



COMMONS REGISTRATION ACT 1965

Reference Nos 220/D/40  
220/D/41

In the Matter of Cranberry Moor,  
and Grimehills Moor, Blackburn  
Borough, Lancashire

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DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section and at Entry Nos 1 and 2 in the Rights Section of Register Unit No CL. 158 in the Register of Common Land maintained by the Lancashire County Council and are occasioned by Objection No 139 made by British Railways Board and noted in the Register on 15 January 1971.

I held a hearing for the purpose of inquiring into the dispute at Preston on 11 May 1978. At the hearing British Railways Board were represented by Mr S Hardacre surveyor of the Manchester Office of their Property Department.

The registration at Right's Section Entry No 1 was made on the application of Mr R Lonsdale and is of a right attached to Haydocks Farm (1) to graze 10 cows and (2) to cut and take peat. As to this registration, I have a letter dated 29 March 1978 from Mr Lonsdale saying that he had not been the owner of the Farm for 4 years, and a letter dated 2 May 1978 from British Rail Property Board enclosing a copy letter dated 28 April 1978 from Lansdale and Holdsworth, Solicitors of Bolton confirming an arrangement made with Mr Hardacre, namely that the Board will withdraw its Objection to their client's application for registration on the terms (a) their Client admits that the Board has right of access for the purpose of maintaining and repairing the tunnel which passes through the land, and (b) their Client is not to cut any peat from the part of the land which is over the tunnel.

At the hearing, after some discussion about the letter of 2 May (in it the present owner of Haydocks Farm is said to be Mr McGuiness), I understood that Mr Hardacre favoured effect being given to the agreement reached between him and Lansdale & Holdsworth by my deleting paragraph (2) of the Entry altogether. But having since the hearing reread the letter of 28 April, and noted that it refers to "the part of the land over the tunnel", and also noted that the grounds of Objection No 139 are: "The land hatched blue on plan No 1592/70 (attached) was not common land at the date of registration and is in the ownership of British Railways Board (the land so hatched is only a small part of the northern of the two pieces of land comprised in this Register Unit), I consider I would be going beyond what was apparently contemplated by the agreement mentioned in the letter of 28 April, if I deleted paragraph (2) altogether. Accordingly I confirm the registration at Entry No 1 in the Land Section without any modification, and I confirm the registration at Entry No 1 in the Rights Section with the modification that in column 4 there be added at the end of paragraph (2) the following words: "But so that in the exercise of this right no peat shall be cut from the part of the land over the tunnel or from the other land(if any) hatched blue on plan No 1592/70 attached to Objection No 139 made by British Railways and noted in the Register on 15 January 1971".



In case I have misunderstood the agreement reached between British Railways Board and Mr McGuinness, I give each of them liberty to apply to me within 42 days of this decision being sent to their Manchester Office or to his solicitor respectively as to any variation to the above modification which either of them considers ought to be made. Any such application should in the first instance be made in writing to the Clerk of the Commons Commissioners.

The registration at Rights Section Entry No 2 was made on the application of Mr J Walkden, and is of a right attached to Cranberry Fold Farm (1) to graze 45 cattle and (2) to take and cut peat. Mr Walkden in a letter dated 28 March 1978 says: "Some time ago, I made it quite clear to the Railway Company that as I had retired, I had given these rights up as I had no further use for the land". Having regard to this letter, I refuse to confirm the registration at Rights Section Entry No 2.

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 16<sup>th</sup> day of May — 1978

a. a. Baker Fuller

Commons Commissioner