



COMMONS REGISTRATION ACT 1965

Reference Nos 262/U/466
262/U/491

In the Matter of (1) two pieces of land at Spire House and Kell Wells and (2) a public watering place at Newbiggin, both in Dacre Parish, Eden District, Cumbria.

DECISION

These references relate to the question of the ownership of (1) land in two pieces one at Spire House and the other at Kell Wells and (2) land a public watering place at Newbiggin, Dacre Parish, Eden District being the lands comprised in the Land Section of Register Unit (1) No. CL242 and (2) No. CL348 in the Register of Common Land 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 this reference Dacre Parish Council said (letters of 1 and 20 December 1981) that they do not claim to be the owners of these lands, but in the absence of any successful claims to ownership they consider that they should be vested in them. No person claimed to be the freehold owners of the land in question or to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Penrith on 11 March 1982. At the hearing Dacre Parish Council were represented by Mr C Wilding, their clerk.

Mr Wilding said (in effect):- The CL242 north piece is an old quarry which has been used as a tip; the vegetation is very rough, not possible to graze. The Parish Council annually cut the weeds and growth (nettles). They regard it as a liability. Of the CL242 south piece he thought that at one time it had been a watering place, perhaps privately owned.

Mr John Hetherington who has lived in the Parish since 1924, been a member of the Parish Council for 35 years and been their vice chairman and chairman (for the last 2 years vice chairman) said (in effect):- The CL348 land was probably at one time a public watering place, but recently has been used as a site for a bonfire.

In the absence of any evidence I am not satisfied that any person is the owner of these lands. I have no jurisdiction under the Act of 1965 to vest these lands in the Parish Council merely because no-one else has claimed ownership. In the result they remain subject to protection under section 9 of the Act of 1965.

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 14th — day of June — 1982

a. a. Baden Fuller

Commons Commissioner