



COMMONS REGISTRATION ACT 1965

Reference No. 262/D/470-484

In the Matter of Birker Fell,
Eskdale

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entries No. 1 to No. 15 in the Rights Section of Register Unit No. CL 69 in the Register of Common Land maintained by the Cumbria County Council and are occasioned by the following Objections: (1) Objection No. 102 made by Sir G W Pennington Ramsden which relates to the boundary of the land in question ("the Unit land") and consequentially involves an Objection to the Rights Entries in regard to the area involved, (2) Objections No. 36, 37 and 42-48 made by Edwin Thompson and Company being Objections to the number of grazing animals claimed in nine of the Rights Entries, (3) Objections No. 71 made by W J Heywood and No. 183 and 183A made by Heywood Farms being Objections to Rights Entries No. 1, No. 14 and No. 15, (4) Objection No. 101 made by Sir G W Pennington Ramsden to Rights Entry No. 1.

Objections No. 183 and 183A were noted in the Register on 6 May 1972, and the other Objections were all noted on 2 October 1970.

I held a hearing for the purpose of inquiring into the disputes at Whitehaven on 27 November 1980. The hearing was attended by (1) Lord Carlisle, the Agent of and representing Sir G W Pennington Ramsden, (2) Mr R A Moss, Chartered Surveyor, representing the Trustees of the Stanley Trust, Mr J B Tysen and Edwin Thompson and Company, (3) Mr G Hall, Land Agent, representing the National Trust, (4) Mr H Snow, of the firm of Arnold Greenwood and Sons, Solicitors, appearing on behalf of W J Heywood and Heywood Farms, (5) Mr Ian McWilliam, appearing on his own behalf and also representing Mrs Muriel Gingell, (6) Mr T Pitts in person and (7) Mr Greer of the Registration Authority.

Objection No. 102 is on the ground that "there is a cartography^{ical} error in the boundary indicating it goes through the boathouse....the boundary is ten feet from the nearest point of the boathouse and ten feet from the actual water level (of Devoke Water)". Devoke Water adjoins the Unit land at part of its south western boundary and the boathouse is marked on the Register map. All parties present agreed that the boundary of the Unit land at this point should be adjusted to meet the Objection and an enlarged plan is to be prepared showing the ten foot strip between the Boathouse and the Unit land which is to be excluded.

I shall confirm the registration in the Land Section modified to exclude that strip.



Objection; Nos. 36, 37, 42-48, 71, 183 and 183A were withdrawn. As regards Objection No. 101, this is an Objection to the right of piscary which is included in the rights registered on the application of Mr J B Tyson at Entry No. 1 in the Rights Section. This Objection was accepted by Mr Tyson and I shall confirm his registration modified so as to exclude piscary. Subject to this, I confirm all the Rights without modification (though they will of course not be exercisable over the ten foot strip to be excluded from the Unit land).

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

15 December

1980

L. J. Morris Smith

Commons Commissioner