



COMMONS REGISTRATION ACT 1965

Reference No. 236/D/501-511

In the Matter of Staffhurst Wood,
Limpsfield, Tandridge D

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at the Entries in the Rights Section of Register Unit No. CL 420 in the Register of Common Land maintained by the Surrey County Council and are occasioned by the following Objections No. 83 by C H Garner, No. 510 by E F Thomas, No. 518 by F A Skinner and M V Skinner, No. 547 by D A Young, No. 690 and No. 536 by Surrey County Council. The Objections were noted in the Register as follows: - No. 83 on 13 May 1970, No. 510 on 7 June 1971, No. 518 on 31 August 1971, No. 547 on 28 March 1972, No. 690 on 1 August 1972 and No. 536 on 2 March 1972.

The registration in the Land Section was made on the application of Limpsfield Parish Council and an application for such registration was also made by Miss E P Quigly. The applicants for registration in the Rights Section were E F Thomas (Entry No. 1) M Faulkner (Entry No. 2) W Faulkner (Entry No. 3) R G Thomas (Entry No. 4) W Edwards (Entry No. 6) Mrs A H Edwards (Entry No. 7) Miss E P Quigly (Entries Nos. 8 and 9) N B Knight (Entry No. 10). Entry No. 5 has been cancelled.

I held a hearing for the purpose of inquiring into the disputes at Oxted on 8 May 1981. At the hearing there were the following appearances: Mrs A Williams, Solicitor, appearing on behalf of Limpsfield Parish Council and of Mr E F Thomas and Mr C H Garner: Mr and Mrs Edwards, Miss Quigly and Mr Knight appearing in person: Mr F M Crow, Chartered Surveyor, appearing on behalf of Mr and Mrs Stevens who claim to be successors to Mr and Mrs Skinner (Objection No. 518): Mr C T S Belk, Solicitor appearing on behalf of Mr D A Young: and Mr B Cotter, Solicitor appearing on behalf of Surrey County Council.

As regards Entries Nos. 2, 3 and 4 in the Rights Section, the rights claimed are identical with those claimed in Entry No. 1 and are attached to the same property, known as The Horns. It is self evident that the four Entries are replications of the same right and it was accepted that Entries Nos. 2, 3 and 4 should be cancelled leaving Entry No. 1 as the claimed right. Accordingly I refuse to confirm the registrations at Entries Nos. 2, 3 and 4. At the hearing Mr Knight (Entry No. 10) withdrew his claim and I refuse to confirm his registration.

Objection No. 83 Staffhurst Wood is an extensive stretch of Woodland at the south-eastern corner of which is an area called Butcherswood Bank. It is to this area, of which I understand that Mr Garner claims to be owner, that his Objection relates. The Objection was accepted by the parties concerned, except Mr and Mrs Edwards and Miss Quigly. The rights registered by them respectively



are the Edwards rights and the Quigly rights which I considered in the Decisions on CL 415 (Ref. 236/D/421-425) and CL 419 (Ref: 236/D/408-414). In the present case the evidence given by them related to the wood as a whole: Mrs Edwards said that she used to go through the wood and pick hazelnuts and berries, sticks and wood. Mr Edwards said that when he went there he used to pick up a few things - pieces of wood, flowers and in the area to which Objection 690 relates, furze and leaf mould. Miss Quigly said that this was the Bluebell wood and she picked bluebells every year up to 1965. She did not now claim to graze animals, to take sand, stones, or soil or estovers, except twigs. In my view, this evidence in no case established the rights registered either on the basis of prescription or otherwise, and for the reasons given in the Decisions referred to above, I refuse to confirm the registrations at Entries Nos. 6, 7, 8 and 9. I should add that Mr J C H Garner, the son of C E Garner, gave evidence that he was the present owner of Black Robins Farm, which adjoins Butcherswood Bank, in succession to his father: and that during a period of about 20 years the area in question has been fenced and pigs have been kept on it.

In the result I find that Mr Garner's Objection succeeds and I shall exclude the Butcherswood Bank area (which is shown on the plan accompanying the Objection) from the land comprised in the Register Unit.

Objection No. 510 Mr Thomas is, with other members of his family, owner of a property called the Horns which is situate in Staffhurst Wood but not included in the land registered. His Objection relates to an area, shown on the plan accompanying the Objection, which adjoins the Horns. The Objection was accepted by the parties concerned, and I shall exclude this area from the registered land.

Objection No. 518 This Objection relates to a strip of land lying on the east side of Whitehouse Farm, purchased by the Skinners in 1951, and sold to Mr and Mrs Stevens in 1980. It was agreed by all the parties concerned, except Mrs Edwards, that on this Objection there should be excluded from the registered land the part called Five Acre Wood, shown on a plan produced. After Mr F M Crow had given evidence, Mrs Edwards also agreed to this exclusion, and I shall exclude Five Acre Wood from the registration.

Objection No. 547 This Objection relates to a substantial area ("the Young area") in the north eastern part of the Wood, shown on the plan accompanying the Objection. The Young area encircles the Horns. Mr Belk told me that this Objection so far as it related to the registration of the area as common land was withdrawn. As regards the rights registered over it, it was agreed between his client and Mr Thomas that Entry No. 1 should be confirmed but modified as regards the right to estovers by limiting the right to the requirements of the Horns and requiring the consent of the landowner to the cutting of timber. As to the Edwards rights and the Quigly rights, as stated above, I refuse to confirm their registration.

Objections No. 690 and No. 536 No. 690 is an Objection to the Entry in the Land Section, and related to strips of land shown on the Plan accompanying the Objection which are 5' foot wide verges on tracks running across parts of the wood. Limpsfield Parish Council, the applicant for registration, is prepared to accept this Objection. As regards the applicants for registration in the



- 3 -

Rights Section, since I am refusing to confirm the registrations at Entries 2, 3, 4, 6, 7, 8, 9 and 10, the only applicant now affected by the Objection is Mr Thomas (Entry No. 1).

Objection No. 536 is an Objection to all the Rights and is that no Rights exist over an area shown on the plan accompanying the Objection. This area ("the SCC area") comprises the greater part of the Wood and, Mr Cotter informed me, was acquired by the County Council in 1971. In view of my Decision as to the rights other than that registered by Mr Thomas at Entry No. 1, the Objection remains a live issue only as between the County Council and Mr Thomas.

The right registered under Entry No. 1 is a right of pasture for 6 cattle, 2 horses, 40 sheep with lambs, 2 donkeys and 6 geese with Young, together with the right of estovers, over the whole of the land comprised in the Register Unit. The right is claimed to be attached to the Horns, which is inside the Young area, and close to the northern part of the SCC area. It was agreed that the right of estovers should be confirmed modified as in relation to Objection No. 547 (see above).

As regards the right of pasturage, Mrs Williams referred me to manorial records of the Manor of Limpsfield and from a Customal of 1312 it appeared that in Staffhurst Wood the tenants of the manor had grazing rights for their animals, and from the Court Roll of the Manor that in 1886 there was a customary tenant of a cottage in the wood which may well have been on the site of what is now the Horns. Mr Thomas gave evidence; he had lived at the Horns since 1922, apart from a 3 year period in the war when the family moved out in consequence of enemy action, and his grandparents and father had lived there since the 1890s. On Mr Thomas's evidence, which was confirmed as to more recent years by that of Mr Robert Young and Mr J C H Garner, I am satisfied that for a period of at least fifty years animals have been grazed in the wood from the Horns and that the grazing right has been established on the basis of prescription. I shall confirm the registration of the grazing right with the exclusion (as regards the SCC area) of donkeys, which Mr Thomas said he did not now claim.

Reverting to Objection No. 690, there was no evidence before me to the effect that the strips of land are highway or are not subject to Mr Thomas's rights, and I shall not exclude the strips from the registration: if they are in fact highway, the registration will not be conclusive (Section 21(2) of the Act of 1965).

In the result I confirm the registration in the Land Section modified by the exclusion of the Butcherswood Bank area, Five Acre Wood and the area adjoining the Horns, which is the subject of Objection 510: I confirm the Registration at Entry No. 1 in the Rights Section modified ^{as above} and I refuse to confirm the registrations at Entry Nos. 2, 3, 4, 6, 7, 8, ^{and} 9¹⁰ in the Rights Section.



374

- 4 -

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

29 June

1981

Commons Commissioner

