



COMMONS REGISTRATION ACT 1965

Reference No.241/D/21

In the Matter of The Old Chalk and Gravel Pit,  
Ridge, Mere, Wiltshire (No.1)

DECISION

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No.CL 50 in the Register of Common Land maintained by the former Wiltshire County Council and is occasioned by Objection No.21 made by H.R.H. Charles, Prince of Wales, Duke of Cornwall and noted in the Register on 11th October 1971.

I held a hearing for the purpose of inquiring into the dispute at Salisbury on 26th February 1975. The hearing was attended by Mr E.J.S.Smith, the Clerk of the Mere Parish Council, the applicant for the registration, and by Mr S.J.Sher, of counsel, on behalf of the Objector.

By the inclosure award, dated 26th October 1821 made under the Mere Inclosure Act of 1807 (47 Geo.III, ~~sess.1.c.xlii~~) the land the subject of the reference was allotted to the then Prince of Wales, the "Lord Farmer" (i.e. Thomas Schutz, the Prince's lessee of the manorial rights) and the surveyors of highways of the parish of Mere as a public stone, chalk, and gravel pit to be used by the proprietors or occupiers of lands and estates in the parish for the repairs of the public roads and purposes of husbandry. Although the pre-existing rights of common were extinguished, this allotment can be regarded as having created new rights of common in the soil. However, it is stated in the application made by the Parish Council for the registration of a right of common over this land that "this land represents an exhausted quarry prior to 1894 and as such is Parish Property and vested in the Parish Council, succeeding to the functions of the Vestry (L.G.A.1894, s.6(a))". This statement that the quarry was exhausted prior to 1894 appears to me to be fatal to the registration, because a right of common becomes extinguished when the subject matter is exhausted. This statement as to the exhaustion of the quarry is borne out by an agreed statement of facts put in during the hearing. These facts are:-

1. The land in question has been fenced in its existing state since or before 1910; and
2. No stone, chalk, gravel, limestone or any other material has been removed from the land since 1910.

Correspondence in the archives of the Duchy of Cornwall shows that the land in question was being grazed by the tenant of Breaches Farm before 1910 and that from 1910 onwards it has been included in the letting of that farm.

Even if the minerals in the land are not wholly exhausted, the fact that no one had exercised the rights created in 1821 since 1910 would lead me to draw the inference that those rights had been abandoned.



For these reasons I refuse to confirm the registration.

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 27<sup>th</sup> day of March 1975

A handwritten signature in black ink, appearing to read 'G. D. [unclear]', written in a cursive style.

Chief Commons Commissioner