



## COMMONS REGISTRATION ACT 1965

Reference Nos 262/D/305  
262/D/306  
262/D/307

In the Matter of The Rigg,  
Blencarn, Culgaith Parish,  
Eden District, Cumbria

DECISION

These disputes relate to the registrations at Entry Nos 6, 8, 14 and 19 in the Rights Section of Register Unit No CL322 in the Register of Common Land maintained by the Cumbria (formerly Cumberland) County Council and are occasioned by Objections Nos 130, 131 and 132 made by Mr Joseph Kenneth Stamper and noted in the Register on 4 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Penrith on 23 October 1980. At the hearing (1) Culgaith Parish Council on whose application the Land Section registration was made, were represented by Mr A G Morton their chairman and Mr W A Whitfield their clerk; (2) Mr Stamper who in addition to being the Objector was the applicant for the registration at Rights Section Entry No 4 (now replaced by registrations at Entry Nos 21 and 22) and is also registered as owner in the Ownership Section of all the land, was represented by Mr T M Arnison Solicitor of Arnison & Co, Solicitors of Penrith; (3) Mr Cyril Varah Hodgson on whose application the registration at Rights Section Entry No 6 was made, and his son Mr E V Hodgson were represented by Mr D Mellor solicitor of Little & Shepherd, Solicitors of Penrith; and (4) Mrs Christine Elizabeth French Tudor on whose application the registration at Rights Section Entry No 8 was made, was present in person.

The land ("the Unit Land") in this Register Unit has a length of a little over  $1\frac{1}{4}$  miles long from its most westerly point near Blencarn Village to its most easterly point a little to the north of where Littledale Beck flows into Crowdunle Beck, and has a width along its western part of about  $\frac{1}{4}$  (being there on the Register map) called "The Rigg, and along its eastern and remaining part (about a mile long being on the Register map there called Studmire Moor and Cringley Moor). In the Rights Section in addition to the said 4 registrations the subject of these proceedings, there are 17 other registrations (including that at Entry No 4 which has been replaced by those at Entry Nos 21 and 22) which being undisputed have become final. These registrations are all of rights grazing, <sup>and</sup> some of them include right of turbarry and taking bracken.

Mr Arnison at the beginning of the hearing explains that Mr Stamper, who was present, owns the Unit Land as Lord of the Manor.

The registrations at Entry Nos 6, 14 and 19 are of rights of grazing. The grounds of Objections Nos 131 and 132 are that the animals should be fewer: at No 6, 15 sheep and 4 horses; at No 14, 200 sheep and 15 cattle; and at No 19, 150 sheep. As to the registration at Entry No 6 (made on the application of Mr Hodgson),



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Mr Mellor and Mr Arnison said that it had been agreed that the numbers should be 50 sheep and 4 horses. As regards the registration at Entry No 14 (made on the application of Mr J, Mrs E W and Mr J W Beaty of a right attached to Pleasant View to graze 450 ewes and followers, 100 hogs or 70 head of cattle or 35 horses): Mr Arnison said that Mr Stamper wished to withdraw his objection because he had purchased the rights. As regards the registration at Entry No 19 (made on the application of Mr John Morland Thompson being of a right attached to land identified by OS Nos to graze 400 sheep), Mr Arnison produced the paper signed by Mr Thompson just before the hearing by which he agreed to reduce his claim to 200 sheep and 40 hogs. Mr Arnison said that he was instructed that the figure "40" in this paper should be "50".

In the absence of any general evidence about the Unit Land and the grazing on it, and having regard to the finality of so many registrations in the Rights Section and of the registration in the Ownership Section, and in the absence of any objection by any person other than Mr Stamper, I conclude that I ought to act on the agreements reached as set out above. Accordingly I confirm the registration at Entry No 14 without any modification and I confirm the registration at Entry Nos 6 and 19 with the modification that at Entry No 6 for the words "50 sheep and 20 breeding mares with foals" there be substituted "50 sheep and followers and 4 horses"; and ~~modification~~ that at Entry No 19 for the words "400 sheep" there be substituted "200 sheep and 50 hogs".

As to the registration at Entry No 8 (being of rights attached to Riggend and Rigglands "of Turbary, to take quarry stone for farm use" and to graze various animals and birds), the grounds of Objection No 130 are "The right to quarry stone for farm use does not exist at all". Mr Arnison said that the grazing rights were conceded. Mrs Tudor asked for an adjournment because she had understood from her solicitors Mounsey Borman and Sutcliffe of Carlisle that the matter had been or could be resolved by agreement. Mr Arnison said that he had a telephone conversation about this registration with Mr Sutcliffe and at the finish understood that this conversation had been inconclusive. Mrs Tudor then described in some detail how Riggend House and Rigglands Farm buildings and fields were situated in relation to the Unit Land. After some discussion, because Mrs Tudor (and possibly also her advisers) misunderstood the nature of the evidence which would be required of her if her registration was not agreed, I decided to grant her application for an adjournment.

Accordingly these proceedings so far as they relate to the disputes about the registration at Rights Section Entry No 8 occasioned by Objection No 130 made by Mr Stamper stands adjourned ~~for the~~ date and place to be fixed by a Commons Commissioner. I am recommending that the adjourned hearing be held on the next convenient occasion that a Commons Commissioner comes to Penrith. But the adjournment does not mean that it is not still open to Mrs Tudor and Mr Stamper settled the dispute without proceeding to a further hearing by taking advantage of the consent procedure set out in regulations 31 of the Commons Commissioners Regulations 1971; but if they wish to take advantage of this procedure and avoid for themselves the risk of whichever of them is unsuccessful at a further hearing being ordered by the Commons Commissioners to pay the costs of the successful other, they ~~must~~ for this purpose attend the office of the Commons Commissioners for statements of the terms they have agreed ~~and~~ signed by themselves or by their solicitors or agents.

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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 8<sup>th</sup> — day of January — 1981

*a a. Baden Fuller*

Commons Commissioner