COMMONS REGISTRATION ACT 1965

Reference Nos. 20/D/13 to 63 inclusive; 220/D/20 to 33 inclusive.

In the Matter of (1) part of the bed of the River Ribble and the River Hodder in Billington, Dinckley, Clayton-le-Dale, of Osbaldeston, Bowland with Leagram, Aighton Bailey and Chaigley, Little Mitton, Dutton and Ribchester; and (2) half bed of the River Hodder between Hodder Foot and Stakes Farm, Bashall Eaves and Great Mitton and Bowland Forest Lower; both in Ribble Valley District, Lancashire

DECISION

Of these 65 disputes, 51 relate to the registrations at Entry No. 1 in the Land Section and at Entry No. 1 in the Rights Section of Register Unit No. CL.274 in the Register of Common Land maintained by the Lancashire County Council, and 14 relate to the registrations at Entry No. 1 in the Land Section and at Entry No. 1 in the Rights Section of Register Unit No. CL.642 in the Register of Common Land formerly maintained by the West Riding County Council and now maintained by the Lancashire County Council; and are occasioned by the Objections numbered and made and noted in the Register as specified in the Schedule hereto.

I held the hearing for the purpose of inquiring into the 51 CL.274 disputes at Preston on 19 February 1974. The following solicitors attended:- (a) Mr M J Belderbos solicitor of Oswald Goodier & Co. Solicitors of Preston; (b) Mr K Shaw solicitor of Foysters Solicitors of Manchester; (c) Mr I A Dearing solicitor of Steele & Son, Solicitors of Clitheroe; and (d) Mr J A Strong a solicitor of the County Council Clerk's Department. Mr Belberbos represented the trustees for Roman Catholic Purposes Registered (a body incorporated under the Charities Act 1960). Mr Shaw represented the following three Objectors who were his clients, Mr W O Street, F Talbot & Sons (Partners) and Mr D J Yorke; and also represented as agents for the following solicitors representing the following eleven Objectors who were their clients: (i) Mr H Holmes solicitor for the Northwest Water Authority; (ii) Witham Weld & Co. Solicitors of Liverpool for C J I Weld Blundell; (iii) Carter & Co. Solicitors of Blackburn for Mr R C Petre, (iv) and (v) Dewhirst Backhouse & Co, Solicitors of Blackburn for Mr Stanley Hargreaves and Messrs W & F Walmsley; (vi) W A Standon, Solicitor for the Co-operative Wholesale Society Limited; (vii) J D Forbes & Son Solicitors of Blackburn for Mrs E W Forbes; (viii) Hy Whitaker Philips & Co, Solicitors of Blackburn for Whitewell Fishing Association; (ix) Ellen W Wilkinson Solicitor of Blackburn for Mr E Bury; (x) the Solicitor for the Duchy of Lancaster representing the Duchy; and (xi) Oglethorpe Sturton & Gillibrand Solicitors of Lancaster for Mr R Hopwood. Mr Dearing represented Padiham and District Angling Society. Mr Strong (accompanied by Mr D G Laurenson) represented the Lancashire County Council.

Mr Belderbos requested an adjournment, there being a reasonable expectation of an agreed order; he said that there had been some preliminary discussion but nothing concrete had emerged yet and that at least six months further time was needed for negotiation. The adjournment was agreed to by Mr Shaw, Mr Dearing and Mr Strong.

It was mentioned that West Riding County Council made in relation to a higher stretch of the same rivers a reference ("CL.642", apply for the CL.274 and CL.642 disputes be heard at the same time. I adjourned CL.274 proceedings accordingly.

I held the adjourned CL.274 proceedings at Preston on 25 January 1978. Mr Belderbos, Mr Shaw, Mr Dearing and Mr Strong attended as before. Mr Belderbos, Mr Dearing and Mr Strong represented the same persons as before; as also did Mr Shaw except that he did not at this hearing represent Messrs W and F Walmsley but did represent as agents for Waterman & Co solicitors of Manchester the Stydd Trustees (see their letter dated 29 December 1977).

Mr Strong gave me a letter dated 23 January 1978 enclosing correspondence which the Council had had with Lawrence Graham Middleton Lewis, solicitors of London and Messrs Grundy Kershaws, Solicitors of Manchester. Mr Belderbos said (in effect):- Since the 1974 hearing progress towards a compromise had been made and a considerable number of meetings held; a draft agreement had been settled by counsel, and this had been circulated between all parties; it is expected that all parties will enter into the agreement and complete it; subject to this all is agreed. In these circumstances Mr Balderbos suggested an adjournment, a course supported by Mr Shaw and Mr Dearing. Accordingly I adjourned the proceedings.

I held a hearing for the purpose of inquiring into the 14 CL.642 disputes at Preston on 25 January 1978. At this hearing Mr Belderbos represented the Trustees for the Roman Catholic Purposes Register. Mr Shaw represented the following Objectors who were his clients, Mr D J Yorke, Colonel G H Bolton and Mr G F Appleton; he also represented as agents for the following solicitors the following objections who are their clients: (i) Mr G A Hartley solicitor for the Northwest Water Authority; (ii) Hy Whittaker Phillips Solicitors of Blackburn for Whitewell Fishing Association; and (iii) the solicitor for the Duchy of Lancaster for the Duchy.

Mr Belderbos said (in effect):- These proceedings were being dealt with in the same way as the proceedings relating to the CL.274 land, and accordingly he suggested an adjournment. Mr Shaw supported this suggestion. Accordingly I adjourned the proceedings.

I held an adjourned hearing for the purpose of inquiring into all the 65 disputes at Preston on 13 December 1975. The hearing was attended by Mr Belderbos, Mr Strong and Mr Shaw; and also by Mr G A Hartley solicitor for the Northwest Water Authority. Mr Belderbos, Mr Shaw and Mr Strong represented the same persons they represented at the 1978 hearing except Mr Shaw additionally represented as agent Steele & Son the Padiham and District Angling Society, but did not represent Northwest Water Authority were represented by Mr Hartley.

In a letter dated 29 November 1979, Oswald Goodier & Co said (in effect) that the deed of compromise at the time of the 1978 hearing in the course of negotiation had not been completed because it had taken a considerable time to obtain the approval of all parties principally because of the large number of parties involved; and in a letter dated 30 November 1979 Foysters said (in effect) that the 2 parties who were proving difficult are now likely to join in the deed. In these circumstances Mr Belderbos, Mr Shaw and Mr Strong and Mr Hartley all asked for a further adjournment

In the course of the discussion following I understood that the deed of compromise now being negotiated ~~deals with~~ a number of ~~matters~~ relating to the rivers concerned and concludes with a paragraph to the effect that upon its completion the Trustees for Roman Catholic Purposes Register ~~would~~ withdraw their rights, meaning that they would then ask a Commons Commissioner to avoid all the now disputed registrations.

It seems to me that it would be unfortunate if such a simple conclusion to these proceedings necessarily involve further hearing, particularly as Regulation 31 of the Commons Commissioners Regulations 1971 might be very troublesome to put into operation in the peculiar circumstances of this case. So I consider whether I can possibly reach a decision which will avoid this inconvenience if the negotiations now in progress are successful and an application for withdrawl of the registrations is made.

The Rights Section registrations is of a right "held in gross" of "common of piscary". The grounds of all the objections are essentially similar; each objector either objects to the Land Section registration or to the Right Section registration and nearly all of them object to both; the grounds of each objection relates to a particular stretch of the river (being I suppose the stretch in which the objector is particularly interested). As regards the Rights Section registration I can think of no good reason why I should not avoid it if the Trustees for Roman Catholic Purposes Register and their successors in title (if any) wish to withdraw it. The Land Section registration was apparently made in consequence of the application for a registration of rights, and although in law it could possibly be supported on other grounds, nature of the registration (a bed of a river) makes this unlikely. The only ~~legal~~ authorities who have apparently concerned themselves in any way in these proceedings have done so in their capacity as objectors. At some of the hearings either the District Council or any Parish Council was represented. I conclude therefore that there is no public interest in supporting these registrations and that I can properly act on the withdrawal of the said Trustees or their successors in title.

~~Because of the~~ After some discussion Mr Belderbos said that the Trustees for Roman Catholic Purposes Register were the only persons concerned with registrations made on their application and now disputed and he thought that it was unlikely that they would ever take any assignment of the benefit of such registrations.

Upon the above considerations, and with the agreement of Mr Balderbos, Mr Shaw, Mr Strong and Mr Hartley, I now give my First Decision in this matter, that is to say:- I refuse to confirm any of the registrations now disputed if before 13 December 1980 (one year after the hearing) letter is received in the Office of the Commons Commissioners written on behalf of the Trustees of the Roman Catholic Purposes Register requesting that the registrations both in the Land Section and in the Rights Section these Register Units CL.274 and CL.642 be withdrawn and if such letter contains statement (following Part VI of the Second Schedule to the Law Property Act 1925) (such statement to be certified as being true to the best of the knowledge, information and belief of the Solicitors for the said Trustees) that the said Trustees have not executed or done or knowingly suffered or been party or privy to any deed or thing whereby or by means whereof benefit of the said registrations or any part thereof is or maybe impeached, charged, effected or encumbered in title estate of otherwise or whereby or by means whereof they are in anywise hindered from withdrawing said registrations in whole or in any part. If such a letter and

declaration is received before 13 December 1980 I (or some other Commons Commissioner) may make a Second Decision supplemental to this decision under which such refusal will confirm the registrations will become ~~final~~. If no such letter or declaration is received before 13 December 1980, these preceedings will stand adjourned to a place and date to be fixed by Commons Commissioner.

I give liberty to any person entitled to be heard in these preceedings to apply to a Commons Commissioner for there to be an adjourned hearing of these preceedings before 13 December 1980 (I have in mind the present negotiations may break down), but in the absence of any such application the adjourned preceedings will not be before ~~13~~ 13 December 1980.

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.

SCHEDULE

Part I: CL284 Objections

File No	Objection No Land Section Objection	Maker of the Objection	Noted in the Register
20/D/13	78	Mrs Renee Wiener	4 December 1970
20/D/14	92	Mr William Clifford Pye and Mrs Joan Pye	4 December 1970
20/D/15	215	Lancashire County Council	18 November 1971
20/D/16	217	Mr Sidney Jones and Mr Kenneth Johnson (Trustees of Warrington Anglers Association)	26 November 1971
20/D/17	223	F Talbot & Co	10 December 1971
20/D/18	289	Lancashire County Council	2 May 1972
20/D/19	309	Mr William Openshaw Street	5 May 1972
20/D/20	314	Lancashire River Authority	16 May 1972
20/D/21	318	Duttons Brewery Limited	18 May 1972
20/D/22	321	Mr Charles Joseph Ignatius Weld-Blundell	19 May 1972
20/D/23	332	Osbaldeston Hall Farms Ltd	22 May 1972

20/D/24	338	Secretary of State for Social Services (Manchester Regional Hospital Board)	31 May 1972
20/D/25	342	Mr Robert Charles Petre	7 June 1972
20/D/26	348	Mr Stanley Hargreaves	9 June 1972
20/D/27	350	Messrs W & F Walmsley	9 June 1972
20/D/28	358	Co-operative Wholesale Society Limited	20 June 1972
20/D/29	372	Mr & Mrs T G Booth	21 June 1972
20/D/30	359	Mr J Hodson (Loud & Hodder Angling Association)	28 June 1972
20/D/31	374	Mr Thomas Ball, Mrs Mary Alice Ball and Mrs Charlotte Elliott	5 July 1972
20/D/32	377	Mrs Elsie Ward Forbes	5 July 1972
20/D/33	380	Mr D J Yorke	11 July 1972
20/D/34	402	Most Rev George Andrew Beck, Archbishop of Liverpool and others (Stydd Trustees)	14 July 1972
20/D/35	433	Trustees of Whitewell Fishing Association	27 July 1972
20/D/36	449	Mr Edward Berry and Mr Stephen Edward Berry	31 July 1972
20/D/37	453	Mr Robert Hopwood and Mr William Edward Hopwood	31 July 1972
20/D/38	481	The Duchy of Lancaster	4 August 1972
	Rights Section Objection		
20/D/39	Deemed Objections by reason of the above listed objections		
20/D/40	99	Mr James Shorock and Mrs Elsie Shorock	4 December 1970
20/D/41	216	Lancashire County Council	18 November 1971
20/D/42	232	Mr Sidney Jones and Mr Kenneth Johnson (Trustees of Warrington Anglers Association)	24 January 1972

20/D/43	290	Lancashire County Council	2 May 1972
20/D/44	310	Mr William Openshaw Street	5 May 1972
20/D/45	315	Lancashire River Authority	16 May 1972
20/D/46	319	Duttons Brewery Limited	18 May 1972
20/D/47	326	Mr Charles Joseph Ignatius Weld-Blundell	19 May 1972
20/D/48	333	Osbaldeston Hall Farms Limited	22 May 1972
20/D/49	339	Secretary of State for Social Services (Manchester Regional Hospital Board)	31 May 1972
20/D/50	343	Mr Robert Charles Petre	7 June 1972
20/D/51	349	Mr Stanley Hargreaves	9 June 1972
20/D/52	351	Messrs W and F Walmsley	9 June 1972
20/D/53	354	Co-operative Wholesale Society	19 June 1972
20/D/54	373	Mr and Mrs C G Booth	21 June 1972
20/D/55	360	Mr J Hobson (Loud & Hodder Angling Association)	28 June 1972
20/D/56	375	Mr Thomas Ball, Mrs Mary Alice Ball and Miss Charlotte Elliott	5 June 1972
20/D/57	376	Mrs Elsie Ward Forbes	5 July 1972
20/D/58	381	Mr D J Yorke	11 July 1972
20/D/59	403	The Most Reverant George Andrew Beck Archbishop of Liverpool & others (Stydd Trustees)	14 July 1972
20/D/60	448	Mr Edward Berry and Mr Stephen Edward Berry	31 July 1972
20/D/61	452	Trustees of Whitewell Fishing Association	31 July 1972
20/D/62	454	Mr Robert Hopwood and Mr William Edward Hopwood	31 July 1972
20/D/63	479	J W Whitham (Padiham & District Angling Society)	4 August 1972

Part II: CL642 Objections
(formerly West Riding of York)

	Land Section Objection		
220/D/20	83	Exors. of Lady A A F Worsley-Taylor	4 September 1970
220/D/21	1,700	Reaper Development Co Ltd	6 July 1972
220/D/22	1,727	Mr D J Yorke, Col G H Bolton and Mr G F Appleton	6 July 1972
220/D/23	1,750	Co-operative Wholesale Society Limited	6 July 1972
220/D/24	1,837	Mr D J Yorke	6 July 1972
220/D/25	2,043	Trustees of the Whitewell Fishing Association	8 September 1972
220/D/26	2,380	Duchy of Lancaster	8 September 1972
	Right Section Objection		
220/D/27	83	(Deemed Objection by reason of No 85 supra)	
220/D/28	1,699	Reaper Development Co Ltd	6 July 1972
220/D/29	1,734	Co-operative Wholesale Society Limited	6 July 1972
220/D/30	1,726	Mr D J Yorke, Col G H Bolton and Mr G F Appleton	6 July 1972
220/D/31	1,839	Mr D J Yorke	6 July 1972
220/D/32	2,226	Trustees of Whitewell Fishing Association	8 September 1972
220/D/33	2,380	(Deemed Objection by reason of No 238c supra	

Dated the 14th day of April 1980

A. A. Baden Fuller

Commons Commissioner