



In the Matter of Hilton Fell, Murton,  
Cumbria

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DECISION

These disputes relate to a number of registrations in the Rights Section of Register Unit No. CL 27 in the Register of Common Land maintained by the Cumbria County Council. They are occasioned by Objections made by the Secretary of State for Defence ("the Minister") and by the Hilton Commoners Committee ("the Committee"), and also by certain conflicting registrations.

I held a hearing for the purpose of inquiring into the disputes (so far as still outstanding) at Keswick on 10 July 1984. At the hearing the Minister was represented by Mr J D Howes, on behalf of the Treasury Solicitor, and the Committee by Mr P Birtles, Solicitor. Before this hearing a number of the original disputes had been disposed of either by cancellations of the relevant Entries in the Rights Section or by the Interim Decision in this matter dated 28 July 1980, and the disputes so disposed of are not the subject of this Decision.

The disputes still outstanding concern the Entries listed in the Schedule to this Decision. Since the Interim Decision, the Objections to the Entries in Part I of the Schedule have been withdrawn, and these Entries accordingly I confirm without modification.

At the present hearing no submission was made or evidence given in support of any of the disputed Entries. In the case of the Entries in Part II of the Schedule, the Objections were maintained and I refuse to confirm the Entries.

The remaining disputes relate to the Entries listed in Part III of the Schedule. Since the Interim Decision there have, I understand, been negotiations between the parties which have resulted in a considerable measure of agreement. As I have mentioned, no evidence was given in support of these Entries but the Objectors were agreeable, so far as their respective objections were concerned, to the Entries being confirmed subject to the modifications set out in Part III. In the case of eight of the Entries the rights claimants have signed requests for their Entries to be confirmed with such modifications, and Mr Birtles told me that this ~~case~~ <sup>course</sup> was generally agreed by the members of the Committee. In these circumstances I shall confirm the Entries listed in Part III with the respective modifications there set out.

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 21<sup>st</sup> day of November 1984

*L. J. Thomas Smith*

Commons Commissioner

SCHEDULEPart I: Rights to be confirmed without modification

| <u>Entry No.</u> | <u>Applicant</u> | <u>Objection Nos.</u> |
|------------------|------------------|-----------------------|
| 12               | A Sill           | 2/53, 2/243           |
| 14               | W Patterson      | 2/55                  |
| 17               | C Dent           | 2/56, 2/241           |
| 18               | O Allison        | 2/57                  |
| 24               | O Allison        | 2/61                  |
| 65               | E A Rebanks      | 2/98                  |
| 28               | K Balmer         | 2/64                  |
| 30               | J Hebson         | 2/66                  |

Part II: Rights not to be confirmed

|               |                                    |                                      |
|---------------|------------------------------------|--------------------------------------|
| <del>16</del> | <del>W Patterson</del>             | <del>Conflict with No. 65</del>      |
| <del>31</del> | <del>J J Hebson</del>              | <del>Conflict with No. 65</del>      |
| 34            | R P Graham                         | 2/69, 2/265                          |
| 35            | R Goulding                         | 2/70, 2/264                          |
| 41            | D Sewell                           | 2/76, 2/250                          |
| 42            | T Dargue                           | 2/77                                 |
| 69            | J B Bainbridge                     | 2/99, 2/228 and conflict with No. 65 |
| 73            | National<br>Environment<br>Council | 2/105                                |
| 74            | J A Howe                           | 2/218, 2/252                         |

Part III: Rights to be confirmed with modifications

In this Part "stint" is to be construed in accordance with the following table:-

|                                |                 |
|--------------------------------|-----------------|
| 1 sheep (including 1 follower) | equals 1 stint  |
| 1 hogg                         | equals 1 stint  |
| 1 head of cattle               | equals 5 stints |
| 1 horse                        | equals 7 stints |
| 4 geese                        | equals 1 stint: |

*and the aggregate number of animals of the kind or kinds referred to in each Entry grazing at any one time shall be within the limit of the stints as so construed.*

| <u>Entry No.</u> | <u>Applicant</u> | <u>Objection No.(s)</u> | <u>Modifications</u>  |
|------------------|------------------|-------------------------|---|
| 2                | J C Harrison     | 2/44, 2/224             | In Column 4 delete all words from and including "To graze" down to and including "cattle with followers". Substitute "To graze 20 stints - sheep, hogs, cattle, horses" |
| 4                | G T Thompson     | 2/46, 2/226             | In Column 4 delete "(a) 2 horses and (b) : foals up to one year old". Substitute "1. stints - horses"   |

|               |                      |                                       |   |
|---------------|----------------------|---------------------------------------|---|
| 9             | M A W Slack          | 2/50, 2/230                           | In Column 4 delete "(a) 20 sheep and (b) head of cattle". Substitute "45 stints - sheep, cattle"  |
| 10            | G A W Slack          | 2/51, 2/231                           | In Column 4 delete all words from and including "To graze" down to and including "ponies with their followers" Substitute "To graze 300 stints - sheep, hoggs, hors   |
| 11            | G A W Slack          | 2/52, 2/244                           | In Column 4 delete all words from and including "To graze" down to and including "geese and their followers". Substitute "To graze 705 stints - sheep, hoggs, catt horses, geese". Modify Column 5 in accordance with Interim Decision. |
| 15            | W Patterson          | 2/106, 2/245                          | In Column 4 delete all words from and including "To graze" down to and including "cattle with their followers". Substitute "To graze 600 stints - sheep, hoggs, cattle, horses"   |
| <del>19</del> | <del>O Allison</del> | <del>Conflict with Entry No. 63</del> | <del>Column 5 to be modified - see Interim Decision</del>   |
| 23            | R W Jackson          | 2/60 Conflict with Entry No. 63       | In Column 5 delete the figure "544" and substitute for "plot No. 585" the following "plots Nos. 544 and 585". See Interim Decision  |
| 25            | J W M Bell           | 2/32, 2/238                           | In Column 4 delete all words from and including "To graze" down to and including "hoggs". Substitute "To graze 180 stints sheep, hoggs"   |
| 32            | J C Clark            | 2/67(withdrawn) 2/235                 | In Column 4 delete all words from and including "To graze" down to and including "follower". Substitute "To graze 57 stin - ewes, hoggs, horses"  |
| 62            | W Idle               | 2/96, 2/234                           | In Column 4 delete all words from and including "To graze" down to and including "cattle". Substitute "To graze 190 stin: - sheep, cattle, horses"  |
| 66            | S Harker             | 2/107, 2/233                          | In Column 4 delete all words from and including "To graze" down to and including "horses with their followers". Substitute "To graze 1360 stints - sheep, hoggs, cattle, horses".   |



- 67 J B Bainbridge 2/100, 2/229  
In Column 4 delete all words from and including "To graze" down to and including "cattle with their followers". Substitute "To graze 66 stints - shee hoggs, cattle"
- 68 J B Bainbridge 2/101, 2/228 179  
In Column 4 delete all words from and including "To graze" down to and including "cattle with their followers". Substitute "To graze 44 stints - shee hoggs, cattle"
- 72 A B Hogg 2/104, 2/240  
In Column 4 delete "To graze (a) 25 sheep and (b) horses". Substitute "To graze 60 stints - sheep, horses"
- 87 M R Knewstubb 2/236  
In Column 4 delete all words from and including "To graze" down to and including "7 ewes and their followers". Substitute "To graze 22 stints - shee cattle, horses"
- 89 R Currah 2/228  
In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 23 stints - shee cattle, horses"
- 93 J H Beadle 2/223  
In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 75 stints - shee cattle, horses"
- 96 G H Frith 2/225  
In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 90 stints - shee cattle, horses"
- 98 L T L Hebson 2/227  
In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 20 stints - shee cattle, horses"
- 100 N S Daniels 2/232  
In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 13 stints - shee cattle, horses"
- 103 D Kipling 2/54 (withdrawn), 2/242  
In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 7 stints - sheep cattle, horses"
- 108 W C Tarn 2/239  
In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 34 stints - shee cattle, horses"

