



COMMONS REGISTRATION ACT 1965

Reference Nos 215/D/293
215/D/294
215/D/295
215/D/296In the Matter of Waste of Pentaloe,
Fownhope, South Herefordshire District,
Hereford and WorcesterDECISION

These disputes relate to the registrations at Entry No 1 in the Land Section and at Entry No 1 in the Ownership Section of Register Unit No CL81 in the Register of Common Land maintained by the Hereford and Worcester County Council and are occasioned by Objection No 24 made by Mr George Henry Powell and noted in the Register on 22 April 1970, by Objection Nos 398 and 399 made by the Public Trustees and noted in the Register on 15 October and 19 January 1971 and Objection No 420 made by Fownhope Parish Council and noted in the Register on 30 December 1971.

I held a hearing for the purpose of inquiring into the dispute at Hereford on 11 January 1979. At the hearing (1) Mr G H Powell (an objector to the Land Section registration and the applicant for the Ownership Section registration) was represented by Mr J Mason of Counsel instructed by Leslie J Slade & Co, Solicitors of Newent, Gloucestershire; (2) Fownhope Parish Council (an objector to the Ownership Section registration and the applicant for the Land Section registration) were represented by Mr M Cook solicitor with T A Matthews & Co Solicitors of Hereford; and (3) the Public Trustee (an objector to both the Land and the Ownership Section registrations) was represented by Major Robert James Hereford who is a life tenant of the Sufton Estate.

The land ("the Unit Land") in this Register Unit according to the Register contains about $\frac{3}{4}$ of an acre, and is divided into two pieces separated by a road; the piece north of the road is bounded on the north by a brook("the Brook").

Mr Mason on behalf of Mr Powell said that it had been agreed: (1) that of the area known as Waste of Pentaloe the land to the north of the road and to the west of a spring (as hereinafter defined) is and has at all material times been in the ownership of Mr Powell; (2) that the said land is not and never has at any material time been common land; and (3) that the land to the east of the spring and north of the road and all the land to the south of the road is and has been at all material times in the ownership of the Lord of the Manor of Sufton.

After some discussion, Mr Cook on behalf of the Parish Council and Major Hereford on behalf of the Public Trustees confirm the agreement as stated by Mr Mason (I understood it had been finalised orally just before the hearing); and they and Mr Mason agreed that I would give effect to the said agreement so far as it related to the said registrations (clearly relates to other matters as well) if I gave the decision set out below.

I am willing to act on the said agreement, and accordingly I confirm the registration at Entry No.1 in the Land Section with the modification that there be removed from the Register the land which is both north of the road dividing the land in this Register Unit into two parts and west of the spring (not marked on the Register map) hereinafter defined; and I refuse to confirm the registration at Entry No.1 in the Ownership Section, it having been agreed that the said Entry No could have no application to any land remaining in the Register Unit after the said



modification had been made. In this paragraph "the spring" means the water coming from a fixed pipe on the north side of the said roads and the line along which such water now flows northwards into the Brook which (before the said modification) formed the north boundary of the said land in this Register Unit.

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 1st —

day of February 1979

a. a. Baden Fuller

Commons Commissioner