



COMMONS REGISTRATION ACT 1965

Reference No. 262/D/289

In the Matter of Hardendale Nab, south
and east of Hardendale, Shap, Eden District,
Cumbria

DECISION

This dispute relates to the registration at Entry No. 3 in the Rights Section of Register Unit No. CL 12 in the Register of Common Land maintained by the Cumbria (formerly Westmorland) County Council and is occasioned by Objection No. 2/134 made by Crosby Ravensworth Commoners' Committee and noted in the Register on 9 February 1972.

I held a hearing for the purpose of inquiring into the dispute at Penrith on 2 July 1980. The hearing was not attended by any person entitled to be heard.

The said registration was made on the application of Arthur Edward Metcalfe-Gibson, and it is of a right held in gross to graze animals to the value of two and one-third stints as therein set out. The grounds of the Objection are that the right does not exist for the reasons there given.

I have two letters dated 17 February and 24 March 1980 from Mr R Metcalfe-Gibson saying that Mr A E Metcalfe-Gibson died several years ago, and that the registration at Entry No. 3 (made on his application) should be withdrawn, because there was a misunderstanding: he did not realise that these rights had already been registered by Shapfell Limestone Limited (at Entry No. 2, not disputed).

I also have a form completed and signed on behalf of the Crosby Ravensworth Commoners' Committee requesting that the Chief Commons Commissioner do refuse to confirm the registration. The form is undated, but I assume it is the paper referred to in a letter dated 23 June 1980 to the Clerk of the Commons Commissioners from the Hon Secretary of the Committee; in this letter he says of the land: "All the stints were purchased by Colvilles who are quarrying for limestone for British Steel. They let them back to the farmers, so individual applications were superfluous. The Repts of the late Mr Metcalfe-Gibson agree to the status quo on Hardendale Nab so I signed a paper at Mr Fell's (Solicitors) in Kirkby Stephen withdrawing our Objection".

Notwithstanding the words "withdrawing our Objection", I read the letter with meaning that the Committee was satisfied that the registration will be withdrawn and after this reason and none other withdrawing their objection; in law the form signed as above stated in effect provides not that the Objection shall be withdrawn but that it shall succeed. So interpreting the document above mentioned, I conclude that the registration was not properly made and accordingly I refuse to confirm it.



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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 July — 1980

a. a. Baden Fuller

Commons Commissioner