



## COMMONS REGISTRATION ACT 1965

Reference Nos 262/D/299 to  
304 inclusiveIn the Matter of Hartley Fell,  
Hartley, Eden District, CumbriaDECISION

These disputes relate to the registrations at Entry No 6 to 14 inclusive and 16 to 21 inclusive in the Rights Section of Register Unit No CL 95 in the Register of Common Land maintained by the Cumbria (formerly Westmorland) County Council and are occasioned by Objection No 2/277 made by Mr George Alderson. Dent, Objection No 2/278 made by Mr John Herbert Strutt, Objection No 2/280 made by Mr Bell Pratt, Objection No 2/282 made by Mr Ernest Coulthard, Objection No 2/283 made by Mr Geoffrey Birbeck and Objection No 2/285 made by Mr Anthony William Coulthard and noted in the Register respectively on 25, 30, 31 and 31 August and 1 and 1 September 1972.

I held a hearing for the purpose of inquiring into the disputes at Penrith on 22 October 1980. At the hearing Mr P J Birtles solicitor of Hewitson and Harker, Solicitors of Kirkby Stephen represented the following persons:- (1) Mr G A Dent who in addition to being an Objector was as tenant the applicant for Rights Section Entry No 2; (2) Mr J H Strutt the said Objector; (3) Mr Jonathan Dixon of Rake Head, Nateby as successor of Mr B Pratt who in addition to being an Objector was as tenant one of the applicants (the others were Miss E Dent, Mr J C Dent and Mr W C Dent as owners) for the registration at Rights Section Entry No 15; (4) Mr E Coulthard and (5) Mr A W Coulthard who in addition to being Objectors were as tenants the applicants for the registration at Rights Section Entry No 1; and (6) Mr G Birbeck who in addition to being an Objector was one of the applicants for the registration at Rights Section Entry No 3.

The land in this Register Unit according to the Register map is a tract having a length from northwest to southeast of just under 3 miles and a variable width of between about one mile and half a mile. The registrations at Rights Section Entry Nos 1 to 5 inclusive and No 15 being undisputed, have become final. The grounds of the Objection (all are more or less the same) are in effect that the rights do not exist, that the common is already carrying sufficient stock and the applicants have not for at least 30 years exercised these rights.

At the hearing Mr E Coulthard said that the land to which the right registered at Entry No 5 (applicant Mr G B Harker) is attached, is now owned by the said Mr Strutt. He also said that Mr William Dalton who was the applicant for the registration at Entry No 8 is now deceased.

Mr J W Coulthard who is the father of the Objectors Messrs E and A W Coulthard, who is now 80 years of age, and has known Hartley Fell (the land in this Register Unit) for at least 60 years, says that during this 60 years he had never known of any animals to graze on the Fell other than animals from Cotegarh, Hartley Fold, Ladthwaite, Winton House Farm, West View Farm and Fell House Farm.



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The six farms mentioned by Mr J W Coulthard I have (with his help) identified with those lands to which are attached the rights included in all or some of the registrations which have become final. In the absence of any evidence in support of the registrations now disputed, and on the evidence of Mr J W Coulthard summarised above, I conclude that these registrations should not have been made. Accordingly I refuse to confirm them, they being the registrations at Entry Nos 6 to 14 inclusive and 16 to 21 inclusive.

I am required by regulation 30(1) of the Commons Commissioners Regulations in 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 8/1 — day of January 1981

a. a. Baden Fuller

Commons Commissioner