



In the Matter of The Foreshore, Bowness, Cumbria (No. 1)

DECISION

These disputes relate to the registration at Entry No. 1 in the Land section of Register Unit No. CL 381 in the Register of Common Land maintained by the Cumbria County Council and are occasioned by Objection No. 121 made by Mr J Paisley, Objection No. 156 made by the British Railways Board, and Objection No. 180 made by Mr R J Matthews and all noted in the Register on 4 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Keswick on 11 November 1980. The hearing was attended by Mr J Fryer Spedding, of counsel, on behalf of the Earl of Lonsdale, the applicant for the registration, by Mr P W Pickles, solicitor, on behalf of the personal representatives of the late Mr Paisley, by Mr J Mawson, solicitor, on behalf of Mr Matthews, by Mr D Stubbington, an officer of the British Railways Board, and by Mr P Hunter, the Chairman of the Bowness Parish Council.

Mr Fryer Spedding informed me that he was instructed to agree to the exclusion from the Register Unit of two areas of land belonging to the clients of Mr Pickles and Mr Mawson, and I found that no land belonging to the British Railways Board was comprised in the Register Unit.

Mr Hunter drew my attention to the Bowness Common Inclosure Award made 3 January 1810 under the Bowness in Burgh Inclosure Act of 1806 (45 Geo III, c.27 (private; not printed)) which awarded, ordered, directed and appointed that sand, gravel, and other materials for making, amending, and repairing all and every the highways thereinbefore mentioned and for making and repairing buildings and for all other necessary purposes should and might be got at all places where the same might be found along the sea shore in the allotment awarded to James King and in the allotment of John Sharp the elder and John Sharp the younger marked and numbered 110 on the plan attached to the Award.

In my view this right is not a right of common as defined in the Commons Registration Act 1965.

It therefore follows that none of the land comprised in the Register Unit can fall within the definition of "common land" in the Act of 1965 as land subject to rights of common. It was, however, submitted by Mr Fryer Spedding that the land outside the two areas belonging to the clients of Mr Pickles and Mr Mawson is waste land of the manor of Drumburgh. Since there is no objection to the registration of this land as waste land of a manor not subject to rights of common, I confirm the registration with the following modifications: namely, the exclusion of the land belonging to the personal representatives of the late Mr Paisley and to Mr Matthews.

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.

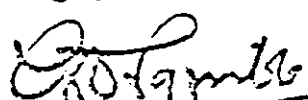
Dated this

21st

day of

November

1980


CHIEF COMMONS COMMISSIONER