



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/498

In the Matter of Harkeld Common,
Crosby Ravensworth, Eden District,
Cumbria

DECISION

This reference relates to the question of the ownership of land known as Harkeld Common, Crosby Ravensworth, Eden District being the land comprised in the Land Section of Register Unit No. CL13 in the Register of Common Land maintained by the Cumbria (formerly Westmorland) County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference no person claimed to be the freehold owner of the land in question and no person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Penrith on 10 March 1982. At the hearing Mr Ian Joicey Dickenson and Rt Hon Nicholas James Christopher (2nd) Viscount Ullswater were represented by Mr J Spedding solicitor of Dickenson Dees & Co., Solicitors of Newcastle upon Tyne.

The land ("the Unit Land") in this Register Unit is a strip a little over $\frac{1}{3}$ rd of a mile long on the south side of and fenced against the road which runs from Crosby Ravensworth (on the east) to Shap (on the west). For about $\frac{1}{3}$ rd of its length from its east end, the Unit Land is between about 100 yards and about 30 yards wide; for the remainder of its length it is about 30 yards or less wide. The Land Section registration was made in consequence of an application by Mr G A Greig of Nelson Farm to graze 153 ewes and 60 hogs over the Unit Land and the land in Register Unit No. CL11

At the hearing oral evidence was given by Mr D A Pattinson who is now and has been since 1951 Chief Agent for the Lowther Estates, and by Mr Kenneth William Harrison. In the course of this evidence the documents listed in the Schedule hereto were produced by Mr Pattinson and Miss S J MacPherson Deputy County Archivist of the Cumbria Record Office at Kendal.

Mr Pattinson said (in effect):- The Unit Land is rough grazing land with a number of stones scattered here and there. Its south boundary has no definition, although there are some odd marker stones indicating the boundary between the Manor of Hardendale to the south and the Manor of Reagill to the north. Of the common to the south of the Unit Land (Register Unit No. CL12) Lord Lonsdale is the registered owner. He identified the Unit Land with the item in the Third Schedule to the 1960 principal vesting deed under the heading "Castlehow Scar Farm" as "pt 460: Reagill Common Allotment: 3.2.31." and marked on the plan annexed thereto and thereon shown (by reference to the 1915 OS map) much as on the Register map (quarry at the east end). In Part 6 of the First Schedule to the 1969 conveyance there is a description and delineation on the annexed plan essentially the same as that on the 1960 principal vesting deed.



Mr Harrison said (in effect):- Under the tenancy agreement mentioned in the Schedule hereto, he had paid rent to the Estate. The Unit Land is included in the tenancy, and on it he kept a flock of about 25 sheep; they were hefted to the Unit Land (so the absence of any fence on the south boundary was of little or no practical consequence). Notwithstanding his registration, Mr Greig did not graze on the Unit Land.

By the 1813 Award, plot no. 32 containing 1 a. 3 r. 10 p. is with much other land allotted to the then Earl of Lonsdale and his heirs. From the Award map I identify this allotment with the east (and wider part) of the Unit Land. It seems likely (as was suggested at the hearing) that the west and narrower part was in 1813 considered to be roadside waste and that at some time before living memory it was by the building of the fence along the roadside incorporated into the rest of the Unit Land.

On this evidence I am satisfied that Mr Dickenson and Viscount Ullswater are the owners of the land, and I shall accordingly direct the Cumbria County Council, as registration authority, to register Mr Ian Joicey Dickenson of Cross House, Westgate Road, Newcastle upon Tyne and Rt Hon Nicholas James Christopher Viscount Ullswater of Knoyle Down Farm, Hindon, Salisbury, Wilts as the owners of the land under section 8(2) of the Act of 1965.

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.

SCHEDULE
(documents produced)

Part I: by Mr D A Pattinson

8 August 1960

Principal vesting deed by which John Lamplugh Wickham and the Hon Adam Granville Gordon (Lord Adam Gordon) declared Hon Arthur James Beresford Lowther confirming the recitals) that the property set out in the Third Schedule thereto and delineated on the plans was vested in Rt Hon James Hugh William (7th) Earl of Lonsdale.

20 June 1969

Conveyance by Rt Hon J H W (7th) Earl of Lonsdale to Rt Hon Matthew White Viscount Ridley and Ian Joicey Dickenson of property described in the First Schedule thereto upon trust for sale.



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21 June 1974

Appointment supplemental to the said 1969 conveyance by which Rt Hon N J C Viscount Ullswater was appointed a trustee in the place of Rt Hon M W Viscount Ridley who retired.

22 December 1962

Tenancy agreement by which J H W Earl of Lonsdale let Castlehowe Scar Farm containing 160 a. 6 p. to Kenneth William Harrison.

Part II: by Miss S J MacPherson

3 February 1813

Reagill Inclosure Award.

Dated the 27th day of April — 1982

a. a. Baden Fuller

Commons Commissioner