



In the Matter of Kilwell or The Sheep Pens in
Stainton Village, Dacre, Cumbria (No. 1)

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. CL 351 in the Register of Common Land maintained by the Cumbria County Council and is occasioned by Objection No. 164 made by the Dacre Parish Council and noted in the Register on 4 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Penrith on 14 October 1981. The hearing was attended by Mr H Noblett, the applicant for the registration. There was no appearance on behalf of the Parish Council, but Mr C Wilding, its Clerk, informed the Clerk of the Commons Commissioners by a letter dated 4 October 1981 that the Objection was "withdrawn".

The only entry in the Rights section of the Register Unit is the right to get water from the well, and passage to the well, and also the right to use the ground for bleaching webs and cloth. These rights are not rights of common and I shall therefore refuse to confirm the entry in the Rights section.

There being no right of common attached to the land comprised in the Register Unit, the land can only fall within the definition of "common land" in S.22(1) of the Commons Registration Act 1965. ^{in common with land of a manor} The right registered by Mr Noblett (which can be a perfectly valid right, even though it is not a right of common which can be registered under the Act of 1965) was created by the award made on 10 September 1775 under the Great and Little Stainton, Newbiggin and Great Blencow Inclosure Act of 1772 (12 Geo. III, c.141 (private)). The land is described in the Schedule to the award as "Public Ground belonging to the Township of Stainton". It appears from the award that the lord of the manor was Charles Howard, Esquire, so the land was not waste land of a manor, because it was not in the ownership of the lord of the manor.

For these reasons I refuse to confirm the registration.

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

4th

day of

November

1981

Chief Commons Commissioner