



COMMONS REGISTRATION ACT 1965

Reference No. 220/D/258-259

In the Matter of Higher Hill in the Boroughs
of Rossendale and Rochdale

DECISION

This dispute relates to the registrations at Entry No. 1 in the Land Section and Entries Nos. 1-8 in the Rights Section of Register Unit No. CL 174 in the Register of Common Land maintained by the Lancashire County Council and is occasioned by Objection No. 248 made by West Pennine Water Board and noted in the Register on 7 March 1972.

I held a hearing for the purpose of inquiring into the dispute at Preston on 8 December 1981. The hearing was attended by Mr B Ovenden and by Mr J Prytherch, Solicitor of North West Water Authority. The registration as common land was made in consequence of the application of Mr T Steeple to register rights. His registration (Entry No. 1 in the Rights Section) is now withdrawn. Entries Nos. 2 to 8 were made on the application of Mr Ovenden and are of grazing rights claimed to be attached to seven different farms; they are the same rights as those registered in respect of Register Unit CL 175.

The Water Authority is the successor body to West Pennine Water Board whose objection stated that "the land or some part thereof was not common land at the date of registration".

The evidence given by Mr Ovenden at the hearing in relation to Register Unit CL 175 was applicable to this Register Unit CL 174: nor did Mr Prytherch call any further evidence relative to CL 174, though he did refer me to a conveyance of 28 July 1909 to the then Water Board of land including CL 174: this Conveyance was, as to a part of the land conveyed, subject to a lease expiring in 1951, which, Mr Prytherch said, indicated that part was in the exclusive enjoyment of a lessee until 1951. The lease was not produced and I do not know whether the part leased was in fact a part of CL 174 nor indeed whether the lease itself was subject to or indicated the existence of grazing rights. I do not think that this reference to a lease can be regarded as having any material bearing on the question of Mr Ovenden's claimed grazing rights. The relevant evidence in this case being no different from that adduced by the parties in regard to CL 175, The decision here will be the same as in the Decision on CL 175 (Ref: 220/D/248-257) and accordingly I confirm the registrations at Entries Nos. 2-8 modified by deleting the references to the grazing of cattle and I confirm the registration in the Land Section. Entry No. 1 in the Rights Section having been withdrawn, I refuse to confirm that 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 High Court.

Dated

19 February

1982

L. J. Mansfield
Commons Commissioner