



In the Matter of The Foreshore, Bowness, Cumbria (No. 2)

DECISION

These disputes relate to the registration at Entry No. 1 in the Rights 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 P Hunter, the Chairman of the Bowness Parish Council, 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, and by Mr D Stubbington, an officer of the British Railways Board.

The registration is of the right of the parishioners to take gravel from the foreshore comprising the whole of the land in the Register Unit.

Mr Hunter told me that this right was created by the Bowness Common Inclosure Award made 3 January 1810. It does not, however, follow the wording of the Award, which is set out in my decision in In the Matter of The Foreshore, Bowness, Cumbria (No. 1) (1980), Ref. Nos 262/D/530 - 532. I see no reason to doubt the continued existence of the right the subject of the Award, but it is not a right granted to a defined person or persons nor is it attached to any land. It is therefore, in my view, not a right which is capable of being registered as a right of common under the Commons Registration Act 1965.

For these reasons I refuse to confirm the registration.

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 COMMISSIONERS