



In the Matter of Ousby Fell, Ousby, Cumbria

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DECISION

This reference relates to the question of the ownership of land known as Ousby Fell being the land comprised in the Land Section of Register Unit No. CL 125 in the Register of Common Land maintained by the former 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 claims to ownership of the land in question ("the Unit land") were made by (1) Mr R Nicholson Burton (2) Major J H C Sawrey Cookson.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Keswick on 9 October 1979.

At the hearing Mr D Mellor, Solicitor, appeared on behalf of Mr Burton and Major Sawrey-Cookson was represented by his wife, Mrs M P Sawrey-Cookson.

Mr A Farrant, a partner in the firm of Watson Lewis and Co, Chartered Surveyors, Mr Burton's Land Agents, gave evidence and produced (A) a Conveyance dated 8 September 1960 between David R F Crackanthorpe (1) and Richard Nicholson Burton (2) whereby the Unit land was sold and conveyed to Mr Burton: (B) an examined Abstract of Title of the Vendor Mr D F Crackanthorpe. Mr Farrant stated that the Unit land had been used as a grass moor by Mr Burton as part of the business of Brackenbank Fishing and Shooting Co.

Mrs Sawrey-Cookson produced a Conveyance dated 15 December 1971, between David R F Crackanthorpe (1) Major and Mrs Sawrey-Cookson (2) ("the Purchasers"), whereby there was conveyed to the Purchasers, the Manor of Newbiggin and the Manor of Ousby and Bank, together with all rights and interest of the Vendor therein or thereto appertaining. There was not included in this Conveyance any land as such and since the same Vendor had already conveyed Ousby Fell to Mr Burton, I can see no grounds for construing this Conveyance as including or purporting to include the Unit land.

On the evidence I am satisfied that Mr Roland Nicholson Burton is the owner of the land and I shall accordingly direct the Cumbria County Council, as registration authority, to register him as the owner of the land under section 2(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 weeks from the date on which notice of the decision is sent to him, require me to state case for the decision of the High Court.

Dated

31 October

1979

*L. J. Wilson Smith*

Commons Commissioner