



In the Matter of part of Bampton Common, Bampton,
Eden District, Cumbria

DECISION

This reference relates to the question of the ownership of part ("The Referred Part") of the land known as Bampton Common, Bampton, Eden District being the land comprised in the Land Section of Register Unit No CL85 in the Register of Common Land maintained by the Cumbria (formerly Westmorland) County Council. The Referred Part means the part of the land 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 North West Water Authority claimed (letters of 10 September 1986 and 3 April 1987 from their Secretary) ownership of the Referred Part. No other person claimed to be the freehold owner of the Referred Part and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the Referred Part at Penrith on 7 April 1987. At the hearing North West Water Authority were represented by Mr J Prytherch, Assistant Solicitor with the Authority, and Cumbria County Council as registration authority were represented by Mrs F Harrison, Administrative Officer.

The land ("the Unit Land") in this Register Unit contains according to the Register, 2,788.32 hectares (6,890 acres) approximately: it is west, north-west and north of Haweswater Reservoir. I am concerned only with the Referred Part being a triangular area having sides of about 120 yards, 100 yards and 60 yards (containing say about $\frac{1}{4}$ of an acre) situated within and at the south-east corner of the Unit Land near to Naddle Gate and Burnbanks.

The Referred Part is the part of the Unit Land on the Register map south of the line EF. In the Ownership Section at Entry No 3, Right Honourable James Hugh William, 7th Earl of Lonsdale is registered as the owner of the part of the Unit Land which adjoins the Referred Part, which extends for about a mile north of the Referred Part to a point near High Drybarrows, and which is east of the line CD on the Register Map and contains say about 200 acres. Of the remainder of the Unit Land (except an area to the north-east of Butterwick within and at the north-west corner of the Unit Land and containing about 200 acres of which the Earl of Lonsdale is at Entry No 2 registered as the owner) The Lord Mayor, Aldermen and Citizens of the City of Manchester are at Entry No 1 registered as the owners.

At the hearing, Mr Prytherch in the course of his oral evidence produced a conveyance dated 23 February 1923 by which the Rt Hon James William Viscount Ullswater, the Rt Hon Christopher William Lowther and William George Frederick Cavendish Bentinck ("the Trustees") with the concurrence of the Rt Hon Hugh Cecil Earl of Lonsdale appointed and confirmed to the use of the Lord Mayor Alderman Citizens of the City of Manchester ("the Corporation") "Haweswater Lake ... dwellinghouses, farms ... parcels of land ... commons, stinted pastures ... in the several parishes of Askham, Bampton, Shap Rural and Shap Urban ... specified in the First Schedule ... delineated in the plans hereto annexed ... and referred to by the numbers mentioned in the plans and book of reference deposited in connection with the Act (Manchester Corporation Act 1919) ... the enclosed lands being coloured yellow the common lands being coloured brown ...".



Mr Prytherch called attention to part of the First Schedule to the 1923 conveyance describing "unenclosed lands belonging to the trustees as Lord of the Manor containing 6,104 acres including (among other numbers) "8". The plan to the conveyance annexed shows included in "8" thereon coloured brown the Referred Part; it is at the east corner of "8"; compared with it, "8" is a very large area to the north and west.

The "8" on the conveyance plan, so far as it is included in the Unit Land registration is, except for the Referred Part, all included in Ownership Section Entry No. 1. Mr Prytherch suggested that the omission of the Referred Part from the application for such Entry was an oversight.

Mr Prytherch said that the North West Water Authority are the successors of the Corporation under the North West Water Authority Constitution Order, 1973 SI 1861.

After the hearing I walked over some of the Referred Part. It is fenced on its south side against the road leading to the lightly built-up area of Burnbanks. It is fenced on its west side against land held with the nearby dwellinghouse. On its north side, along the boundary EF, it is open to the remainder of the Unit Land. It appears to be part of the same grazing area, practically indistinguishable from the rest. It seems likely that when the Corporation in 1933 acquired land for the construction of the Haweswater Reservoir, an east-west line, of which DEF on the Register map was arbitrarily chosen to separate what was taken by the Corporation from what was retained by the Lonsdale Estate. However this may be as regards the Referred Part, I have no reason for not giving full effect of the 1923 conveyance and the 1973 Order.

On this evidence I am satisfied that North West Water Authority is the owner of the Referred Part, ^{and} I shall accordingly direct the Cumbria County Council, as registration authority, to register North West Water Authority of Dawson House, Great Sankey, Warrington WA5 3LW as the owners of the Referred Part 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 15th day of July 1987

A. A. Baden Fuller

Commons Commissioner