



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/146

In the Matter of Hunley Moss,
Scaleby, Cumbria

DECISION

This reference relates to the question of the ownership of land known as Hunley Moss, Scaleby, being the land comprised in the Land Section of Register Unit No. CL 161 in the Register of Common Land maintained by the Cumbria 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 the Scaleby Parish Council claimed to be the freehold owner of the land in question and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Carlisle on 5 February 1980.

At the hearing the Parish Council was represented by Mr W C Bendle, its Chairman. Mr Bendle informed me that he had no evidence to support the Parish Council's claim, but that he himself claimed to be the owner of part of the land the subject of the reference, having an area of 0a.1r.25p. Mr Bendle is the owner of a bungalow, which was conveyed to him on 2 February 1978 by Mrs Evelyn Hind. There is no mention of Hunley Moss in Mr Bendle's conveyance, but he relied on a vesting deed dated 14 December 1936, which vested in Mr John Hind, Mrs Hind's late husband, a large area of land. The schedule to the vesting deed included a share in Hunley Moss with an area of 0a.1r.25p., but without any reference to the Ordnance Survey Number. Mr Bendle said that he thought that it referred to a right to take peat. This may well have been so, in which case Mr Hind would not have been the owner of the land. But, whatever Mr Hind's interest in the land may have been, there is nothing in the 1978 Conveyance to show that it passed to Mr Bendle.

Mr J Leach, Solicitor, watched the proceedings on behalf of Mr H C C Errington and did not call any evidence.

The hearing was also attended by Mr and Mrs J J Steele, who said that they were interested in a peat right.

On this evidence I am not satisfied that any person is the owner of the land, and it will therefore remain subject to protection under section 9 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

22nd

day of

February

1980.