



In the Matter of Kilwell or The Sheep Pens in
Stainton Village, Dacre, Cumbria (No. 2)

DECISION

This dispute relates to the registration at Entry No. 1 in the Rights section of Register Unit No. CL 351 in the Register of Common Land maintained by the Cumbria County Council and is occasioned by Objection No. 164 made by the Dacre Parish Council and noted in the Register on 4 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Penrith on 14 October 1981. The hearing was attended by Mr H Noblett, the applicant for the registration. There was no appearance on behalf of the Parish Council, but Mr C Wilding, its Clerk, informed the Clerk of the Commons Commissioners by letter dated 4 October 1981 that the Objection was "withdrawn".

It is frequently possible in such a case as this to confirm the registration, so producing the same result as if there had been no objection. However, the registration in this case is of the right to get water from the well, and passage to the well, and also the right to use the ground for bleaching webs and cloth. These rights are not rights of common and so are not properly capable of registration under the Commons Registration Act 1965. Yet, if there had been no objection, the registration would have become final, as have, no doubt, many other ill-founded provisional registrations. Nevertheless, when the existence of an objection has given jurisdiction to a Commons Commissioner to inquire into the matter, the fact that the objection is not supported at the hearing does not mean that the Commissioner is obliged to confirm the registration. He still has a duty to inquire into the matter and, if the registration is bad on its face or there is evidence which shows that it was ill-founded, he would be failing in his duty if he were to confirm it.

For these reasons I refuse to confirm the registration.

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

4th

day of

November

1981

Chief Commons Commissioner