



COMMONS REGISTRATION ACT 1965

Reference No. 220/U/38

In the Matter of land known as the Salt
Marsh in the Parish of Warton

DECISION

This reference relates to the question of the ownership of the land known as the Salt Marsh in the parish of Warton being the part of the land comprised in the Land Section of Register Unit No. CL.233 in the Register of Common Land maintained by the Lancashire County Council 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 (i) Messrs. James and Roger James Wilkinson and (ii) Royal Society for the Protection of Birds claimed to be the freehold owners of parts of the land in question and no other person claimed 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 Lancaster on 16th June 1987.

Mr J A Strong appeared for Lancashire County Council, the registration authority, Mr E Rudkin (Chairman) appeared on behalf of Warton Parish Council, Mr Michael Bates of Bannister Bates & Son of Morecambe and Heysham appeared for Messrs. R and R J Wilkinson and Mr J Day (Land Agent) appeared for the Royal Society for the Protection of Birds.

This register unit consists of a stretch of the channel of the River Keer adjoining CL.45 and also adjoining to a lesser extent, the most south-westerly of the three parcels which together comprise CL.161. Mr Bates asked me to hear this reference at the same time as that relating to those register units, and I did so.

The deeds on which Mr James Wilkinson and Mr Roger Wilkinson ("the Wilkinsons") base their claim are the same on which they relied in respect of the land claimed by them in CL.45 and CL.161, that is to say the following Conveyances:-

- (i) 5th November 1934. (1) Carnforth Hematite Iron Company (1915) Limited in liquidation (2) Harold Hockley (3) James Fitzpatrick (4) Imperial and Foreign Corporation Limited and (5) Thos W Ward Limited.
- (ii) 20th October 1975 (1) Thos W Ward Limited and (2) James Wilkinson.
- (iii) 6th April 1977 (1) James Wilkinson and (2) the Wilkinsons.

In this case however the Royal Society for the Protection of Birds ("the Society") also make a claim to ownership of part of the register unit. The Society relies on a Conveyance dated 15th March 1974 made between (1) Richard Gallienne Swainson and Geoffrey Curzon Harries and (2) the Society. Mr Day supplied me with a certified copy of this Conveyance and drew attention to the acknowledgement for production of the earlier deeds which it contained.



The description of the property comprised in that Conveyance is as follows:-

"ALL THOSE pieces of salt marsh and sands situate in and forming part of Morecambe Bay in the Counties of Lancaster and Westmorland which are for the purposes of identification only more particularly delineated on the plan annexed hereto and thereon edged red"

Although the plan is expressed to be by way of identification only there is no way of ascertaining the extent of the property thereby conveyed except by reference to the plan.

With the exception of the extreme easterly tip of the unit land (which I will deal with later). I am satisfied that the whole of the unit land is within the titles of either the Wilkinsons or the Society. The difficulty is to draw a precise line between them. The plan on the Society's Conveyance of 1974 closely resembles the register map. Plan No. 3 on the Wilkinsons' Conveyance of 1931 however shows the channel of the river on a slightly different course, and it is impossible to reconcile the boundaries on the two Conveyances. Mr Bates explained the differences by saying that the course of the river swings about and that over the years it can change by 50 yards.

In these circumstances I thought it best that Mr Day and Mr Bates should endeavour to agree between themselves the line of the boundary between the part of the unit land claimed by the Wilkinsons and that claimed by the Society. In spite of correspondence which has dragged for months since the hearing no such agreement has been reached, and it seems to me that the time has come when I must make a Solomon's Judgment dividing the disputed area in two.

I annexe hereto a photostat copy of the register map on which I have drawn a red line around that part of the register unit of which I am satisfied that the Wilkinsons are the owners. As to the remainder of the unit land with the exception of the strip to the east of the line X - Y which I have marked on the plan I am satisfied that the Society is the owner. As to the strip to the east of the line X - Y, this is not included in the land edged red on plan No. 3 to the Wilkinsons' Conveyance of 1931 nor that edged red on the plan to the Society's Conveyance of 1974. Accordingly I am not satisfied that any person is the owner of this small strip of land.

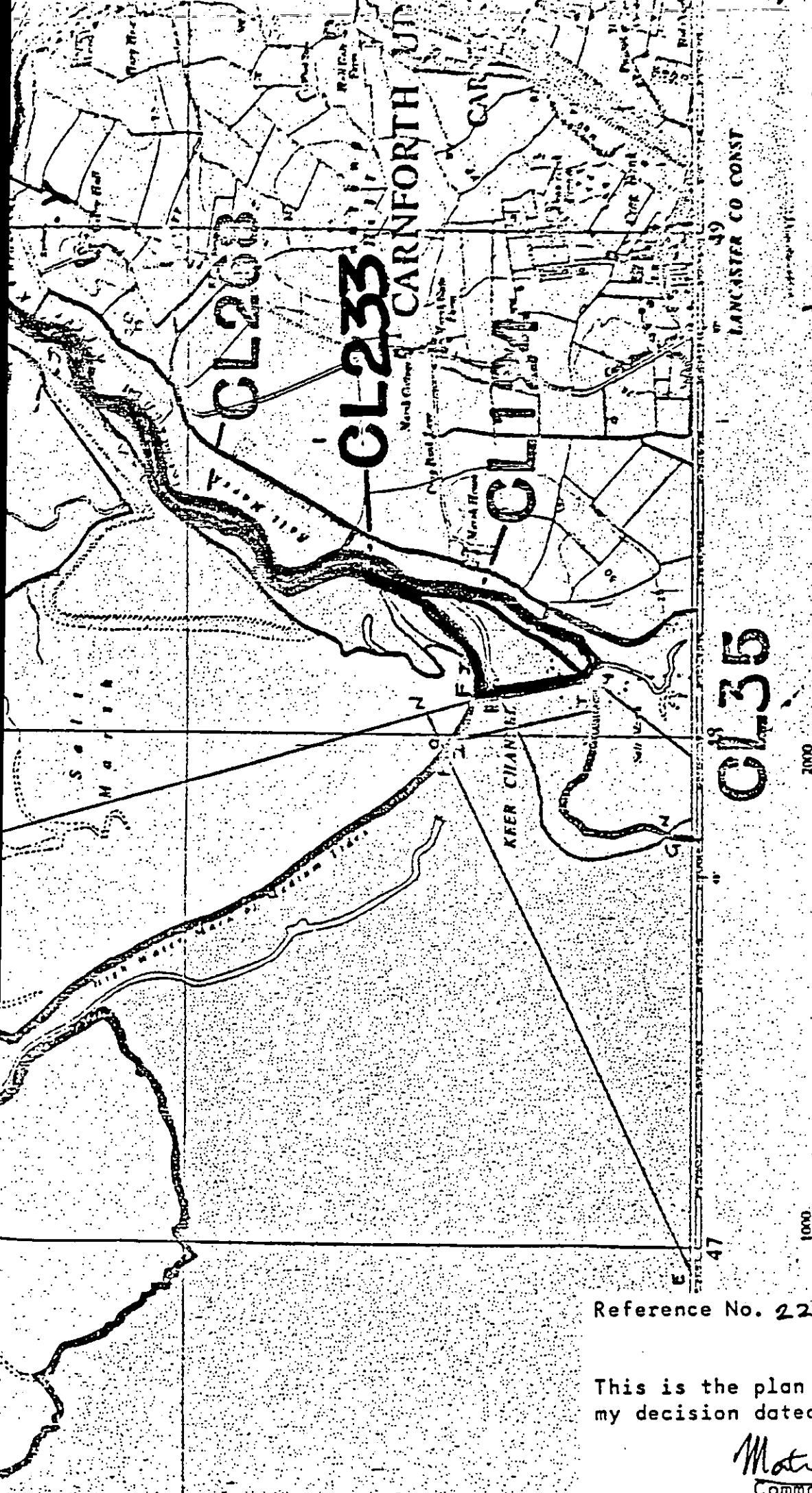
I shall accordingly direct the Lancashire County Council, as registration authority, to register (i) the Wilkinsons and (ii) the Society as the owners of the respective parts of the land specified above under section 8(2) of the Act of 1965.

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.

Dated this 29th day of March 1988

Martin Rotts

Commons Commissioner



Reference No. 220/V/38

This is the plan referred to in my decision dated 29th April 1988

Moti Patel
 Commons Commissioner

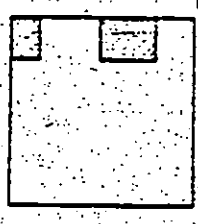
THE NATIONAL GRID
 TO GIVE A GRID REFERENCE CORRECT TO 100 METRES

EXAMPLE *Mark this*

The Grid Reference for this structure is D1

EAST	NORTH
Take west side of 100-metre square in which point lies, and read the large figures printed opposite this line on north or south margin. Estimate tenths Eastwards	Take south edge of 100-metre square in which point lies, and read the large figures printed opposite this line on east or west margin. Estimate tenths Northwards
08	04
01	04
Full 100 Metre Reference SD 481304	

The above Full Reference is unique. For many purposes the first 4M letter can be omitted, giving a reference, D 481304, which gives an interval of 500 Metres. If each grid



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