Malmesbury land shall be limited to the right to graze 6 horses or 6 cows or 6 goats and 6 geese and the right to take bushes for mending the commoner's fences where they bound the Malmesbury land such taking of bushes to be by arrangement with the wood ward or agent of the Lord of the Manor and



-4-

provided that the number of animals grazed at any one time over this unit and units CL.168 and CL.169 or any two of them shall not exceed 6 horses or 6 cows or 6 goats and 6 geese.

The Malmesbury, Corpus Christi and Maclean lands are identified in the ownership section of the Register. It would I think be helpful if the Registration Authority could attach to the Register a plan identifying these lands with separate colours.

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 17<sup>th</sup> November 1978

*J. A. Little*

*Corrected under Regulation 33*

*CA Little 29 March 1979*

COMMONS COMMISSIONER