



COMMONS REGISTRATION ACT 1965

Reference Nos 262/D/625
to 627 inclusive

In the Matter of land at Bowscale Fell
(registered as Carrock ? and Mungrisdale
Fells), Mungrisdale, Eden District,
Cumbria.

DECISION

These disputes relate to the registrations at Entry Nos 3, 5, 6, 14 and 15 in the Rights Section of Register Unit No. CL 60 in the Register of Common Land maintained by the Cumbria (formerly Cumberland) County Council and are occasioned by Objection Nos 213 and 214 made by Messrs John Joseph Jackson, Thomas Edwin Jackson and John Howard Jackson and noted in the Register on 2 and 4 August 1972 and by Objection No. 221 made by Mr Henry Ridley and noted in the Register on 4 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Penrith on 17 June 1981. At the hearing (1) The Trustees of Jonathan Scott's Foundation on whose application the registration at Entry No. 3 was made, were represented by Mr D Mellor solicitor of Little & Shepherd, Solicitors of Penrith; (2) Mrs Sarah Wilson on whose application jointly with Mr John Daniel Wilson (he died about 3 years ago) the registration at Entry No. 6 was made, and their son Mr William Ernest Wilson were represented by Mr J M Ryder solicitor with Arnison & Co, Solicitors of Penrith; (3) Mr Thomas Barrow Jackson on whose application the registrations at Entry Nos 14 and 15 were made, was also represented by Mr Ryder; (4) Messrs J J, T E, and J H Jackson the said Objectors were also represented by Mr Mellor; and (5) Mr Henry Ridley also an Objector attended in person.

The land ("the Unit Land") in this Register Unit according to the Register map is about 3 miles long from west to east, is for about $\frac{1}{2}$ its length bounded on the north by the River Caldew and is all of it south of the River. In the Rights Section there are (including those above mentioned) 20 registrations of various rights of which those at Entry Nos 1 to 8 inclusive are in the Register expressed to be not only over the Unit Land but also over part (south of DE, north of AB and east of BC) of Register Unit No. CL 20; the remaining registrations at Entry Nos 9 to 19 inclusive and 21 are in the Register expressed to be over the Unit Land (simply without any addition).

Mr Mellor said that Objection No. 213 which relates to Entry No. 3 and Objection No. 214 which relates to Entry Nos 14 and 15, were both withdrawn.

The grounds of Objection No. 221 which relates to Entry Nos 5 and 6 are:
"The applicants for registration have not the right to graze stock on that part of CL 60 outlined in red on the attached plans, this area being part of Caldbeck Common (see CL 20) and the applicant's land is not in the Parish of Caldbeck".
Mr Ridley said that he made the Objection on behalf of the Caldbeck Commoners Committee of which he is and for the past 16 years has been the chairman.



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Mr W E Wilson said that he and his mother are now joint owners of Undercragg Farm to which the right registered at Entry No. 6 is attached, but although the registration at Entry No. 5 was made on the application of his father Mr J D Wilson, he had no interest in High Beck Side to which the right registered at this Entry No. is attached, such farm being partly owned and partly tenanted by his brother Mr Isaac Ronald Wilson who was not represented at the hearing. Mr Ridley referred to the description in the Register of the Unit Land as "The tracts of land known as Carrock Fell and Mungrisdale Fell" and said that Carrock Fell is wholly north of the River Caldew. Mr T Greer who was representing Cumbria County Council as registration authority produced the Register map which showed much of the adjoining land north of the River (including Carrock Fell) as Register Unit No. CL 20. Mr Ridley said that the Register was confusing; the substance of his Objection was that the Caldbeck Commoners objected to the CL 60 Entry Nos 5 and 6 registrations to the extent that they could confer on the applicant (or their successors as owners of the farms to which the rights are attached) any rights over the CL 20 land.

These proceedings relate to the CL 60 land, and in my opinion nothing I can do can validate or invalidate any registration affecting the CL 20 land. It may be that the CL 20 Registrations contain words similar to those at Entry Nos 5 and 6 in the CL 60 Rights Section, and it may be that these registrations were made on an application relating to both lands or upon identical applications relating to each and that the registration authority (as is not unusual in my experience) inserted words relating to the CL 20 land in the CL 60 registrations for convenience of reference. However this may be in my view no confirmation by me of any rights registered in the CL 60 Rights Section can have any effect under the 1965 Act in relation to the CL 20 land. If the Caldbeck Commoners wish to challenge before a Commons Commissioner the rights claimed as attached to High Beck Side and/or to Undercragg Farm over the CL 20 land they must I think do so in proceedings relating to such land. For these reasons I consider the correctness or otherwise of the references Register Unit No. CL 20 in the CL 60 Rights Section to be irrelevant in these proceedings.

Upon the considerations outlined above I conclude that the objections are all ineffective either because they have been withdrawn or because they were made on a mistaken basis. If the objections had not been made, these registrations would under section 7 of the 1965 Act have become final without the need of any reference about them to a Commons Commissioner, and I consider that I should produce the same result. Accordingly I confirm the registrations without any modification.

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 10th — day of July — 1981

a. a. Baslin Jellin