



COMMONS REGISTRATION ACT 1965

Reference No. 234/D/115

In the Matter of St Michael's Green or St Michael's
Common, St Michael South Elmham, Suffolk

DECISION

This dispute relates to the registration at Entry No. 3 in the Rights Section of Register Unit No. CL 30 in the Register of Common Land maintained by the Suffolk County Council and is occasioned by Objection No. 81 made by Mr C W C Rogers and Mr S J Rogers and noted in the Register on 30 September 1970.

I held a hearing for the purpose of inquiring into the dispute at Ipswich on 20 January 1982. The hearing was attended by Mr D Sprake, Solicitor, on behalf of the Objectors. There was no appearance by or on behalf of Mr and Mrs G E Sneed, the applicants for the registration, but Mr Sprake produced a letter signed by or on behalf of the parties stating how they wished me to dispose of the matter.

The description of the right of common in Part 5 of the application dated 16 June 1968 was "Right of herbage". There is, however, a note dated 2 March 1970 that after discussion with Mr Sneed the right was to read "Right of herbage. To graze up to 6 cattle". This was presumably done in order to comply with the requirement of Section 15(2) of the Commons Registration Act 1965 that an application for the registration of a right of common to graze animals should state the number of animals to be entered in the register.

The particulars of the right of common in column 4 of the registration are as follows:- "1. Right of herbage; 2. To graze up to six cattle, over the whole of the land comprised in this register unit".

What had originally been one right was thus registered as if it were two rights. This is repeated in the letter, which opens as follows:- "We refer to our entries on the above register.....of a right of herbage and a right to graze up to six cattle over the whole of the land comprised in the register unit". The letter then goes on to state that it is agreed that the registration for a right of herbage should be made final over a part of the land comprised in the register unit edged blue on an enclosed plan.

To do exactly what the letter states to have been agreed, namely, to confirm the right of herbage and therefore not to confirm the right to graze up to six cattle, would be to perpetuate the confusion which arose by the registration of the one right applied for as if it were two rights. It would also fly in the face of Section 15(2) of the Act of 1965 by failing to quantify the right.

I shall therefore give effect to what appears to be the intention of the parties and at the same time comply with the requirements of the Act of 1965 by confirming the registration with the following modification, namely by the substitution for the words in column 4 of the right to graze six cattle over the part of the land



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comprised in the Register Unit shown edged blue on the letter produced by Mr Sprake.

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

27th

day of

January

1982

Chief Commons Commissioner