



COMMONS REGISTRATION ACT 1965

Reference No. 220/U/36

In the Matter of Deerstone Moor  
and Will Moor (part of or near  
Boulsworth Hill), Pendle Borough,  
Lancashire.

#### DECISION

This reference relates to the question of the ownership of part ("the Referred Part") hereinafter defined of the land known as Deerstone Moor and Will Moor (part of or near Boulsworth Hill), Pendle Borough being the land comprised in the Land Section of Register Unit No. CL183 in the Register of Common Land maintained by the Lancashire County Council. The Referred Part means the part of the said land 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 North West Water claimed (their letter of 24 March 1987) to be the owner of the Referred Part. No other person claimed to be the freehold owner of the land in question or 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 Nelson on 16 March 1988. At the hearing: (1) North West Water Authority ("NWWA") were represented by Mr J Prytherch, Assistant Solicitor with them; (2) Mr Allan Greenwood of Beaver Farm, Trawden who is of the NWWA tenant of the Referred Part, attended in person; (3) Mr Julian Spencer of Floyt Bridge Farm, Southfield, Burnley who is the son of Mr Edward Spencer (he as tenant with North Calder Water Board and as owner applied for the registration at Rights Section Entry No. 2 of a right attached to this farm to graze 48 sheep) attended in person; (4) Mr John Richard Westall of Boolsworth End Farm, Brightcliffe, Burnley, whose land is near to the Referred Part (part of such land he was at Ownership Section Entry No. 3 registered as owner, but such registration was on 11 June 1973 cancelled) attended in person; and (5) Lancashire County Council as registration authority were represented by Mrs S M Cunliffe.

The land in this Register Unit as first registered in February 1970 was in the register described as "Boulsworth Hill including Deerstone Moor and Will Moor in ... Trawden and ... Nelson", and extended for about 2 miles east of Will Moor Clough ("the Boulsworth Hill Part") and about  $\frac{1}{2}$  of a mile east of Will Moor Clough ("the Deerstone Moor and Will Moor Part"). Consequential on a decision dated 5 February 1981 and made by the then Chief Commons Commissioner under reference 220/D/206-207, it was on 17 March 1982 recorded that the Land Section Registration had become final with the modification namely "the exclusion of all the land other than Deerstone Moor and Will Moor; so the Boulsworth Hill Part, the ownership of, some of which had been claimed by Mr J R Westhall, ceased to be registered under the 1965 Act. Of the land so remaining (the Deerstone Moor and the Will Moor Part) at Ownership Section Entry No. 1 the Hon Ralph John Assheton was on 15 December 1969 registered as owner of the west part (about  $\frac{4}{5}$ ths) including Deerstone Moor and the part of Will Moor south-west of the boundary between Nelson and Trawdon; so the Referred Part comprises only an area approximately triangular with sides of about 650, 650 and 500 yards, the east side being Will Moor Clough and the south-west side being the said boundary.



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Mr J D Prytherch who has been with the NWWA since 1975, in the course of his oral evidence produced the conveyances specified in the Schedule hereto. As to the Aspinall conveyance (NWWA/1) the plan on which marks "Will Moor Clough" as crossing the land thereby conveyed, "Will Moor Hill Road" as along or near its north-west boundary, and "Sir George J Thursby Bart" as the owner of the land adjoining on the north-east and south-east, he identified the pink land as including the greater part (all except a small part at the east end) of the Referred Part; this identification was confirmed by Mr A Greenwood who said: Will Moor Hill Road was a track part of the old road from Nelson to Trawdon along which he travelled "every day". As to the Thursby conveyance (AWWA/2), the plan on which shows "Will Moor Hill Road" as crossing the north-west corner of the land thereby conveyed and it being there bounded by land belonging to "Mrs Clara Aspinall", he (Mr Prytherch) identified the pink land as including the remainder of the Referred Part, pointed out that on the two plans, scaled differently, the Aspinall and Thursby boundaries fit together if this difference is allowed for.

Under the North Calder Water Board Order 1960, SI 1960 No. 664, the Trawden Urban District Council was succeeded by the North Calder Water Board. They were succeeded by the NWWA under the North West Water Authority Constitution Order 1973, (SI 1861) and the Local Authorities England Property Orders 1973 and 1974 under the Local Government Act 1972 and the Water Act 1973.

Nobody at the hearing disputed the claim put forward by Mr Prytherch. On the documents he produced and what he said, I am satisfied that the NWWA are the owners of the Referred Part and I shall accordingly direct the Lancashire County Council as Registration Authority to register North West Water Authority of Dawson House, Great Sankey, Warrington, WA5 3LW as the owners of the Referred Part under Section 8(2) 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.

TURN OVER



SCHEDULE  
(Documents produced)

- NWWA/1            31 December 1924    Conveyance by Clara Aspinall with the concurrence of Ralph Cockayne Assheton and George Southern Ritchie to the Urban District Council of Trawden for (as therein recited) the provision of a supply of water of 5 pieces of land comprised in 5 allotments made under an Inclosure Award amounting altogether to 77a. 1r. 35p. and delineated on the plan drawn thereon and coloured pink and edged red.
- NWWA/2            31 December 1924    Conveyance by Sir George James Thursby with the concurrence of Ralph Cockayne Assheton Henry Goodwin Rooth and Walter Southern to the Urban District Council of Trawden for (as therein recited) the provision of a supply of water of a piece of land allotted under an Inclosure Award and containing 162a. 2r. 10p. delineated on a map endorsed thereon and coloured pink and surrounded by a red border.

Dated this 21st — day of April — 1988.

A. A. Baden Fuller

Commons Commissioner