



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/312

In the Matter of Callendæ Tip,
Askham Road, Tirril, Sockbridge
and Tirril, Eden District, Cumbria

DECISION

This reference relates to the question of the ownership of land known as Callendæ Tip, Askham Road, Tirril, Sockbridge and Tirril, Eden District, being the land comprised in the Land Section of Register Unit No. CL 134 in the Register of Common Land maintained by the Cumbria (formerly Westmorland) 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 Sockbridge and Tirril Parish Council said (their clerk's letter of 27 September 1979) that the land was conveyed to the Lowther Estates in 1970; and the Earl of Lonsdale claims (his Solicitors' letter of 10 October 1979) ownership. No other person claimed to be the freehold owner 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 24 October 1980. At the hearing the Rt Hon James Hugh William (7th) Earl of Lonsdale was represented by Mr Fryer Spedding of counsel instructed by Dickinson Dees Solicitor of Newcastle upon Tyne; and Sockbridge and Tirril Parish Council on whose application the registration was made, were represented by Mr W C Barnes their clerk.

Mr D A Pattinson who is now and has been for the last 30 years the Chief Agent of the Earl of Lonsdale and his predecessors, and has been associated with the Estate for the last 44 years, in the course of his evidence produced a subsidiary vesting deed dated 26 August 1970 by which the Parish Council with the consent of the Minister of Housing and Local Government (under an instrument in writing dated 22 October 1969) conveyed the land in this Register Unit (therein said to contain about 0.281 of an acre) to the Earl of Lonsdale upon the trusts of a compound settlement mentioned in a principal vesting deed dated 8 August 1960 and made between (1) Mr J L Wickham and another, (2) the Earl of Lonsdale and (3) the Hon A J B Lowther; and also produced the said 1969 instrument of consent. He said (in effect):- In 1969 the Highfield Plantation situated to the southeast of the land was (and still is) part of the woodlands included in the Estate. The land had before they purchased been a rubbish tip. The purchase was made to round off the existing Plantation, and the land purchased had subsequently been planted so as to form part of it.

Mr Barnes who had lived in the Parish for the last 17 years and been clerk of the Parish Council for the last 9 years said (in effect):- The land had formerly been an "official" rubbish dump for the Parish, but ceased to be used as such when the Rural District Council took over from the Parish Council the disposal of rubbish. After this there was the problem of maintenance and eventually the Parish Council decided to sell it as stated by Mr Pattinson.

On the evidence summarised above, I conclude that before 1969 the land was locally reputed to be Parish property, and as such vested in the Parish Council, and that under the 1970 conveyance has since been in the possession and ownership of the Earl of Lonsdale. Accordingly I am satisfied that he is the owner of the land and I shall



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accordingly direct the Cumbria County Council as registration authority, to register the Rt Hon James Hugh William Earl of Lonsdale of Askham Hall, Askham, Cumbria as the owner of the land under section 8(2) 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 10th — day of December — 1980

a. a. Baden Fuller

Commons Commissioner