



In the Matter of piece of land at the Quarry,  
Applewaite, Underskiddaw, Allerdale D

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DECISION

This reference relates to the question of the ownership of a piece of land at the Quarry, Applewaite, Underskiddaw, Allerdale D being the part of the land comprised in the Land Section of Register Unit No. CL 32A 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 Mr J F H Fryer-Spedding claimed to be the freehold owner of the land in question 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 land at Cockermouth on 12 July 1979.

Mr Spedding appeared in person and Mrs A Gibbs and Mrs A Scott appeared for the Underskiddaw Parish Council.

Mr Spedding is a practising member of the Bar who had made a most thorough pursual of the Act of 1810 for inclosing lands in the Manor of Brundholme and the Award made thereunder dated 1 April 1815. I am greatly indebted to Mr Spedding for his full and fair analysis of these two documents. I should mention that subsequent to the hearing, he sent me a complete copy of the Award, which in one material respect, differed from the incomplete copy produced at the hearing. In this decision I refer to the complete copy.

The land in question is one of several plots which, by their Award, the Commissioners awarded, ordered, assigned, set out and appointed as and for public quarries to be forever thereafter appropriated to and for the common use and benefit of the owners of Messuages Lands and Tenements in the Manor of Brundholme.

The point which I have to decide is a short one, namely whether the Commissions, on the true construction of their language referred to above, deprive the Lord of the Manor of his freehold interest in the soil of the quarries, or alternatively whether they did no more than declare the uses for which the quarries were to be held.

Mr Spedding contended for the second alternative and I have come to the conclusion that his contention is well founded for the following reasons.

- (1) Notwithstanding their prefix language awarded, ordered, assigned, set out and appoint, the Commissioners were careful not to allot the quarries though the Act gave them power so to do.
- (2) The Act provided that:- All allotments to be made of the said Commons and Waste Lands, shall be and become Estates of Freehold in the several and respective Persons Bodies Politic and Corporate, to or for whom the same shall be set out, allotted and assigned respectively.
- (3) The Commissioners appreciated that an allotment would entitle the person in whose favour the allotment was made, to the freehold and set out such allotments in Schedules which did not include the quarries.



(A) The Commissioners placed the management of the quarries in the hands of the Surveyors of Highways and had they thought it either practicable or desirable so to do, they could have allotted the quarries to the Surveyors.

For these reasons I am satisfied that the Commissioners, by their Award, deliberately decided not to allot the quarries, so as to vest the freehold which remained where it was in the Lord of the Manor.

Mrs Gibbs and Mrs Scott accepted that Mr Spedding is the Lord of the Manor and I am satisfied that on the true construction of the Award he is the owner of the land in question.

I shall accordingly direct the Cumbria County Council, as registration authority, to register Mr J F H Fryer Spedding 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 3<sup>rd</sup> day of September 1979

*G. A. Little*

Commons Commissioner