



COMMONS REGISTRATION ACT 1965

Reference No 262/D/269

In the Matter of Little Asby Common
(or Little Asby Scar), Asby, Eden
District, Cumbria

DECISION

This dispute relates to the registrations at Entry Nos 1, 2, 3, 5 to 15 inclusive, 17 and 18 in the Rights Section of Register Unit No. CL 105 in the Register of Common Land maintained by the Cumbria (formerly Westmorland) County Council and is occasioned by Objection No. 2/287 made by Mr Clifford Watson Sayer and noted in the Register on 11 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Penrith on 1, 2 and 3 July 1980. The registrations in dispute are summarised in columns (1), (2) and (3) of the First Schedule hereto. The persons concerned to support the rights registered at Entry Nos. 1, 2, 5 to 9 inclusive and 15 (or some of them) were, as stated in column (5) of the said Schedule, represented by Mr J B Owen, solicitor of E & A Heelis, Solicitors of Appleby; the persons concerned to support the right registered at Entry No. 11 (or some of them) were, as similarly stated, represented by Mr H Snow legal executive with Arnold Greenwood & Son, Solicitors of Kendal; and Mr Sayer as Objector and The Watson Sayer Property Company Ltd. as owner (in accordance with a decision dated 5 June 1980 of the Chief Commons Commissioner under Reference No. 262/U/279) were represented by Mr P Kershaw, solicitor of Kershaws Solicitors of Penrith. No person concerned to support the rights registered at Entry Nos. 10 and 12 attended or was represented.

The registration in the Land Section being undisputed, is now final. The grounds of the Objection are:- "The rights do not exist at all".

Before any evidence was called, Mr Kershaw said that the Objection is not against the existence of the rights but against their extent. Mr Owen said, that this was the case his clients had to meet, was not known to him before that day (1 July). Mr Kershaw then outlined his case substantially on the lines as put by Mr Ayers in his evidence below summarised. I said that subject to Mr Kershaw submitting in due course amended grounds of Objection in writing, I would give leave for the grounds to be amended in accordance with the case as outlined by him, reserving all questions of costs for later consideration at the hearing.

In the course of his opening speech, Mr Kershaw said that the rights of Turbary and estovers were accepted, so I could confirm these rights where registered at Entry Nos. 3, 9 and 10 without any modification. Mr Owen on behalf of Messrs Raine said that the right registered at Entry No. 14 was withdrawn, so that I should refuse to confirm it. It was agreed that without prejudice to any question there might be as to the burden of proof, Mr Kershaw should call his evidence first.



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For the Objection, oral evidence was given by Mr Alan Ayers, chartered surveyor of Darlington about the land in this Register Unit (at this hearing variously called "Little Asby Common", "Little Asby Scar", "the Common" and "the Moor"). He said (in effect):- It is a moor extending to about 1,223 acres enclosed by stone walls; it is crossed by highways with cattle grids; the level of the Moor varies between 800 and 1,200 feet above sea level; there is a good deal of outcrop stone and a comparatively small area of heather. He had considered the Rights Section of the Register. Translating the grazing rights claimed into terms of sheep only on the basis of 1 horse equals 5 sheep and 1 cow equals 5 sheep, and excluding the Raines claim (Entry No. 14) now withdrawn, and not counting alternative claims (eg at Entry No. 3 he counted the claim as 165 sheep and at Entry No. 7 he counted 210 sheep), he calculated the claims altogether amounted to 2,395 sheep. Although the carrying capacity of moors vary, more than 1 sheep per acre (that is ewes and followers counted as one) is excessive; therefore a higher number is likely to lead to excessive grazing and therefore is against the interest of the freeholder and the commoners. "The freeholder is of course principally interested in the shooting, but he has responsibilities as freeholder although they would be hard to define". His opinion of the Moor is that 1 sheep per acre is about right; it might carry a little more but not very much more. Registrations at the present figure would be about 1.95 sheep per acre. He instanced his experience of other moors of which he had knowledge, the stocking rates one of which was originally $1\frac{1}{4}$ later reduced by an $\frac{1}{8}$ th, and the other was less than 1 sheep per acre. In his view it would be for the benefit of the commoners to have the grazing rights reduced to that sort of level.

On being questioned Mr Ayers said (among other things):- The shooting is in hand; although he had no information about the bags, it is of value (a value limited by the size of the Moor). When he inspected the Moor he considered that it was "hard grazed" and "pretty close cropped"; he expressed some doubt about the applicability of the expression "over grazed"; although there had been a hard spring, the grass when he saw it might be expected to come on. As to his use of the expression "hard to define", he thought that over many grazing rights might lead to difficulties which the freeholder might be drawn into in some way. He had not been informed of any agreement reached in this case between the Commoners.

For the Commoners oral evidence was given by Mr John Peter Merrett, chartered surveyor of A Hogarth and Son of Kendal in the course of which he produced statements (prepared by himself) describing the Common and the lands to which the rights registered at Entry Nos 1, 2, 3, 5 (including 17), 6 (including 18), 7, 8 and 13 are attached; also a map showing the situation of these lands in relation to the Common. Generally he concluded that the Common was well and properly grazed at the moment and the land mentioned at the said Entry Nos was capable of providing all the winter fodder required for the number of animals claimed. He emphasised that the Common is a limestone not a peat/heather moor; peat moors produce heather, a certain amount of hill grass and some bilberries; a great deal of waste land is heather moor and on such moors there is a risk of hollows in the peat; a limestone moor is hard land productive over the whole except where you have the rock outcrops; where it is grass it produces a very much greater volume of grass. On the Moor the present management (burning of heather) depreciates the shooting value; he saw no evidence of efficient grouse moor management, and saw no grouse.



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Oral evidence was next given by:- (1) Mr Terence Harold Henry Hodgson, estate agent and valuer, being the Agent for the Lake District Estates Company Limited (Entry No. 11) who produced various documents relating to Grant Hall Farm and who concurred with Mr Merrett generally and said that in his opinion the number applicable to such farm at Entry No 12 were fair. (2) Mr John Sowerby who was tenant of Chapel Farm (Entry No. 6) from 1947 to 1966 and who took over and continued with a flock heafed on the Common. (3) Mr John Richard Metcalfe who moved in 1927 (then 2 years old) to Asby Grange Farm (Entry No. 2) and who in succession to J Sowerby and Son (being his grandfather and uncles who had been there since about 1892), leased the farm for himself in 1955 when he then took over the flock heafed on the Common. (3) Mr William Henry Gover who was tenant from about 1946 to 1956 or 1957 of Mazon Wath (Entry No. 13) in succession to his father who was there from about 1921 or 1922. (4) Mr Ralph Edward Kirkbridge who was born at Whygill Head (Entry No. 1) and had lived there all his life; he explained the grazing of the Common in general terms and as it was particularly from Whygill Head (formerly known as Whygill Low House). (5) Mr Wilson Allēby who in 1956 became the owner of Asby Grange (Entry No 2); he gave some information about the heft enjoyed by Mrs Williams in respect of Tunny Moor (Entry No 12). (6) Mr Thomas Jackson who in 1951 or 1952 in succession to his father and grandfather (they started in 1887) took over Town End (Entry No. 3). (7) Mr James William Watson who has lived at Whygill Head (Entry No. 5) all his life (born 1923) and who purchased part of Burtree (Entry No. 17) from Mr Shuttleworth with a heafed flock; he explained the grazing from Whygill Head (formerly Whygill High House) and from Burtree. (8) Mr Edmund Park who in 1967 purchased from Mr Sowerby Chapel Farm (Entry No. 6). (9) Mr John Kipling who is the tenant of Fell View (Entry No. 7) and who first came there in 1930 when he was one year old and took over the hefted flock in 1956 when he became tenant. (10) Mr Thomas William Brass who is and has been since 1948 tenant of Potts Valley (Entry No. 8). (11) Mr Thomas Park Taylor who has always lived at Waterhouses (Entry No. 9) since he was born (1914). (12) Mr William Edward Boustead who from 1958 was tenant of Maizon Wath (Entry No. 13) and subsequently purchased it. (13) Mr James Philip Taylor and who in succession to his father in 1945 became tenant of Little Waterhouses (Entry No. 15). In the course of such evidence the documents listed in the Second Schedule hereto were produced.

At the conclusion of the evidence Mr Kershaw handed me a final statement of the grounds of Objection, a copy of which forms page 4 of this Decision; for convenience the last 2 columns of such statement are repeated in column (4) of the First Schedule hereto. There was then argument about costs in the course of which the documents mentioned at the end of the Second Schedule hereto were produced. On the day after the hearing I inspected the Common by driving along the highways made up for through motor traffic which cross it and by walking from their highest point (near the Trees; at the hearing it was said that there was only one although I saw another apparently recently planted some distance away) up to near the highest point of Grange Scar and was thereby able to see much of the Common.

The substance of the Objection as now amended is ^{Ker} ~~ta~~ the numbers of animals registered is too large. I shall therefore assume, as I understood to be conceded, that all those who registered rights of grazing were at least entitled to graze some animals. Although some of the witnesses were questioned by Mr Kershaw

262/8269
 Little Ashby Common, Ash,
 Regd. Unit - CC 105.
 This is p. 4 of the original plan
 Number 980 made by the Common Commissioners
 a.d. Baden Fuller

LITTLE ASBY COMMON

Rights

Allocation of sheep gra:
 proposed by the freehold

Sheep grazing rights
 allotted to the other
 commoners at a rate
 of one per acre of
 eligible in bye land

Sheep grazing rights
 claimed at a rate less
 than one per acre of
 eligible in bye land

Total acreage of eligible
 in bye land to which
 grazing rights are
 claimed to be appurtenant

Ewes Hogs

August
 (+90 ewes
 and Septe

	74	160 (+90 ewes in August and September)	74	50	24
1	74		113	76	37
2	241		129	86	43
3	113		61	41	20
5	129		92	62	30
6	61		185	123	62
7	91½		133	89	44
8	185		200	200	60
9	133		16	11	5
11	479	260	95	63	32
12	16		35	23	12
13	94½		34	23	11
15	35		29	20	9
17	33½				
18	29				
Total	1714½	Total 420	Total 996	Total 987	429
acreage		Combined total 1416	Combined total 1416	Combined total 1416	



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about animals additional or alternative to sheep, because neither in the original objection or in the outline of Mr Kershaw in opening, was this point raised I shall not in this decision deal with it, although I record some of the witnesses justified the additions and alternatives.

By section 15 of the 1965 Act where a right of common consists or includes a right not limited by number to graze animals then for the purposes of registration it shall be treated as exercisable in relation to "no more animals ... than a definite number". Apart from the Act, there are many rights of common not limited by number (although in general they must if not so limited be limited in some other way). So I must first determine the proper legal description apart from the 1965 Act of the rights which here exist.

A right to graze on a common animals levant and couchant on specified land is legal description enough, see Bullen and Leake, Precedents of Pleadings (10th edition page 297). But the words "levant and couchant" are not in any dispute with the freeholder a necessary part of the legal description, as was decided in *Hoskins v Robins* (1671) 2 Saund. 319, where the plaintiffs as tenants of a manor claimed to the exclusion of the lord of the manor (the freeholder) that they were entitled to all the grazing; see the discussion of this case in *Williams on Rights of Common* (1880) at page 21 et seq. A right the legal possibility of which was established in this case may be described as "sole or several vesture or herbage"; such right is expressly within the 1965 Act, see section 22. Under a right of "several herbage" the grass may be taken by and only by the mouths of animals. I first consider whether these conceded rights of grazing are commons of pasture for animals levant and couchant or are several herbage.

Mr Merrett as I understood him did not intend to suggest the nature of the rights on any moor was or could be solely a matter of expert opinion, but rather intended to show how the various legal possibilities would work out in this case and that his general conclusion was (translating it into legal language) the numbers registered were not on the levancy and couchancy basis if applicable excessive; nor were they excessive the numbers were subject to an overall limit equal to the capacity of the Common. Mr Ayers was that the overall capacity *should be divided* between various claimants according to the acreage and nature of their bye land; although ~~on the final grounds of Objection~~ *some commoners* (at Entry Nos 2 and 11) had claimed less than they might according to this calculation, lost the excess. In my opinion I ought not to determine this case by considering the circumstances of the various other common mentioned by Mr Ayers and Mr Merrett where it was said there was agreement, and comparing them with the Common, because in my view the fundamental nature of the rights in question is not a matter entirely for expert opinion; although *I record that* the opinions given by Mr Ayers and Mr Merrett and also *preferentially* by Mr Hodgson ~~had been~~ helpful clarifying the issues and in other ways.

Notwithstanding that some of the registrations include cattle and horses, the general attitude of nearly all the witnesses was to treat grazing by sheep as of the first importance. Mr Merrett ~~when requested~~ *asked* questions to him about *horses* as being "hypothetical". And so it appeared to me on my inspection. My finding is therefore that the nature of the rights on this Common must be determined in regard to the way sheep were grazed on it and that whatever happened with regard to cattle and horses was dependent on the sheep right and is therefore on this question of no significance.

Mr Kirkbridge described the relations between the sheep grazing and the attached land as being (in effect):- During lambing (roughly from 20 March



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to middle of May) the ewes were brought off the Common. Afterwards they were turned on the Common again (with their followers) and there remained except for clipping (about 4 or 5 days). The lambs were weaned in middle August and then taken off the Common, and the male and other unwanted lambs held for slaughter and the remainder kept inside until turned out again. The ewes remained on the Common until taken off in November for tuppung, (a period of about 7 weeks). They were then put back on the Common for the winter and any necessary food taken to them. The lambs of last year were turned out on the Common in about the middle of April and were then known as gimmer hoggs. A shearer is a sheep after its first shearing (in July) which has never had a lamb; previously it was a hogg. The older ewes are taken off after 4 shearings and are sold as "draft ewes".

Some of the documents produced when referring to flocks either expressly or impliedly treated them as hefted. Many of the witnesses spoke of flocks of the sheep on the common being hefted, and spoke in general terms, about the locality of each heft being generally known. I find that the grazing on the Common is and has at material times been by hefted flocks.

There was no evidence that the freeholder ever had any heft or ever had any land from which it would be possible to graze sheep or other animals on the Common and Mr Kershaw in the course of the evidence conceded (in my view rightly) that the freeholder had never grazed the common.

As to shooting by the freeholder, except that Mr Ayers mentioned it, I have no evidence at all. On my inspection I noticed some of the heather (described by Mr Merrett as approximately 20% "now being well and hard burnt in rotation"), and noticed particularly that the comparatively damp area northwest of the motor road and about 300 yards from Sunbiggin Tarn there were short lengths of fence which I suppose intended for shooting. I accept Mr Ayers evidence that shooting is of some value, but I also accept Mr Merrett's point that the Common is as regards shooting quite different from the many heather, peat and bilberry moors which are often seen in the Pennines. In the absence of evidence about the shooting, I find that it was of little value, ~~as~~ that in relation to the question of the nature of the grazing rights its existence is of no significance.

There was no evidence that within living memory the grazing rights had ever been interrupted or interfered with, and I find that they have existed from time immemorial.

As to number those concerned with grazing were guided either by the number being grazed when they first became concerned, if brought up on the farm they first noticed or if they acquired the tenancy the hefted flock they took over; I attach no significance to the changes particularly explained by Mr T P Taylor and Mr J P Taylor. I find the rights were not "limited by number" within the meaning of section 15 of the 1965 Act.

On the considerations set out in the 9 preceding paragraphs, my decision is that the grazing rights over this Common are several herbage rights and that the persons entitled to exercise such rights are together owners to the exclusion of the freeholder of all the grass which may be taken by the mouths of animals. It follows that in my view the manner in which they do this is nothing to do with the freeholder and the freeholder's attempt by taking advantage of the procedure set up under the 1965 Act to regulate the grazing in which he has no interest, is misconceived.



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The 1965 Act although it requires that registration of any right to state the number of animals to be entered on the register gives no guidance as to how this number is to be determined. Sub-section (3) of section 15 although forbidding the exercise of the registered right in excess of the number registered expressly states that such number may hereafter be altered by Parliament. The Commons Registration (General) Regulation 1966 in the notes to the form of application of the registration of a right of common (Form 9 note 7) suggests that the applicant must enter "the number of animals ... which he believes himself entitled to graze" and warns him that if he puts in an excessive figure and there is an objection he may be liable to be ordered to pay costs by a Commons Commissioner. This part of the Act and the Regulation have been interpreted by applicants in a great variety of ways, and because any unobjected to applications have become final under section 7 there are some registrations which contain astonishing figures. Neither the Act nor the Regulations requires the number to be either in accordance with the levancy or couchancy principal or to be determined by the capacity of the common, and I refuse so to interpret them. Levancy and couchancy is inappropriate either to a vesture or herbage and I cannot regard the Act as impliedly overruling the decision of *Hoskins v Robins* of which we have record of all the arguments and which has stood for so long.

I see no reason for limiting the total number for these several herbage to the actual or supposed capacity of the Common at any particular time; this would deter those concerned with the grazing from improving the Common; and in the case of a several herbage there seems no reason why any such improvement should benefit the freeholder who in law has no interest. In operating the Act, many commoners associations have advised putting up the figures above the number of animals being actually grazed at the date of the application; for who can say when it might not be convenient and possible to graze more without objection by anyone. Section 15 although it provides that the registered number shall not be exceeded, does not provide that the person entitled to the right can in all circumstances and at all times graze the number of animals registered regardless of the rights of others.

In my opinion determining the meaning of this part of the 1965 Act, regard must be had to its purpose providing a register of rights. The register is not intended to describe each right in such detail that every possible dispute about its exercise can be determined by reference to the register. It is enough that the register adequately describes a right in a way which is unlikely to cause confusion. I was told that the numbers had been agreed at meetings of the commoners; however this may be all the commoners except one were represented before me and were agreed.

In my view section 15 is not intended to result in numbers on the basis of which a common can be managed or intended to regulate how people who have legal rights ~~can~~ exercise them. Nor does anything in the 1965 Act interfere with the freeholder's right to take legal proceedings against the commoner who inflict damage on his property contrary to the general law.

As regards excessive grazing, I find with the exception of the registration made at Entry No. 12 (*Mrs Williams*) the Common has been grazed in accordance

(who grazed her)



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with the figures registered for a great number of years. ^{Whether} ~~As to~~ what they have done even in their own interest the best possible, is necessarily a matter of opinion. In my view it is not the intention of the 1965 Act that a Commons Commissioner should either directly or indirectly manage commons or tell people entitled to rights how they should exercise them. Nor do I think ^{it is} for me to determine as between Mr Ayers and Mr Merrett as to which of them is right on any such question. I am concerned only to see whether the numbers ^{registers} are contrary to their rights or misleadingly describe them. I have already said that the freeholder has no rights which would be infringed by these numbers although he may be concerned as with other members of the public that the register ~~is~~ confusing or misleading. As regards this I accept the evidence of Mr Merrett as being a fair opinion by a person expert in this field and conclude from it that nobody will be misled or confused by these registrations. ^{There} ~~being~~ at law why they ^{should} not ~~be~~ as they please and subject to the considerations above mentioned register such numbers as they please.

On the above considerations my decision is that the ^{Objection} so far as it relates to section 15 of the 1965 Act is misconceived.

In the course of the evidence some of the witnesses admitted to mistakes in the registrations made on their application; in accordance with such admitted mistakes I modified their registration. Subject to these modifications, for the reason above set out I am of the opinion that all the registrations (except that at Entry No. 14) ~~are~~ properly made. Accordingly: I refuse to confirm the registration at Entry No. 14; I confirm the registrations at Entry Nos. 1, 5, 6, 8 to 13 inclusive, 15, 17 and 18 without any modification, I confirm the registration at Entry No. 2 with the modification that in column 4 for the words "and" where it occurs after "September in each year" and before "(d) 25 head" there be substituted "or"; I confirm the registration at Entry No. 3 with the modification that in column 5 for the figure "634" there be substituted the figure "654"; and I confirm the registration at Entry No. 7 with the modification that in column 4 for the words "and" where it occurs after "throughout each year" and before "(c) 10 head" there be substituted "or".

As to the claim for costs:-

In my opinion as a general rule an Objector is not at risk as to costs merely by making an Objection; the Act and the Regulations made under it impose various time limits and a person may reasonably object if he thinks he may be concerned without fully investigating his own case or the case which might be made against him. After the time limit for applications and making objections has expired, some time must elapse before ^areference to a Commons Commissioner. Mr Cole in his 1973 letter after alleging that the farmers concerned had no rights, asked the County Council if they knew on what the farmers' based their claim to common rights over the moor. A copy of this letter was sent to Messrs E and E A Heelis; as to this Mr Owen said that he attempted to telephone Mr Cole and was told that he (Mr Cole) was no longer acting (I think this telephone call must have been immediate before the 1980 letter). In this 1980 letter it was said that the commoners would give evidence that the right claims had been exercised and a request was made for information about the evidence to support the contention that the Common is not subject to grazing rights; and the possibility of an order for costs mentioned



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After this letter there was a meeting between Mr Owen and Mr Ayers which did not result in any agreement. By the 1972 conveyance the common was conveyed to Watson Sayer Property Company Limited, subject to scheduled rights including "all rights of grazing and pasture lawfully exercisable over the same"; no other land was thereby expressed to be conveyed.

Having heard the evidence and inspected the common I cannot understand how anybody at the date of the Objection (31 July 1972) who had the sort of ~~knowledge~~ which could reasonably be attributed to the owner could have thought that the Common was altogether free of rights. My conclusion is therefore that up to the date of the hearing and before any amendment of the grounds of objection, I have good grounds for not applying the general rule above mentioned.

When the Objector abandoned the original grounds of objection and asked leave to put forward amended grounds, it was at a time when he or his advisers had or should have fully considered the legal position and the evidence which was likely to be given for or against such amended grounds; although a number of documents were produced on behalf of the applicants at the hearing they were of an incidental character tending to corroborate or refresh the memory or otherwise illustrate the evidence given by the witnesses as to the actual exercise of the rights, being evidence such as to generally described January 1980 letter. In my opinion the Objector at the latest was at risk as to costs when he or those advising him decided to make an amended case, to the same extent as an ordinary litigant would be in proceedings in the High Court; that is against him the costs should follow the event.

As an additional ground for awarding costs, I have the Objector's failure to call any evidence explaining why his Objection was made.

I shall not exclude costs incurred before the amended ^{and} Objection was asked for, because I infer the way the proceedings were conducted the Objector never had any intention other than to press an objection of some kind.

In my opinion Mr D M Chambers and Mrs D J Ladd as successor of Mr G F Chambers should have their cost along with the other applicants represented by Mr Owen. It was disputed that Lady Wakefield was the successor of Lake District Estates Company Limited or that Messrs J A Harker and J A Hart were the owners of the land of which Mr T W Brass was tenant; in my view the costs of these two applicants was not appreciably increased by the participation in these proceedings by the same representative as their predecessor and tenant respectively; accordingly they too should all be included. I do not think fit to make any order for costs as regards Messrs Raines. In my opinion the order for costs be against both the Objector and his company Watson Sayer Property Company Limited; by describing himself in the Objection as director of the company Mr Sayer did not I think exonerate himself from responsibility for the Objection and it became apparent at the hearing that his company was the owner and as such obviously concerned. I consider that the evidence obtained from Mr Merrett on behalf of those represented by Mr Owen was necessary and proper and my order for costs should be modified accordingly.

Upon the above considerations I shall order Mr Clifford Watson Sayer and the Watson Sayer Property Company Limited to pay to the persons named in column (5) of the First Schedule hereto as represented by Mr Owen and as

(except Messrs Raines)



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represented by Mr Snow their costs incurred by them in respect of these proceedings and I direct that such costs shall be taxed according to Scale 4 prescribed by the County Court Rules of 1936 as amended with the modification that the Registrar may exercise all such discretions as are under the said rules exercisable by the Court and shall treat the cost of obtaining reports from and the expert evidence of Mr Merrett as properly incurred.

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 to the High Court.

FIRST SCHEDULE

(1) Entry No.	(2) Applicant	(3) Right attached to and being to graze animals mentioned and (when mentioned turbary, estovers, stone	(4) In amended grounds of objection (i) ewes and (ii) hoggs	(5) Representation the name of which principally concerns the entry
1	Ralph Edward Kirkbride; owner	Whygill Head; (a) 90 ewes with their followers and (b) 50 hoggs	50:24	Applicant repre- sented by Mr Owne. Evidence by applicant
2	Wilson Alleby and Charlotte Allenby; owners	Asby Grange; (a) 120 ewes with their followers; (b) 40 hoggs throughout each year and (c) 90 sheep from 1 August to 30 September and (d) 25 head of cattle with their followers from 1 March to 30 April and from 31 December	120:40 (plus 90 ewes in August and September)	Applicants repre- sented by Mr Owen. Evidence by Mr J R Metcalfe, and by Mr W Allenby (one of the applicants)
3	Geoffrey Frederick Chambers (Executor of Amy Atkinson deceased); owner	Town End Farm; (a) 110 ewes with their lambs (b) 55 hoggs or (c) 27 head of cattle; turbary and estovers	76:37	Mr David Michael Chambers and Mrs Diana Joy Ladd were repre- sented by Mr Owen. Note in column (5) of the registration "634" should be "654"



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|---|---------------------------------------|--|--------|--|
| 5 | James
William
Watson;
owner | Whygill Head;
(a) 100 ewes
with their
followers and
(b) 45 hoggs or
(c) 20 head of
cattle or
(d) 10 horses or
(e) 10 ponies | 86:43 | Applicant repre-
sented by
Mr Owen.
Evidence given
by applicant |
| 6 | Edmund Park;
owner | Chapel Farm;
(a) 80 ewes
with their
followers and
(b) 30 hoggs or
(c) 16 head of
cattle with
their followers
or (d) 8 horses
or ponies | 41:20 | Applicant repre-
sented by
Mr Owen.
Evidence by
Mr John Sowerby;
and |
| 7 | John Kipling;
tenant | Fell View;
(a) 100 ewes
with their
followers and
(b) 50 hoggs
throughout
each year and
(c) 10 head of
cattle with
their followers
from 1 April to
31 May and from
1 November to
10 December in
each year;
turbary, and to
take stone | 62:30 | Applicant repre-
sented by
Mr Owen.
Evidence by
applicant |
| 8 | Thomas
William
Brass;
tenant | Potts Valley;
(a) 170 ewes
with their
followers and
(b) 60 gimmer
hoggs | 123:62 | Applicant repre-
sented by
Mr Owen; he
also represented
Mr J A Harker
and Mr J. A Harker
who claimed to be
owners.
Evidence was
given by the
Applicant |



9	Thomas Park Taylor; owner	Waterhouses Farm; (a) 125 sheep with their followers and (b) 50 gimmer hoggs or (c) 30 head of cattle or (d) 40 horses; turbary and estovers	89.44	Applicant represented by Mr Owen
10	Jack Hart; owner	The Mase; turbary (no grazing right registered)		Not represented
11	Lake District Estates Co Ltd; owners	Grange Hall; (a) 200 ewes with their followers (b) 60 hoggs and (c) 20 head of cattle	200:60	Applicant represented by Mr Snow; he also represente Lady Wakefield of Kendal of the Old House, Kendal. Evidence by Mr T H H Hodges, Agent.
12	Mrs Margaret Williamson; owner	Tunny Moor; (a) 35 ewes with their followers; (b) 15 hoggs (c) 2 horses with their followers and (d) 8 head of cattle with their followers; OR a mixed number of such animals on the basis of 10 sheep to one head of cattle to one horse	11:5	Not represented.



13	William Edward Boustead; owner	Mazon Wath; (a) 160 ewes and (b) 60 hoggs or (c) 2 horses and (d) 20 head of cattle with their followers	63:32	Applicant represented by Mr Owen
14	Dennis Raine and Joseph Raine; owners	Muddygill; (a) 60 ewes with their followers and (b) 20 hoggs		Represented by Mr Owen. Note: right withdrawn
15	John Philip Taylor and Hannah Elizabeth Taylor; owners	Waterhouses Farm (not the same lands as at Entry No. 9 above); (a) 50 ewes with their followers and (b) 20 gimmer hoggs, or (c) cattle on basis 1 beast equivalent to 10 sheep	23:12	The applicants represented by Mr Owen
17 (with 18 replacing No. 4)	James William Watson; owner	Part of Burtree Farm (a) 40 ewes with their followers and (b) 15 hoggs or (c) 8 head of cattle or (d) 4 horses; turbary and estovers	23.11	Applicant repre- sented by Mr Owen. Note: applicant also applicant at Entry No. 5.
18 (with 17 replacing No. 4)	Edmund Park;	Another part of Burtree Farm; (a) 40 ewes with their followers and (b) 15 hoggs or (c) 8 head of cattle or (d) 4 horses; turbary and estovers	20:9	Applicant represented by Mr Owen. Note: applicant also the applicant for Entry No. 6

Total: 987:429



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SECOND SCHEDULE
(Documents produced)

by Mr Hodgson

-
- 6 June 1980
-
- 11 March 1947
- 8 August 1966
- 19 July 1913
- 29 April 1968
- 27 September 1955
- 29 November 1955
- 11 August 1970
- Plan of Grange Hall Farm.
- Letter from Alan Ayers to Arnold Greenwood & Son
- Copy schedule to conveyance of Grange Farm showing area as 479.091 acres
- by Mr John Sowerby
- Letting agreement by Mr John Cecil Whitehead and Miss Agnes Mary Whitehead to John Sowerby of Chapel Farm containing 91a.1r and 31p; outgoing tenant having delivered black faced ewes and gimmer hoggs with a covenant about delivering up like number of heaf going sheep
- Agreement between Miss A M Whitehead and J Sowerby for surrender supplemental to 1947 lease; mentions "Stock of heaf going sheep" 80 ewes and 30 hoggs.
- by Mr R E Kirkbride
- Sale particulars Whygill High House and Whygill Low House
- Application by R E Kirkbride under Commons Registration Act 1965
- Particulars of sale of Asby Grange Estate of 241a.3r.37p including heaf going flock of 120 ewes and 40 gimmer hoggs
- Completed draft statutory declaration by Mr John George Sowerby who had lived at Asby Grange since 1888 (then 5 years old) his father John Sowerby was tenant until his death in 1930 and then his brother since deceased; always grazed 100 ewes and 40 hoggs
- by Mr T Jackson
- Assent by G F Chambers as executor of J A Atkinson (died 12 November 1932) to Amy Atkinson (she died 6 October 1960) in favour of Mr D M. Chambers and Mrs D J Ladd of various lands including Town End Farm



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by Mr J W Watson

5 March 1953

Conveyance by Agnes McIver to William Watson of Whygill Head or High Whygill containing about 129a.8p

28 June 1913

Newspaper cutting advertising Whygill High Head and Whygill Low Head with valuable rights of common Asby Common

by Mr E Park

17 March 1967

Conveyance by Agnes Mary Whitehead to Edmund Park of Chapel Farm, comprising 60.318 acres

31 December 1807

Conveyance of 21 acres customary freehold of the Manor of Little Asby by Thomas Jackson senior to Thomas Jackson junior

by Mr Kipling

11 September 1959

Tenancy agreement by Mary Elizabeth Whitehead and others to John Kipling of Fell View containing 91.516 acres with covenant about a flock of 80 ewes and 40 hogs

5 April 1957

Valuation including 115 sheep

by Mr J W Brass

11 November 1947

Tenancy agreement by Mrs Margaret Amelia Close to Thomas William Brass of Potts Valley 186a.36p

by Mr T P Taylor

Old flock book owned by his grandfather Mr Robert Taylor containing lists of sheep markings

23 June 1911

Statutory declaration by Mr William Rober Taylor

by Mr W E Boustead

6 October 1964

Conveyance by Dixon Shaw to Mr William Edward Boustead of Maizon Wath and Fell Head

14 December 1973

Costs Issue.
Copy letter by David J Cole to Westmoreland County Council



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20 December 1973

Letter and copy letter from County Council to
E and E A Hellis and to E J Cole

4 January 1980

Copy letter by E and E A Hellis to Mr C W Sayer

10 August 1962

Conveyance between (1) George Gerrard Shield
(2) Broadlands Properties Ltd and Cowthorn Land and
Timber Co Ltd and (3) the Watson Sayer Property
CoDated the 11th day of November 1980.A. A. Baden Fuller
Commons Commissioner