



COMMONS REGISTRATION ACT 1965

Reference No. 268/D/341-343

In the Matter of Piece of land in Parishes
of Laverton and Kirkby Malzeard

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and Entries Nos. 1 to 5, 7 to 10, 12, 13, 14 and 16 in the Rights Section of Register Unit No. CL 452 in the Register of Common Land maintained by the North Yorkshire County Council. They are occasioned by Objection No. 1622 made by Mr R Robson and Objection No. 1655 made by Mr G S Bostock, respectively noted in the Register on 7 April 1972 and 10 May 1972.

I held a hearing for the purpose of inquiring into the dispute at Harrogate on 13 March 1981. The hearing was attended by Mr S Crosfield, Solicitor and a member of Kirkby Malzeard, Laverton and Dallowgill Parish Council, representing the Parish Council: by Mr R Wakefield, of Counsel, appearing on behalf of Mr Bostock: by Mr J Blakesley, Solicitor, appearing on behalf of a number of the applicants (or their successors) for registration of Entries in the Rights Section: by Mr J Port, Solicitor of and representing Leeds City Council: by Mr J W Burrill in person: and by Mr Cunliffe Lister, Solicitor appearing on behalf of Mr J King.

The registration in the Land Section was made in consequence of the application of Mr G S Bostock to register Entry No. 1 in the Rights Section, and applications for registration by Mr R Rowe and Leeds Corporation are noted in the Register. The Objection by Mr Robson (No. 1622) is to this registration and involves an Objection to all the outstanding Entries in the Rights Section: the Objection by Mr Bostock is to all those Entries except No. 1. The Entries (except No. 1) were made by each applicant in the capacity of tenant of the dominant tenement and I understand that they are tenants of Leeds City Council.

I was told that agreements have been made with the applicants for registration in the Rights Section other than Entry No. 1 (Mr Bostock), under which they have agreed to release the rights registered. This was confirmed by Mr Blakesley, appearing for the applicants (or their successors) to register Entries Nos. 3, 4, 5, 8, 9, 10, 12: by Mr Burrill (Entry No. 13): and by Mr Cunliffe Lister appearing for Mr King (Entry No. 16). As regards Entry No. 7 (Mr J Newbould) a letter from his Solicitors stated that he now wishes to withdraw his application. As regards the other applicants who did not appear and were not represented (Entries Nos. 2 and 14) there was no evidence to support their applications and Mr Port told me that they were parties to the agreements referred to above. In these circumstances I refuse to confirm the registrations at Entries Nos. 2, 3, 4, 5, 7, 8, 9, 10, 12, 13, 14 and 16.



Entry No. 1 is of the right of sporting shooting and burning heather: it is not stated to be attached to any dominant tenement, and appears therefore to be claimed as a right in gross. These rights had been included in property conveyed to Mr Bostock by a Conveyance dated 14 January 1966. The reference to them in the Conveyance is in terms which suggest that they were exclusive rights and Mr Wakefield submitted (and this submission was supported by Mr Crossfield) that as such they are not rights of common. In any event it appears to me doubtful whether rights of "sporting, shooting and burning heather", whether or not exclusive, qualify as rights of common capable of registration under the Commons Registration Act. Neither Mr Wakefield nor any other party concerned was interested to support the Entry and in the circumstances I refuse to confirm its registration.

My decision involves the cancellation of all the rights registered, so that the registration as common land could only be supported if it is waste land of a manor. This was not suggested and I refuse to confirm the registration in the Land Section.

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

15 April

1981

L. J. Morris Smith

Commons Commissioner