



In the Matter of Land known as Benjamy
at the Chains, Exmoor

DECISION

These disputes relate to (1) the registration at Entry No. 1 in the Land Section of Register Unit No. CL 157 in the Register of Common Land maintained by the Somerset County Council, (2) the registration at Entry No. 1 in the Rights Section of the same Register Unit. They are occasioned by (a) Objection Nos. O/281 and O/282 made by the Somerset County Council and noted in the Register on 8 December 1970, and (b) Objection No. O/799 made by Mr K Chugg and noted in the Register on 31 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Taunton on 10 May 1979. The hearing was attended by Mr T J Driver, Articled Clerk in the County Council. There were no other attendances.

The County Council's Objection O/281 was to the registration as Common Land of a small area of the land in question ("the Unit Land") on the ground that this area was not Common Land at the date of registration. The registration was made in consequence of an application by Mr O J Sanders to register a right of common (a right to graze), and it is this right which is Entry No. 1 in the Rights Section and which is the subject of Objections O/282 and O/799.

In May 1976 Mr Sanders wrote to the County Solicitor agreeing that the small area to which the Council's Objection related was not subject to the right of common and that the area should be excluded from the registration. Accordingly I shall confirm the registration at Entry No. 1 in the Lands Section except as to the area to be excluded. The County Council's Objection O/282 to Entry No. 1 in the Rights Section also related only to the same area and Mr Sanders' in his letter accepts that the right of common does not extend to that area.

Mr Chugg's Objection O/799 is an objection to the right of common and the grounds are that "the right does not exist at all". In the absence of appearances or evidence to support either the registration or the objection, the relevant factor as I see it is that Mr Sanders' application to register is supported by statutory declaration; and in his letter of May 1976 he stated that he had had stock grazing over the land for upwards of 30 years and maintained his claim (i.e. except as to the small area).

In the circumstances I refuse to confirm the registrations as regards the area to which the County Council's Objections relate, but otherwise confirm them.

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

6th July

1979

L. J. Morris Smith
Commons Commissioner