



COMMONS REGISTRATION ACT 1965

Reference No. 268/D/301-302

In the Matter of Rathmell Moor
(or Common), Craven D

DECISION

These disputes relate to the registration at Entries No. 11 and No. 12 in the Rights Section of Register Unit No. CL 195 in the Register of Common Land maintained by the former West Riding County Council and are occasioned by Objection No. 203 made by Herbert Sutcliffe and Objection No. 205 made by Fred Sutcliffe and noted in the Register respectively on 17 March 1971 and 24 March 1971.

I held a hearing for the purpose of inquiring into the dispute at Skipton on 8 October 1980. The hearing was attended by Mr H Sutcliffe in person, and by Mr L M Mandy, Solicitor appearing on behalf of Mr William Bilsborough, the applicant for registration of Entries Nos. 11 and 12.

Entry No. 11 is of a right to graze 10 sheep attached to land known as Dubbs Giggleswick. Entry No. 12 is of a right to graze 26 sheep attached to land known as Black Leach, Giggleswick. Both objections are on the ground that no rights exist at law.

Dubbs lies on the eastern side of Rathmell Common and Black Leach on the south eastern side: the northern boundary of Rathmell Common adjoins Giggleswick Common. Mr Bilsborough gave evidence. His father was tenant of Dubbs from 1937 to 1960 and he himself has been tenant since 1960. His father pastured sheep on Rathmell with nobody objecting, and he has continued to do so. At a meeting in about 1967 of the farmers of the Parish with the local National Farmers' Union Secretary, the grazing rights were allocated to him based on his acreages.

Mr Sutcliffe, who declined to be sworn or to affirm, stated that he never saw Mr Bilsborough senior turn out sheep on Rathmell - it was on Giggleswick Common. He agreed that there was no fence between the two commons and that sheep could wander from one to the other: he also agreed that sheep coming from Dubbs would first step on to Rathmell.

As regards Black Leach, this was purchased by Mr Bilsborough in 1966. The title deeds did not mention sheep gaits but he always assumed there were grazing rights as the previous tenants grazed their sheep on Rathmell Common. He produced a written statement by Mr A Lawson (now aged 85 and in an Old Folks Home) late of Black Leach Farm from 1934 to 1966, stating that during that time he stocked Rathmell Common as he wished.

Two other witnesses, Mr F Munn, who is 63 years of age and Mr N Sutcliffe who is 59, both stated that they remembered Mr F Taylor, who was tenant of Black Leach before Lawson, pasturing sheep on Rathmell Common, and that after him Lawson did the same.

Upon the evidence I do not find ~~that~~ the objections substantiated and I shall



confirm the registrations.

Mr Mandy informed me that Mr Bilsborough had recently sold Black Leach and that the right had been excepted from the sale and submitted that they were now held by Mr Bilsborough in gross and that Entry No. 12 should be amended to record this. I have seen copies of two Conveyances dated 31 December 1979 whereby different parts of the Black Leach property were conveyed by Mr Bilsborough to Mr and Mrs Booth and in both there were excepted to the vendor all such gaited or stinted rights of grazing as were appurtenant to the property conveyed. The parts conveyed together form only a portion of the Black Leach property to which the right is attached, so that although the effect of the Conveyances may be that the right is no longer exercisable in respect of the parts conveyed, it continues exercisable to some extent in respect of the part of Black Leach not sold by Mr Bilsborough. In these circumstances, I am not prepared to direct a modification to the effect that the right is in gross.

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 22 January 1981

L. J. Morris Smith

Commons Commissioner