



COMMONS REGISTRATION ACT 1965

Reference Nos 262/D/358  
to 361 inclusiveIn the Matter of The Pumpfall,  
Stainton, Dacre, Eden District,  
CumbriaDECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section, at Entry No. 1 in the Rights Section and at Entry No. 1 in the Ownership Section of Register Unit No. CL 237 in the Register of Common Land maintained by the Cumbria (formerly Cumberland) County Council and ~~as~~<sup>are</sup> occasioned by Objection No. 127 made by Mr Henry Noblett and by Objections Nos 168 and 169 made by Dacre Parish Council and all noted in the Register on 4 April 1972.

I held a hearing for the purpose of inquiring into the disputes at Penrith on 23 October 1980. At the hearing the Stainton Jury were represented by Mr D Mellor, solicitor of Little & Shepherd, Solicitors of Penrith, he being instructed on behalf of the Jury by Mr John Hetherington who on their behalf and as their active foreman applied for the Land Section and Ownership Section registrations.

According to the Register map the land in this Register Unit is a strip about 150 yards long on the north-east side of and adjoining a road which runs through or near Stainton from the A66(T) road to the A592 road. The Rights Section registration made on the application of Mr Noblett is of a right ~~attached to Riseholme Stainton "to graze" on the whole of the land in this Register Unit. The Rights Section registration was made on the application of Mr Noblett and is of a right~~ attached to Riseholme Stainton "to graze" on the whole of the land in this Register Unit. The Ownership Section registration is of the ownership of "Stainton Jury". The grounds of Objection No. 127 (Mr Noblett) to the Ownership registration are that the Stainton Jury are not the owners. The grounds of Objection Nos 168 and 169 (Parish Council) are if the land is not common land, that the Stainton Jury are not the owners of the land and that it is for the use of and belongs to the residents of Stainton.

I have a letter dated 6 October 1980 from Dacre Parish Council saying that they have resolved to withdraw their objections, a letter dated 10 July 1980 saying that Stainton Jury wished to withdraw their claim to ownership, and a letter dated 14 October 1980 from Mr Noblett saying that he believes the land to be roadside verge upon which the inhabitants of Stainton have grazing rights awarded by an Enclosure Award of 1775, ~~and~~<sup>and</sup> he understands that all parties are now agreed that it is common land (application by him is noted in the Land Section) and that his right to graze is made as an inhabitant of Stainton and ~~as~~ a right shared by all the inhabitants; and saying also that he was concerned about the future of all the common land of Stainton/hoped that the Commissioners would be able to make proper and adequate arrangements for its management.



At the hearing Mr Mellor confirmed that the Ownership Claim of the Jury was withdrawn. Accordingly I refuse to confirm the Ownership Section registration.

The Rights Section/<sup>registration</sup>being apparently limited to Mr Noblett, is not as appears from his said letter in accordance with his intention; I cannot modify the registration so as to make it a right shared by all the inhabitants as he in his letters suggests, because such a right is not recognised by law. Further the number of animals has not been quantified as required by section 15 of the 1965 Act. So withstanding that the Parish Council's ~~objections~~ objections have been withdrawn by them, I refuse to confirm this registration.

Objection to the Land Section registration <sup>having</sup> ~~is~~ being withdrawn, and it being agreed by Mr Mellor at the hearing and by Mr Noblett in his letter that it is in order, I ~~do~~ confirm this registration without any modification. As to Mr Noblett's ~~hope~~ <sup>hope</sup> (expressed in his said letter) that I would be able to make arrangements for the management of the land, I shall do nothing, because under the 1965 Act ~~the~~ Commons Commissioner ~~has~~ has no jurisdiction to make arrangements for management of ~~the~~ common land.

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, 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 8<sup>th</sup> day of January 1981

a. a. Baden Fuller

Commons Commissioner