



COMMONS REGISTRATION ACT 1965

Reference Nos. 232/D/79
232/D/80
232/D/81

In the Matter of land between Quantock
Moor and Bicknoller Hill, Bicknoller, West
Somerset District, Somerset

DECISION

These 3 disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos. 1, 2 and 3 in the Rights Section of Register Unit No. CL.168 in the Register of Common Land maintained by the Somerset County Council, and are occasioned (D/79 and D/81) by Objection No. O/115 made by Somerset County Council and noted in the Register on 30 October 1970, and (D/80) by Objection No. O/263 made by Williton Rural District Council and noted in the Register on 29 July 1971.

I held a hearing for the purpose of inquiring into these disputes at Taunton on 4 June 1975. At the hearing (1) Somerset County Council were represented by Mr D L Edwards assistant solicitor in the office of the County Secretary, and (2) Mr D Spark on whose application (jointly with Mrs I G Spark) Entry No. 2 in the Rights Section was made, attended in person on his own behalf and as representing Mrs Spark.

The land ("the Unit Land") comprised in this Register Unit is on the southwest side of a large area which is known as the Quantock Hills, which extends for more than 10 square miles, and most of which is comprised in Register Unit CL.10. The Unit Land consists of an irregular shaped piece (about 250 yards long and between 50 and 100 yards wide) connected to a narrow strip (about 350 yards long). The grounds stated in Objection No. O/115 are:- "The areas verged red on the attached plan were not common land at the date of registration"; the said areas ("the O/115 Areas") are O.S. Nos. 48 and 49 containing 1.303 and 0.221 acres. The grounds stated in Objection No. O/263 are: "The rights do not exist at all or the rights do not extend to the Council's land, which is edged purple on the attached plan"; the said land ("the D.C. Land") comprises the remainder of the Unit Land. There are 3 Entries in the Rights Section of (1) turbary, estovers and pasture, (2) turbary, estovers firebote and pannage, and (3) herbage, over (1) the whole, and (2) and (3) part of the Unit Land and all in continuation of rights over parts of the CL.10 land and (1) in continuation of rights over the CL.88 land (Quantock Moor) and (3) in continuation of rights of parts over CL.26, CL.85 and CL.137 land; these Entries were made on the application of (1) Mrs C Mack-Smith, (2) Mr and Mrs Spark, and (3) Mrs E Gullick respectively. In the Ownership Section there is one Entry of the ownership of Williton Rural District Council of part of the Unit Land.

Mr Edwards said (in effect) that having looked at the deeds relating to the Unit Land held by West Somerset District Council, he had concluded that Objection No. O/263 could not be sustained and was now authorised by the West Somerset District Council (they being the successors of the Williton Rural District Council) to say that the Objection was withdrawn.



Mr Edwards said that the County Council had no property interest in the O/115 Areas: the Objection was made because the areas were inclosed land, and it was thought that the applicants had made a cartographical error. He produced a letter dated 7 November 1969 from Miss C Griffin (when Entry No. 1 in the Rights Section was made, she was Mrs Mack-Smith) in which she said that she certainly did not intend to include the buildings and gardens belonging to Quantock Moor Farm, and a letter dated 29 December 1969 from Mr Spark saying that the area (meaning I think O.S. No. 48) was their property "i.e. gardens and unused wooden house". A letter had been written to Mrs Gullick by the County Council but she had not replied. Mr Edwards also produced a copy of a lease dated 27 October 1921 granted by the Ecclesiastical Commissioners to Williton Rural District Council of a liberty to take and use water from a spring for 99 years at a yearly rent of £1; the plan attached to this lease showed the O/115 Areas as inclosed lands distinct from the surrounding land which included the D. C. Land and which was thereon called "Quantock Moor".

Mr Sparks said (in effect):- He agreed with what Mr Edwards had said about the O/115 Areas being inclosed. He had owned Quantock Moor Farm for about 20 years and part of it from 1913. O.S. No. 48 was part of the Farm. The other of the O/115 Areas, being O.S. No. 49 was owned by Miss Ridler.

On the information given to me as outlined above, I conclude that the inclusion of the O/115 Areas in these registrations was (as Mr Edwards contended) a cartographic error and that Objection No. O/113 succeeds.

If the D.C. land had been separately registered without the O/115 Areas, and if Objection No. O/263 had never been made, the registrations both in the Land Section and in the Rights Section would have become final under sections 5 and 7 of the 1965 Act, notwithstanding that the rights registered in the Rights Section are in continuation of identical rights registered over the CL.10 land and other lands registered under the 1965 Act and notwithstanding that such registrations against the CL.10 and other registered land might by reason of some disputes relating to such registrations never become final or become modified in some way. This is an anomaly which is unavoidable because under the 1965 Act and the regulations made under it an application for registration of a right of common over land may, if the land is divided between two or more Register Units, result in the right of common appearing as a distinct registration in each such Register Unit, and in each such registration under such Act and regulations being dealt with independently.

I do not know whether the rights registered at Entry Nos. 1, 2 and 3 in the Rights Section of this Register Unit ~~as regards~~ as regards the CL.10 land and the land comprised in the other Register Units ~~will at some future time become final~~ will at some future time become final (with or without some modification) or will never become final. Notwithstanding the anomaly which may result from my confirming without modification the registration of such rights against the Unit Land if they against other land never become final or are modified, I consider that I must as regards the Unit Land deal with all the registrations finally now. By so doing, I shall I think do nothing which will prejudice any objection affecting these rights so far as they may be exercisable against the CL.10 land or any other land.

In the above circumstances I confirm the registrations at Entry No. 1 in the Land Section of this Register Unit with the modification that the land edged red on the plan attached to Objection No. O/115 be removed from the Register and I confirm the registrations at Entry Nos. 1, 2 and 3 in the Rights Section without any modification.



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 21st day of *January* 1976

a. a. Baden Fuller

Commons Commissioner