



COMMONS REGISTRATION ACT 1965

Reference Nos 262/D/313  
262/D/314In the Matter of White Moss,  
Mungrisdale, Eden District, CumbriaDECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos 1 to 6 inclusive in the Rights Section of Register Unit No. CL 318 in the Register of Common Land maintained by the Cumbria (formerly Cumberland) County Council and are occasioned by Objection No. 215 made by Sir Stafford Howard and noted in the Register on 4 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Penrith on 23 October 1980. At the hearing (1) Sir Stafford Howard was represented by Mr D Mellor, solicitor of Little & Shepherd Solicitors of Penrith; (2) Mrs Jennifer Stevenson on whose application jointly with her husband Mr John Ross Stevenson the registration at Rights Section No. 3 was made, attended in person and as representing him; (3) H Elliot and Sons on whose application the registration at Rights Section Entry No. 4 was made, were also represented by Mr Mellor; (4) Mr Richard William Lawson on whose application the registration at Rights Section Entry No. 5 was made, was represented by Mr T M Arnison, Solicitor of Arnison & Co, Solicitors of Penrith (5) the Cumbria College of Agriculture & Forestry, as successors of the Cumberland and Westmorland College of Agriculture and Forestry on whose application the registration at Rights Section Entry No. 6 was made, were represented by Mr K Humphries, a lecturer in agriculture; and (6) Mungrisdale Parish Council were represented by Mr R W Lawson their chairman (also interested as the Entry No. 5 applicant).

The registration at Entry No. 4 is of "turbary on Low End Moss". Mr Mellor on behalf of H Elliot & Sons said that Low End Moss against which they intended to register a right is outside the land in this Register Unit, being an adjoining piece along the north part of the northeast boundary; so he on their behalf withdraws the registration. The registration at Entry No. 3 is "to take peat from Low End Moss Farm...; of this Mrs Stevenson said that the position of herself and Mr Stevenson was essentially the same as that of H Elliot and Sons, they also withdraw their registration.

As regards the registrations at Entry Nos 5 and 6 of "turbary on White Moss", reference was made to the Mungrisdale Low Common Inclosure Award dated 2 October 1893, and Mr Arnison on behalf of Mr Lawson and Mr Humphries on behalf of the College said that they were agreeable to my proceeding on the basis (by that) the award the land in this Register Unit was allotted free from rights of turbary, provision having been thereby made from other land for those who before 1893 had rights of turbary over the land thereby dealt with; accordingly I could refuse to confirm the registrations at Entry Nos 5 and 6.

As to the registration at Entry No. 2 made on the application of Mr George Robert Coulthard, Mr Mellor <sup>has</sup> ~~sent~~ me a letter from him dated 16.10.80 from which I infer having sold Gate Farm and Cottage he is no longer interested in this registration.



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About the registration at Entry No. 1 made on the application of Mrs Jane Birkett of "turbarry on White Moss no representations or information was given me. In the absence of any evidence in support of these registrations ~~and~~ it being probable that their position is no better than the four other registrations which have been expressly withdrawn, I conclude that they should not have been made.

The Land Section registration was made in consequence of the applications for registrations in the Rights Section. Nobody at the hearing suggested that such Land Section registration could be supported in the absence of any registration of rights, I conclude this registration too was not properly made.

For these reasons I refuse to confirm the registrations in the Land and in the Rights Section.

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 \_\_\_\_\_ 10<sup>th</sup> day of November — 1980

*A. A. Baden Fuller*

Commons Commissioner