



In the Matter of Lustleigh Cleave, Lustleigh, Devon.
(No 2)

DECISION

These disputes relate to the registration at Entry No 3 in the Ownership section of Register Unit No CL 57 in the Register of Common Land maintained by the Devon County Council and are occasioned by Objection No 236 made by Mr V A M Hunt and noted in the Register on 19 October 1970 and Objection No. 1052 made by Capt S Bullock-Webster and noted in the Register on 11 September 1972.

I held a hearing for the purpose of inquiring into the dispute at Exeter on 5 April 1978. The hearing was attended by Mr W R Bond, the applicant for the registration, and by the Objectors.

Mr Bond is the owner of a field called Higher Croft (O.S. No. 623 (2nd Edn 1903)). which is bounded on the south-west by the land comprised in the Register Unit. No part of the land comprised in the Register Unit has been conveyed to him, but he claims to be the owner of a triangular part of it adjoining Higher Croft by virtue of his ownership of Higher Croft.

Mr Bond said that it is well-recognised in neighbouring parishes that where there are granite gate-posts with the hangings on the common side the ownership of part of the common goes with the adjoining enclosed land, and he said that this had been laid down by a Mr Amery, who was a well-known local land agent with a wide experience of commons. Mr Bond also said that a lot of unenclosed land had been left out of conveyances by lawyers who did not know of this.

Mr Hunt said that Mr Bond's contention was lore and not law. That seems to be a fair comment. Mr Bond was in effect contending that there is a local custom in this part of Devon which overrides the general law. I cannot accept Mr Bond's unsupported assertion as proving such a custom. If there is some such custom, it would have to be proved by evidence. Mr Bond's belief, though obviously sincerely held, is not enough.

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 2nd day of

May

1978


CHIEF COMMONS COMMISSIONER