



In the Matter of (1) a recreation allotment near Troutbeck Station, and (2) land near Rushmire, Matterdale End, both in Matterdale, Eden District, Cumbria

### DECISION

These references relate to the question of the ownership of lands being (1) a recreation allotment near Troutbeck Station, and (2) land near Rushmire, Matterdale End, both in Matterdale, Eden District and being the lands comprised in the Land Section of Register Unit (1) No VG 86 and (2) No VG 87 in the Register of Town or Village Greens maintained by the Cumbria (formerly Cumberland) County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of these references (1) Matterdale Parish Council claimed (letter received 19 January 1979) ownership of the lands in question as awarded to the Ancient Township in 1882, (2) Mr E Titterington as Hon Sec of Matterdale Common Conservators said (letter of 12 February 1979) that the lands belong to the Parish Council; and (3) The Commons Open Spaces and Footpaths Preservation Society, on whose application the registration was made, sent (with a letter of 30 March 1979) an extract from an award of 1882 by which two pieces of land each containing 7 acres were allotted to the Churchwarden and Overseers of the Poor of the Township of Matterdale for recreational purposes. No other person claimed to be the freehold owner of the lands in question or to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Penrith on 26 April 1979. At the hearing Matterdale Parish Council were represented by Mr B Spurrett their clerk (present also was Mr J Wilkinson their chairman).

Mr Spurrett who has lived in the parish for 11 years in the course of his evidence produced a copy certified on 20 July 1882 of the said Award dated 19 January 1882 (in the possession of the said Conservators) which showed that it was made pursuant to the Greystoke (Matterdale Common) Inclosure Act 1879 (42 & 43 Vict. c. lxxxii), and by which the said land were allotted as set out above. He drew attention to 2 other allotments in the said Award to the Churchwardens and Overseers of pieces of land each containing 5 acres as field gardens. He said (in effect): - These other allotments respectively adjoin the VG 86 and VG 87 lands. These pairs of adjoining allotments (each together being about 12 acres) were unsuitable either for recreational purposes (not flat enough) or as gardens (too exposed), and had for many years been left by the Parish Council for grazing, the rents from these grass lettings having been applied for the benefit of the inhabitants of the old township of Matterdale.

I have no jurisdiction to enlarge the registration so (as was suggested at the hearing) to make it include the allotment gardens. But as regards the VG 86 and the VG 87 lands as now registered, on the evidence summarised above, I am satisfied that the Parish Council are the owners, and I shall accordingly direct the Cumbria County Council, as registration authority, to register Matterdale Parish Council as the owner of the lands under section 8(2) of the Act of 1965.



I am required by regulation 30(1) of the Commons Commissioners Regulation 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 21<sup>st</sup> — day of May — 1979

*a. a. Berlin Fuller*

Commons Commissioner