



In the Matter of Carlton Peat Moor,  
Carlton Town, North Yorkshire.

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DECISION

This dispute relates to the registration at Entry No. 1 in the Rights section of Register Unit No. CL 62 in the Register of Common Land maintained by the former North Riding of Yorkshire County Council and is occasioned by Objection No. 0436 made by the late Mr E B D Johnson and noted in the Register on 24 July 1972.

I held a hearing for the purpose of inquiring into the dispute at Richmond on 19 July 1977. The hearing was attended by Mr J C Scott, solicitor, on behalf of the Carlton Town Parish Council, the applicant for the registration, and by Mr E R D Johnson, solicitor, on behalf of the executors of the Objector.

The registration comprises (a) The right of turbary; (b) The right to graze 100 sheep; (c) The right to take stone; and (d) Sporting rights. Mr Johnson stated that he wished to pursue the Objection only in so far as it related to sporting rights.

In addition to applying for the registration the subject of this dispute, the Parish Council also applied for a registration in the Ownership section of all the land comprised in the Register Unit. This latter registration was undisputed and became final on 1 October 1970.

The Commissioner appointed by the Carlton Inclosure Act of 1808 (48 Geo. III, c.27, private, not printed) by his award dated 31 August 1815 set out, directed and awarded that the land comprised in the Register Unit should remain open and be held and enjoyed by the proprietors as before the passing of the Act they respectively held and enjoyed the same to the intent that the several owners and occupiers of messuages, lands, tenements, and hereditaments within the manor and township of Carlton might as theretofore get stones of any kind and turves and turbary within and upon any part of the land for their own use.

There was no evidence as to when or how the Parish Council became the owners of the land, and it is not necessary for the purposes of these proceedings to enquire into that matter.

Mr Johnson's clients claim to be entitled to the lordship of the manor of Carlton and to be therefore entitled to exercise the sporting rights over the land in question. Mr Scott, on the other hand, contended that the effect of the Act of 1808 and the Award was to extinguish the sporting rights of the previous lords of the manor, leaving the owner of the soil of the land in question free to exercise all sporting rights.

At the conclusion of Mr Scott's argument I did not feel that it was necessary to call upon Mr Johnson to reply to it, for it had become apparent that their respective clients' rights depended on the effect which the Act and the Award had had upon the sporting rights to which the lords of the manor had previously been entitled. Even if sporting rights can be regarded as rights of common,



which is doubtful, these sporting rights were clearly not rights of common, for they were exercisable over land owned by the persons claiming the rights. My only jurisdiction is over rights of common, and it is sufficient to dispose of this dispute to say that the sporting rights claimed by the Parish Council are not rights of common. In saying this I am not also saying that the Parish Council is not entitled to sporting rights over this land. If the parties wish to have that matter judicially determined, they must take it to a court of competent jurisdiction.

Quite apart from this consideration, the fact that the Parish Council's registration in the Ownership section of the Register Unit has become final is inconsistent with the Council's having any rights of common over the land. However, as Mr Johnson pointed out, to refuse to confirm the rights which are not the subject of the Objection might imperil the registration in the Land Section of the Register Unit, and I have therefore decided to treat those rights as undisputed, although the existence of the Objection gives me jurisdiction over them.

For these reasons I confirm the registration with the following modification:- namely the deletion of the words "and (d) Sporting rights", and the insertion of "and" after "sheep".

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 9<sup>th</sup> day of August 1977

Chief Commons Commissioner