



COMMONS REGISTRATION ACT 1965

Reference Nos 262/D/42 to 49 inclusive

In the Matter of (1) Stainton with Adgarley  
Green (2) Stainton Green and (3) Adgarley  
Green, Urswick, South Lakeland District,  
Cumbria

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DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section and in the Rights Section of Register Unit No VG. 27 in the Register of Town or Village Greens maintained by the Cumbria (formerly Lancashire) County Council and at Entry No 1 in the Land Section and in the Rights Section of Register Unit No CL. 66 and No CL. 113 in the Register of Common Land maintained by the said Council, and are occasioned by the said registrations in the Land Sections being in conflict.

I held a hearing for the purpose of inquiring into the dispute at Kendal on 27 April 1978. At the hearing the Crown Estate Commissioners, on whose application the CL. 66 Land Section registration was made, were represented by Miss J Phillips of their Legal Advisers Department, and Urswick Parish Council on whose application the VG. 27 and CL. 113 Land Section registrations were made and whose application in respect of the CL. 66 Land Section registration is noted in the Register, were represented by Mr R F Hart-Jackson of Hart-Jackson & Sons, Solicitors of Ulverston.

According to the Register map the land in Register Unit No VG. 27 comprises the land in Register Unit Nos CL. 66 and CL. 113 except that certain roads or tracks apparently included in the CL. registrations are not included in the VG. registration. The registration at VG. 27 Rights Section Entry No 1 was made on the application of Mrs E Watson and is of a right attached to Stainton Green Farm to graze 20 head of cattle over the VG. 27 land except for the part edged red on the Register map. The registration at the CL. 66 and the CL. 113 Rights Section Entry No 1 was made on the application of Mr R B Thompson and is of a right attached to Stainton Hall Farm to graze 12 head of cattle over the land comprised in these Register Units lying west of the line A-B on the Register maps. In the CL. 66 Ownership Section, the Crown Estate Commissioners are registered as the owners of all the land comprised in that Register Unit.

In a letter dated 22 March 1978 the Crown Estate Commissioners' Solicitor said that they had no objection to the CL. 66 land being registered as a Village Green, they having sold this land to Urswick Parish Council on 14 July 1975.

At the hearing Mr Hart-Jackson and Miss Phillips suggested that I confirm the VG registrations and refuse to confirm the CL registrations, Mr Hart-Jackson said that in due course the Parish Council would claim ownership of the part of the VG Land which they had not acquired from the Crown Estate Commissioners. Mr Hart-Jackson also said that he understood that the land edged red on the Register map had been included in the application of the VG. 27 registration by mistake; however at the hearing, nothing more was said about this land, it being then assumed that the land edged red on the my copy of the Register map should have been edged green.



Having since the hearing reconsidered the position of the edged red land, and particularly the reference to it in the registration made on the application of Mrs Watson, I conclude that such land is edged red on the Register map and as matters now stand is included in the VG. 27 registration, although Mrs Watson claims no right to graze on it. It being apparent at the hearing that the inclusion of this land was a mistake I consider that I should correct this mistake notwithstanding that Mr Thompson, who neither attended nor was represented at the hearing might be prejudiced to a very small extent in the exercise of the right registered on his ~~own~~ application. The Rights Section Entries are only in dispute because the conflict between the Land Section Entries is deemed to be an objection to each of them, and by section 5(7) of the 1965 Act an objection to the registration of any land as common land or as a town or village green shall be treated as being also an objection to any registration of any rights over the land; however it being apparent (except possibly as regards the edged red land) that these rights were not in substance in dispute, I conclude that they were properly made.

For the reasons set out above I confirm the registration at Entry No 1 in the VG. 27 Land Section with the modification that there be removed from the Register the land edged red on the Register map (being the land referred to in column 3 of Entry No 1 in the Rights Section), (2) I confirm the registration at Entry No 1 in the VG. 27 Rights Section (made by Mrs E Watson) without any modification except as may be necessarily consequential upon the removal of the said land edged red, (3) I confirm the Entry in the VG. 27 Rights Section which is by the operation of regulation 14 of the Commons Registration (General) Regulations 1966 deemed to have been made therein in consequence of the registration at Entry No 1 in the CL. 64 and CL. 111 Rights Section (being Entries made on the application of Mr R B Thompson) with such modification as is necessarily consequential on the removal from the VG. 26 Register of the said land edged red, (4) I refuse to confirm the ~~land in~~ the CL. 66 and the CL. 111 Land Section registration and Rights Section registrations (without prejudice as regards to Rights Section registration by the operation of the said regulation 14). I record that I give no decision (it being in my opinion unnecessary to do so) as regards the said CL. 66 Ownership Section registration because the Entry in the VG. 26 Ownership Section deemed by the said regulation 14 to have been made therein in consequence of it will by my decision remain unaffected, although the registration authority are by section 6(3) of the 1965 Act required to cancel the said CL. 66 Ownership Section Entry as a consequence of my refusal to confirm the CL. 66 Land Section registration.

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 4<sup>th</sup> day of May — 1978

a. a. Baden Fuller

Commons Commissioner

