



In the Matter of The Black Allotment,
Muker, North Yorkshire (No. 1)

DECISION

This dispute relates to the registration at Entry No. 1 in the Rights section of Register Unit No. CL 124 in the Register of Common Land maintained by the North Riding of Yorkshire County Council and is occasioned by Objection No. 0285 made by Earl Peel and noted in the Register on 22 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Richmond on 20 July 1977. The hearing was attended by Mr J Alderson, the applicant for the registration, and by Mr J L Gillibrand, solicitor, on behalf of the Objector.

The land comprised in the Register Unit has an area of 109 a. Or. 7p. and is shown as "William Alderson's Allotment" on the map attached to the Keld Inclosure Award made 2 June 1829. By the time that the award was made William Alderson was dead and the allotment was made to his heirs or devisees. However, Mr Alderson knew that the allotment was to be made, for in his will dated 20 May 1828 he devised to his kinsmen Edmund Alderson Knowles, Anthony Clarkson, and John Alderson, 44 ac. part of and to be taken from this allotment and to his daughter Mary, wife of Marmaduke Holme, 30 ac. part of and to be taken from the allotment. He devised the residue of his land to his daughter Nancy Fawcett.

The allotment has apparently never been physically divided, but I was informed that it has been accepted among those concerned that the 30 ac. part consists of the southern part of the allotment, to the immediate north of which lies the 44 ac. part, with the residue of 35 ac. consisting of the northernmost part of the allotment. The 30 ac. part now belongs to the Objector, but there is no certainty as to the situation of the boundaries between the three parts. It has never been thought necessary to define the boundaries, since the land has been used for grazing by the three owners or their tenants, the animals of each owner or his tenant being allowed to stray over all three parts. Mr J Alderson has for many years been a tenant of parts of the land and as such he has grazed his cattle over the whole of it.

In my view, the manner in which this land has been grazed is attributable to agreement between the owners of the parts into which it was divided by Mr W. Alderson's will and is not evidence of the existence of any right of common.

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 Court.

Dated this 9th day of August 1977


Chief Commons Commissioner