



COMMONS REGISTRATION ACT 1965

Reference No. 262/D/188-236

In the Matter of Brackenber
Moor, Murton

INTERIM DECISION

The disputes relate to a number of registrations in the Rights Section of Register Unit No. CL 28 in the Register of Common Land maintained by the former Westmorland County Council and occasioned by Objections made by the Secretary of State for Defence, by the Hilton Commoners Committee and *also* ~~who~~ by conflicting registrations in the Rights Section.

I held a hearing for the purpose of inquiring into the disputes at Penrith on 17 and 18 June 1980 and Mr A G Holliday sat with me as assessor. The hearing was attended by Mr T Etherton of Counsel appearing on behalf of the Secretary of State, Mr M S Birtles, Solicitor appearing on behalf of the Commoners Committee, Mr M O'Donoghue of Counsel appearing for Mr G Brass, the applicant for registration of Entry No. 6, and for Mr J W M Bell the applicant for registration of Entry No. 25: other Rights holders were present or represented.

Objections

Entry No. 6 is the subject of three Objections Nos. 2/48 and 2/124 by the Secretary of State noted in the Register on 15 July 1971 and 11 August 1971 respectively, and No. 2/222 by the Commoners Committee noted in the Register on 8 August 1972. Agreement had been reached between the parties and in accordance with the agreement I confirm the registration with the modifications that (1) in column 4 "420 ewes" be substituted for "520 ewes", (2) in column 5 the figure "18" be deleted.

Entry No. 25 is the subject of Objections No. 2/63 by the Secretary of State and No. 2/237 by the Commoners Committee noted in the Register on 29 July 1971 and 8 August 1972 respectively. These Objections were withdrawn and I confirm the registration without modification.

As regards the remaining Objections, Mr Etherton and Mr Birtles asked that the hearing be adjourned and no one objected to this ~~course~~. A large proportion of these Objections have also been made to corresponding Entries in the Rights Section of CL 27 which are also to be adjourned (see my Interim Decision in that case Ref. 262/D/95-187). No evidence was given at the hearing in relation to the disputes occasioned by the remaining Objections and they will be adjourned to a future date and place.

Conflicts

Entry No. 33 was registered on the application of the Secretary of State as owner of land in Murton coloured blue on the supplemental map. It is a right to graze and a right of turbarry. It is in conflict with Entries No. 11, 16, 19, 22 and 29. Similar conflicts arise between Entry No. 63 (the



Secretary of State) in CL 27 and the same five Entries (then numbered 11, 16, 19, 23 and 31), and I have dealt with the conflicts in my Interim Decision in that case (Ref. 262/D/95-187); the conclusions there reached are equally applicable to the same conflicts in this case: accordingly (1) Entry No. 11: the number '517' in column 5 will be deleted, (2) Entry No. 16: this registration will not be confirmed, (3) Entry No. 19: the numbers in column 5 will be deleted except Nos. 399a, 399b, 520 and 526, (4) Entry No. 22: the land to which this right is attached is "the land described in column 5 of entry No. 23" in CL 27, and the modification to be made in that description will be effective for the purposes of this Entry, (5) Entry No. 29: this registration will not be confirmed.

The registration at Entry No. 33 will be confirmed.

There are further conflicts between Entry No. 35 (Elizabeth Ann Redbanks) and Entries No. 40 and 41 (J.B. Bainbridge). Neither of the applicants appeared and since the rights are the subject of Objections the hearing of which is adjourned, I shall also adjourn the hearing of the dispute occasioned by the conflicts.

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

28 July

1980

L. J. Morris Smith

Commons Commissioner