



COMMONS REGISTRATION ACT 1965

Reference No. 262/D/369

In the Matter of Garden at "The School"
High Bank Hill, Kirkoswald, Cumbria (NO.2)

DECISION

This dispute relates to the registration at Entry No 1 in the Ownership Section of Register Unit No.CL.135 in the Register of Common Land maintained by the Cumbria County Council and is occasioned by Objection No. 2321 made by Messrs. J D and N Murray, and noted in the Register on 4 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Penrith on 29 October 1980. The hearing was attended by Mr J O Fenwick, the Clerk of the Kirkoswald Parish Council, the applicant for the registration, and by Mr D Mellor, Solicitor, on behalf of the Objectors.

There is no entry in the Rights Section of the Register Unit, so the land the subject of the registration could only fall within the definition of "Common Land" in Section 22 (1) of the Commons Registration Act 1965 if it were waste land of a manor not subject to rights of common. This, of course, entails identifying the Lord of the Manor and showing that the land is in his ownership in that capacity. Mr Fenwick's case was that the land is in the ownership of the Parish Council. The Parish Council does not, however, claim to be the lord of any manor. It therefore follows that this land is not "common land" as defined in the Act of 1965.

For the reasons given in my decision in In the Matter of Garden at "The School", High Bank Hill, Kirkoswald, Cumbria (NO.1). (1980), Ref. No. 262/D/368 I have refused to confirm the registration in the Land Section of the Register Unit. It therefore follows that I refuse to confirm this 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 Commissioner