



COMMONS REGISTRATION ACT 1965

Reference Nos 40/U/5  
40/U/6

In the Matter of (1) Bowling Fell and  
(2) Serpentine Walks, Kendal, South  
Lakeland District, Cumbria

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DECISION

These references relate to the question of the ownership of lands known as (1) Bowling Fell and (2) Serpentine Walks, Kendal, South Lakeland District being the lands comprised in the Land Section of Register Unit (1) No VG. 12 and (2) No VG. 13 in the Register of Town or Village Greens maintained by the Cumbria (formerly Westmorland) 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 Kendal Borough Council claimed (letter dated 27 June 1972) ownership. No other person claimed to be the freehold owner of the land in question or to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Kendal on 27 April 1978. At the hearing South Lakeland District Council (as successors under the Local Government Act 1972 of Kendal Borough Council) were represented by Mr A Crossley legal executive in their Secretary's Department; and Mrs Mary Jocelyn Bagenal on whose application the registrations were made, attended in person.

Mr Crossley referred me to the Kendal Corporation Act 1907 (7 Ed. 7. c. lxxxii). In this Act "Bowling Fell" is particularly mentioned in Part III paragraph 1 of the First Schedule (there said to contain 2a 3r 29p); and the Serpentine Walks are particularly mentioned in section 3 and in Part II paragraph 45 of the said Schedule (there said to contain 17a 3r 28p). The Act proceeds on the basis that under it these lands will vest in the mayor aldermen and burgesses of the borough of Kendal.

Mr Crossley who has known the land since 1967 when he was first employed by Kendal Borough Council, said:- Bowling Fell is an open space, some of it sloping, some used as a recreation ground. The Serpentine Walks are wooded property used for walking and as a pleasure ground. The District Council (as did their predecessors the Borough Council) maintained both. Mrs Bagenal said that on Bowling Fell there is a archaeological site and a monument.

After the hearing I walked over both lands. From their situation and appearance I conclude that they must be valuable amenities to those living near and the other inhabitants of Kendal. They appear to have been well-maintained as described by Mr Crossley. The monument mentioned by Mrs Bagenal bears the inscription:- "Sacred to Liberty. This obelisk was erected in the year 1788 in memory of the revolution in 1688".



On the evidence summarised above I am satisfied that the District Council are the owners of these lands and I shall accordingly direct the Cumbria County Council as registration authority to register South Lakeland District Council as the owners of the lands 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 18<sup>th</sup> day of May — 1978

*C. A. Bain Fitter*

Commons Commissioner