



In the Matter of Soutergate Marsh, Kirkby Ireleth,  
Cumbria (No. 3)

DECISION

These disputes relate to the registration at Entry No. 1 in the Ownership section of Register Unit No. CL 86 in the Register of Common Land maintained by the Cumbria County Council and are occasioned by Objection No 200 made by Mrs C Mason, Objection No. 206 made by Mr E Procter, Objection No. 207 made by Mr W Coward, and Objection No. 263 made by the Kirkby Ireleth Commoners Association and all noted in the Register on 10 March 1972.

I held a hearing for the purpose of inquiring into the dispute ~~at Kendal~~ on ~~30 March 1982~~. The hearing was attended by Mr M S Graham, solicitor, on behalf of Mr Procter, and Mr W J Ilett, solicitor, on behalf of Mr James Coward, the executor of Mr W Coward, and the Kirkby Ireleth Commoners Association was represented by Mr J W Curwen, its Chairman. There was no appearance by or on behalf of Mrs Mason, who was stated to have died many years ago. There was also no appearance on behalf of New Holker Estates Company Ltd, the applicant (under the name of "Holker Estate Trust") for the registration, but a letter dated the day before the hearing, signed by Mr D J L Lee as agent, stated that the registration was formally "withdrawn".

In these circumstances I refuse to confirm the registration.

Mr Graham and Mr Ilett asked for orders for costs in favour of their respective clients. In my view it was utterly unreasonable to wait until the day before the hearing to state that it was not desired to support a registration which had been applied for as long ago as 18 December 1969, and I shall order New Holker Estates Company Ltd to pay the costs of Mr Procter and Mr J Coward on County Court Scale 4. Since the Company had no notice that applications for costs would be made, I shall be prepared to consider an application to vary this part of my decision, but only on the terms that the Company pays the costs of any such application in any event.

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

7<sup>th</sup>

day of

April

1982

*[Handwritten signature]*

Chief Commons Commissioner