

JW



COMMONS REGISTRATION ACT 1965

Reference No. 220/D/312

In the Matter of Easington Fell, Newton
Lancashire (NO.1)

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL.66 in the Register of Common Land maintained by the Lancashire County Council and is occasioned by Objection No. 301 made by Lord Clitheroe and noted in the Register on 30 November 1970.

I held a hearing for the purpose of inquiring into the dispute at Blackburn on 19 June 1984. The hearing was not attended by any person entitled to be heard.

The grounds of the Objection are that the south-western boundary of the land comprised in the Register Unit is incorrect in that a part of it should be to the north-east and that part of it should be further to the south-west. In so far as the latter part is concerned, I have no jurisdiction to add to the Register Unit land which is not already included in it. The wording of the Objection could be construed as an allegation that the former part should be excluded on the ground that it is not common land. However, it appears from the plan annexed to the Objection that this land is registered as common land in Register Unit No. CL.248. It also appears that the land which the Objector wishes to have included in the Register Unit the subject of this reference is included in Register Unit No. CL.408. It therefore appears that the gravamen of the Objection is not that any land is ^{not} common land, but that some land is comprised in the wrong register unit. So far as I can discover from the documents before me, the basis of this is that the south-western boundary of the land comprised in Register Unit No. CL.66 does not coincide with the south-western boundary of the land known as Easington Fell.

The registration was made in consequence of an application for the registration of a right of common made by Mr W J Harrison. The name by which the land over which the right of common was exercisable was commonly known as stated to be Easington Fell, but the land was more precisely identified by a blue line on an attached plan. In my view, the registration authority acted correctly in defining the land comprised in the Register Unit as that shown on the plan. It was for the applicant to define the land over which he wished to have a right of common registered. This he did by means of his plan, and it matters not that he may have mis-described part of it as Easington Fell. The plan makes it quite clear what he desired to have registered. Falsa demonstratio non nocet.

The land comprised in the Register Unit having been defined in accordance with Mr Harrison's application, the registration could have been objected to on the ground that the land or some part of it was not common land. It appears from the plan attached to the Objection that it is not alleged that any part of the land is not common land.

For these reasons I 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

2nd

day of

July

1984

Chief


Commons Commissioner