



COMMONS REGISTRATION ACT 1965

Reference Nos 262/D/297
262/D/298In the Matter of The Ghyll, Murton,
Eden District, CumbriaDECISION

These disputes relate to the registrations at Entry Nos 6, 7, 8, 9, 13, 15, 16, 17 and 20 in the Rights Section of Register Unit No. CL 30 in the Register of Common Land maintained by the Cumbria County Council and are occasioned by Objection No. 2/164 made by Miss B M Balmer as Hon Secretary of Murton Commoners Association and noted in the Register on 30 June 1972 and by Objection No. 2/216 made by Mr John Henry Beadle and noted in the Register on 4 April 1972.

I held a hearing for the purpose of inquiring into the disputes at Penrith on 22 October 1980. At the hearing (1) Murton Commoners Association were represented by Miss B M Balmer their Hon Secretary; (2) Mr J H Beadle who made his Objection (although it is not so expressed) as chairman of the Association, attended in person; (3) Miss Eileen Mary Chadwick as successor of Mrs Evelyn Maude Binks on whose application the registration at Entry No. 7 was made, was represented (for a short time at the beginning of the hearing) by Mr D Mellor solicitor of Little & Shepherd, Solicitors of Penrith; and (4) Mr Robert Elliott attended in person on his own behalf and as representing Mr Joseph Elliott and Mr Thomas Elliott, they together being successors in title of Captain William Parlour on whose application the registration at Entry No. 20 was made.

The land ("the Unit Land") in this Register Unit is a tract of grass land containing about 13 acres. It is situated south of and by a comparatively narrow strip is connected with the land ("Pasture End") in Register Unit No. CL 29 which was the subject of a hearing ("the July hearing") held by myself at Penrith on 2 and 4 July 1980 and attended by (among others) Miss Balmer and Mr Beadle, and in respect of which I have given a decision of even date under Reference Nos 262/D/277-279.

Mr Mellor handed me a copy of a letter dated 17 June 1980 and sent by his firm to the Clerk of the Commons Commissioners relating primarily to Murton Fell (CL 26) and incidentally to Pasture End and the Unit Land and said that Miss Chadwick was agreeable as therein set out but could not give any further help. On the suggestion of Miss Balmer and Mr Beadle and in the absence of any contrary suggestion, I treated the evidence before me at the July hearing as before me at this October hearing.

The course of the proceedings was as regards all the registrations except those hereinafter particularly mentioned the same as at the July hearing; so this decision should be read as supplemental to my said decision of even date, and I will not therefore repeat what I then said.

As regards the registration at Entry No. 7 (applicant Mrs Binks):- In the said letter of 17 June 1980 it appears that Miss Chadwick is not interested in sheep



and concerned only to claim 1 horse; and this as regards the CL 29 land was agreed as appears in my said decision. But contra Miss Balmer said that a meeting of the Commoners Association held on the previous evening (21 October), and of which Miss Chadwick had notice but did not attend, it was decided to insist on the Objection "4 ewes horses nil" and not extend the July 1980 agreement to the Unit Land; Mr Beadle explained that any horse put on Pasture End would because the gate is always open in fact go on the Ghyll. In the absence of any evidence in support of the Registration for "10 sheep and one horse" I consider I should accept the views of the Commoners Association; so my decision is that the Objection as regards the Unit Land succeeds. As regards Entry No. 5 (applicant Mr Hogg) ~~was~~ absent from the October 1980 hearing, I consider that I should reach the same conclusion about this registration as I did at the July 1980 hearing.

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As regards the registration at Entry No. 20 (applicant Mr Parlour):- The complex legal considerations mentioned in my decision of even date as applicable to Pasture End do not arise in relation to the Unit Land. Miss Balmer and Mr Elliott said that they were agreeable as regards the Unit Land the numbers should be 410 ewes nil cattle and nil horses, and I consider that I should act on this agreement.

On the considerations set out above and in my said decision of even date, I confirm all the now disputed registrations with the following modifications:- at Entry No. 6 (applicant Mr Slack) in column 4 for "50 sheep" there be substituted "20 sheep"; at Entry No. 7 (applicant Mrs Binks) in column 4 for "(a) 10 sheep and (b) 1 horse" there be substituted "4 sheep"; at Entry No. 8 (applicant Mr Slack) in column 4 for "(a) 20 sheep and (b) 10 horses" there be substituted "6 sheep"; at Entry No. 9 (applicant Mr Hogg) in column 4 for "(a) 25 sheep and (b) 5 horses" there be substituted "5 sheep"; at Entry No. 13 (applicants Messrs Idle) in column 4 for "200 sheep" there be substituted "170 sheep"; at Entry No. 15 (applicants Messrs S, R and N Harker) in column 4 for "(a) 2,000 ewes/hoggs with their followers (b) 60 head of cattle with their followers and 15 horses with their followers" there be substituted 1,400 sheep"; at Entry No. 16 (applicants Messrs S, R and N Harker) in column 4 for "(a) 60 ewes/hoggs with their followers and (b) 15 horses with their followers" there be substituted "24 sheep"; at Entry No. 17 (applicant Mrs E M Harker) in column 4 for "(a) 10 ewes with their followers and (b) 5 hoggs with their followers and (c) 10 horses with their followers" there be substituted "5 sheep"; and at Entry No. 20 (applicant Mr Parlour) in column 4 for "(a) 200 sheep (b) 4 head of cattle and 2 horses" there be substituted "410 sheep".

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 8th ————— day of January ————— 1981

a. a. Balmer Fuller