



1051

In the Matter of Thwaite Common, Maker,  
North Yorkshire

DECISION

These disputes relate to the registrations at Entry Nos 11, 15, and 16 in the Rights section of Register Unit No CL 156 in the Register of Common Land maintained by the former North Riding of Yorkshire County Council and are occasioned by Objection No 0279 made by Earl Peel and noted in the Register on 18 December 1970, Objection No 0222 made by the Owners and Occupiers of Thwaite Stinted Common and noted in the Register on 27 October 1970, and Objections Nos 0407 and 0408 both made by Earl Peel and both noted in the Register on 10 July 1972.

I held a hearing for the purpose of inquiring into the dispute at Richmond on 9 May 1978. The hearing was attended by Mr E R D Johnson, solicitor, on behalf of Mr J E Reynoldson, the applicant for the registration at Entry No 11 and Mr W M Heseltine, the applicant for the registration at Entry No 16.

The registration at Entry No 11 is of three rights, the third of which is a right to depasture 36 full grown sheep. Mr Johnson informed me that Mr Reynoldson was agreeable to the deletion of this right from the registration, and that Mr Heseltine did not wish to pursue his application for the registration at Entry No 16.

There was no appearance by or on behalf of Mr and Mrs J W A Smith, the applicants for the registration at Entry No 16, but Mr Smith stated in a letter dated 8 May 1978 that he was recovering from a heavy cold and would not be able to attend the hearing, adding: "It is clear that other Thwaite Commoners - who do, I understand, intend to be represented by some of themselves - will represent my point of view in respect of Objection No 0279". Mr Smith's expectation was not realised, which is hardly surprising, since the grounds of Objection No. 0222 made by the Owners and Occupiers of Thwaite Stinted Common are stated as: "We hereby object to J W Smith and G E Smith claiming rights to graze five horses over Thwaite Common". However, the registration at Entry No 16 is not confined to the right to graze 5 horses. It also contains rights of turbary, estovers, and to take stones and water, to which there is no objection. A right to take water is not a right of common, but Mr and Mrs Smith are entitled to have the rights of common to which there is no objection confirmed.

Mr Heseltine's solicitors stated in a letter dated 27 April 1978 to Earl Peel's solicitors that he had no claim to the rights registered at Entry No 16.

In these circumstances I confirm the registration at Entry No 11 with the following modification:- namely, the deletion of the words "3 The right to depasture 36 full grown sheep" and the registration at Entry No 15 with the following modification, namely the deletion of the words "(c) to take water, (d) to graze 5 horses", and I refuse to confirm the registration at Entry No 16.

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

12

day of

June

1978



CHIEF COMMONS COMMISSIONER