



COMMONS REGISTRATION ACT 1965

Reference No.31/D/26

In the Matter of Stapeley Common.

Chirbury, Salop (No.1).

DECISION

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No.CL. 80 in the Register of Common Land maintained by the former Salop County Council and is occasioned by Objection No.O.110 made by Mr.J.R.P.Delves and noted in the Register on 25th January 1972.

I held a hearing for the purpose of inquiring into the dispute at Shrewsbury on 12th June 1974. The hearing was attended by Mr.John Gittins, solicitor, on behalf of Mr.V.Ll.Powell and Mrs.A.E.Powell, the applicants for the registration of a right of common over the land comprised in the Register Unit, and Mr.H.Adams, another applicant for the registration of a right of common. The Objector did not appear and was not represented. Mr.H.B.Jones of the Treasury Solicitor's Department appeared to place on record that the land in question includes an ancient monument, known as Mitchell's Fold Stone Circle, of which the Secretary of State for the Environment is the guardian.

The land comprised in the Register Unit is bounded on its eastern side by a meandering stream which is also the parish boundary. To the west of the brook there is a straight fence. The Objection relates to the strip of land bounded on the west by the fence and on the east by the stream. The fence was erected by the Objector's predecessor in title, one Hughes, about 12 years ago. Mr.Hughes was the owner of the land on the eastern side of the stream and it appears that he put up a straight fence rather than one following the bends of the stream because it was shorter and therefore cheaper.

Before the hearing the Objector wrote to the Clerk of the Commons Commissioners, stating that he had found that the trouble and expense of proving his Objection would not be worth it because of the very small value of the strip of land concerned.

On this somewhat meagre information, it appears to me that the land subject to rights of common extended to the parish boundary before the erection of the fence. It could be that the fence was erected with the agreement or acquiescence of the persons entitled to rights of common in circumstances from which it could be inferred that those persons abandoned their rights over the land between the fence and the stream. I am not, however, prepared to draw such an inference without some evidence on which to base it. In the absence of any evidence as to the circumstances in which the fence was erected I cannot do other than assume that the rights of common are exercisable as far east as the stream.

For these reasons I confirm the registration without modification.



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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 July 1974

A handwritten signature in dark ink, appearing to read 'G. J. Quibb', written over a horizontal line.

Chief Commons Commissioner