



COMMONS REGISTRATION ACT 1965

Reference Nos 220/U/19
220/U/20

In the Matter of (1) a small part of, and
(2) another small part of, Easington Fell,
Newton in Bowland, Ribbles Valley Borough,
Lancashire

DECISION

These references relate to the question of the ownership of lands known as (1) a small part (north of Copy Laithe) of, and (2) another small part (west of Copy Laithe) of, Easington Fell, Newton in Bowland, Ribbles Valley Borough being the lands comprised in the Land Section of Register Unit (1) No. CL489 and (2) No. CL257 in the Register of Common Land maintained by the Lancashire 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 these references no person claimed to be the freehold owner of the lands in question and no one claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Burnley on 8 April 1986. At the hearing Mr Walter James Harrison and his son Mr Geoffrey Harrison attended in person.

The remainder of Easington Fell ("the CL66 land") is comprised in Register Unit No. CL66 and is therein stated to contain about 616.66 acres; the CL66 registration is recorded as having been made in consequence of an application dated 26 July 1967 and made by Mr Walter James Harrison for the registration of rights; it seems that the plan in the Register defining the extent of the CL66 land is based on the plan attached to the said application. Disputes about the boundary of the CL66 land consequent on an Objection dated 22 September 1970 by the Rt Hon Lord Clitheroe were by the then Chief Commons Commissioner considered at a hearing at Blackburn on 19 June 1984 and his two decisions are dated 2 and 9 July 1984; these disputes related to comparatively small pieces of land near the southwest boundary of the CL66 land. The CL489 land and the CL257 land are two comparatively small pieces of land near the east boundary of the CL66 land.

The CL489 land (containing between $1\frac{1}{2}$ and 2 acres) was registered in consequence of an application dated 11 September 1969 and made by Mr Alwyn and Mrs Annie Brenda Cowking for the registration of rights attached to Smelfthwaite Farm; the application related also to the CL66 land and the CL257 land. No other applications relating to the CL489 land were made and the CL489, Rights Section registration (only one, that applied for by Mr and Mrs Cowking) and Land Section registration in the absence of any objection became final under section 7 of the Commons Registration Act 1965.

The CL257 land (containing about 2 acres) was registered in consequence of an application dated 29 April 1968 and made by Mr Ernest and Mrs Jennie Harrison for the registration of rights attached to Manor House Farm; the application related also to the CL66 land. The CL257, Rights Section registrations (only two, those applied for by Mr E and Mrs J Harrison and Mr A and Mrs A B Cowking) and Land Section registration in the absence of any objection became final under section 7 of the 1965 Act.



- 2 -

At my April 1984 hearing, Mr W J Harrison said that Mr E and Mrs J Harrison mentioned in the CL257 Rights Section were his eldest son and daughter-in-law.

Mr G Harrison then gave oral evidence in the course of which he produced the documents specified in the Schedule hereto and said (in effect):- Under the 1965 conveyance (GH/1) his father is the owner of Harrop Hall Farm (about 402 acres); Mrs Agnes Isabel Harrison named in the conveyance was his mother; she died in 1970. He (the witness) is now of the Farm a tenant of his father (Mr W J Harrison). The Sketch Plan (GH/2) is a tracing of the relevant part of the conveyance plan having on it (not on the conveyance plan) marked 8 boundary stones (on the CL66 land) and showing the stream by a green line and the boundary of the Farm by a brown line (so the CL489 land is west of the stream and part of the farm and the CL257 land is east of the stream and not part of the Farm). The CL489 land was a wood but the trees have dried off and only two are left; it is very exposed, it is grazeable and cows from it drink in the stream. The boundary stones marked on the sketch plan (GH/2) are about 3 ft above ground.

Mr W J Harrison said (in effect):- He became tenant of Harrop Hall Farm in the early 1930s in succession to Mr Bilsborough; by him he was told that the said stones marked the boundary of where "we" (meaning the tenants) could get turf rushes and bracken to bed young stock; he while tenant so got them. He left in 1942 and was succeeded by Mr F Simpson who later on became the owner, and from whom he (Mr W J Harrison) bought it.

On 9 April 1986 I inspected the CL489 land and the CL257 land accompanied by Mr G Harrison.

As to the CL489 land:- This is part of OS No 118 specified in the Schedule to the Conveyance and therein described as "Old Meadow Plantation: 3.736 acres"; It is included with the land edged red on the conveyance plan. On my inspection it appeared as enclosed land part of the Farm. It is likely that the inclusion of it in the application of Mr and Mrs Cowking was a mistake, and that it should therefore not have been registered at all; however this may be, the registration has become final and I have no jurisdiction to avoid it. The only ownership evidence I have about it is favourable to the claim of Mr W J Harrison.

On this evidence I am satisfied that Mr W J Harrison is the owner of the CL489 land and I shall accordingly direct the Lancashire County Council, as registration authority, to register Mr Walter James Harrison of Woodlands, Waddington, near Clitheroe as the owner of the CL489 land under section 8(2) of the Act of 1965.

As to the CL257 land:- Although the stream might conveniently be treated as part of the eastern boundary of the large area known as Easington Fell the CL257 land is on the OS Map, annexed to the 1965 conveyance, treated as part of the Fell. In the 1965 conveyance it is not treated as part of the land thereby conveyed. It is now fenced from it. So apart from any inference which might be drawn from the boundary stones I have no evidence at all in favour of Mrs W J Harrison or anyone else being the owner. On my inspection I looked at the more northerly stones and Mr G Harrison pointed out to me where the others are; it may well be that the stones mark the boundary between two parts of the CL66 land which are for ownership or some other purpose important but I am unable from them to infer that Mr W J Harrison is in any now relevant sense the owner of the CL257 land.



From the considerations outlined above I am not now satisfied that Mr W J Harrison or anyone else is the owner of the CL257 land. While writing this decision, I was told that in a notice of reference dated 1 August 1986 Lancashire County Council have referred to a Commons Commissioner the question of the ownership of part of Easington Fell, being whole of the CL66 land except a comparatively very small area near to and within its south-west boundary, of which Lord Clitheroe has as owner been registered. Because it is likely that the said boundary stones may be mentioned at the hearing of the said CL66 reference and that any evidence given about them would be equally applicable to the CL257 land I adjourn my CL257 April 1986 hearing to the same place and day as shall be fixed for the CL66 reference. It will then be open to anyone to adduce evidence about the ownership of the CL66 land and the CL257 land. Messrs W J and G Harrison may if they think fit offer new evidence about CL66 land and/or CL257 land, but I am not encouraging them to do this, unless they can do better than they did at my April 1986 hearing. If at the adjourned hearing the Commons Commissioner is not satisfied that any person is the owner of the CL257 land, it will remain subject to protection under section 9 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)

GH/1 10 May 1965

Conveyance by Frank Simpson to Walter James Harrison and Agnes Isabel Harrison of Farmhouse with the land and outbuildings thereunto belonging known as Harrop Hall containing about 402.194 acres described in the Schedule and by way of identification delineated on the plan annexed.

GH/2 --

Sketch plan showing Copy Laithe, the nearby stream flowing northwards (towards Easington Brook) and boundary stones.

Dated this

17th —

day of

September

1986.

A. A. Baden Fuller

Commons Commissioner