



COMMONS REGISTRATION ACT 1965

Reference No 262/D/75

In the Matter of Village Green,
Melmerby, Ousby, Eden District,
Cumbria.

DECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No VG 16 in the Register of Town or Village Greens maintained by the Cumbria (formerly Cumberland) County Council and is occasioned by Objection No 2 made by Dr Alan Shelton-Agar and noted in the Register on 2 October 1970.

April I held a hearing for the purpose of inquiring into the dispute at Penrith on 25 ~~10~~ 1979. At the hearing Dr Shelton-Agar was represented by Mr C J Waring solicitor of Vincent Waring & Co, Solicitors of Blackpool. Mr and Mrs R F Pitman of Brook House were present.

The land in this Register Unit comprises two pieces in Melmerby, one of which is (as I scale the Register map) about 300 yards long, and the other is about one third of the size. The grounds of the Objection are: "The two portions of land edged red and blue respectively on the attached plan do not form part of the Village Green but are owned by me absolutely"; the portions so edged are part of the larger of the two pieces, and in relation to it are very small.

Mr Waring said that before the hearing he had spoken to the clerk of the Parish Council (Mr Vine-Hall), and he understood that they accepted the Objection, and that the clerk because the hearing was somewhat delayed had been unable to attend. Mr Waring also said (in effect):- The portion edged red is part of the garden of the nearby house on OS No 351, and is and has for some time been enclosed by a stone wall. The portion edged blue is the site of a former smithy, has recently been planted with between 15 and 20 Sycamores, and is now enclosed although not fenced.

In the foregoing circumstances, I conclude that I ought to give effect to the Objection. Accordingly I confirm the registration with the modification that there be removed from the register the lands edged red and blue on the plan attached to the said Objection.

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 18th - day of May - 1979

A. A. Bades Fuller

Commons Commissioner