



In the Matter of land known as the Salt Marshes
in the Parishes of Bolton-le-Sands and Slyne-with-
Hest in the former Lancaster Rural District.

DECISION

This reference relates to the question of the ownership of the land known as the Salt Marshes in the Parishes of Bolton-le-Sands and Slyne-with-Hest in the former Lancaster Rural District being the part of the land comprised in the Land Section of Register Unit No. CL.43 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 (1) Slyne-with-Hest Parish Council (2) Bolton-le-Sands Parish Council and (3) Messrs. Aspinall claimed to be the freehold owners of parts of the land in question.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Lancaster on 16 June 1987.

Slyne-with-Hest Parish Council appeared by Mr Bates, Solicitor, of Bannister, Bates & Son of Morecambe and Heysham. Bolton-le-Sands Parish Council appeared by Mr W D Molyneux, Solicitor, of Messrs. John Whittle, Robinson & Bailey of Preston. Messrs. Aspinall appeared by Mr S Lord, Solicitor, of Messrs. Jobling & Knappe of Morecambe & Heysham. The Lancashire County Council (the registration authority) appeared by Mr J A Strong, Solicitor.

Mr Bates explained that the boundary between Slyne-with-Hest Parish Council and the Bolton-le-Sands Parish Council was changed in or about 1979. The old boundary (which is shown by a dotted line on the register map slightly south of the centre of the register unit) was moved further north.

Slyne-with-Hest Parish Council claimed ownership of the unclaimed part of the unit land south of the old boundary under a Conveyance dated 3rd September 1936 and made between (1) Violet Margaret Philips and Cecil Stanley Owen Monck and (2) Slyne-with-Hest Parish Council, with the exception of a part of this land which had previously been conveyed elsewhere. Slyne-with-Hest Parish Council also claimed ownership of the part of the unclaimed land lying between the old and new parish boundaries as successor to the Bolton-le-Sands Parish Council, which claimed to have established a possessory title to all the unclaimed land north of both old and new parish boundaries.

The claim of Messrs. Aspinalls was to the part of the land comprised in the Conveyance of 1936, which had already (as I have said) been conveyed elsewhere. On their behalf Mr Lord produced the following documents:-

- (1) Examined copy Conveyance dated 19th February 1919 between (1) John Henry Francis Ley and Cecil Stanley Owen Monck (2) Henry Casaubon Derwent Mark Wilson and Willie Gill.
- (2) Original Conveyance dated 4th September 1981 between (1) L Manogue F Dalby and E Saville (2) P J J J Property Company Limited.



(3) Original Conveyance dated 20th May 1985 between (1) P J J J Property Company Limited (2) T P & W Aspinall (Engineering) Limited (3) Thomas Paul Aspinall & William Aspinall (4) Thomas Paul Aspinall William Aspinall & Union Pensions & Estate Trustees Limited. I was told that the parties of the second part to the 1919 Conveyance were the original trustees of a charity known as The Bradford Cinderella Club. The Conveyance of 1981 was made by their successors as such trustees, and it appears from the recitals thereto that this Conveyance was made with the sanction of the Charity Commissioners a copy of whose Order dated the 21st May 1981 is annexed thereto.

Clear plans are annexed to each of these Conveyances, and I am satisfied that they included the part of the unit land claimed by Mr Lord on behalf of his clients. He explained that this was vested in Messrs. T P & W Aspinall and Union Pensions and Estates Trustees Limited as trustees of T P & W Aspinall (Engineering) Executive Pension Trust. Although this part of the unit land is also included in the Conveyance of 1936 to Slyne-with-Hest Parish Council, Mr Bates did not dispute Messrs. Aspinall's title thereto.

I annex to this decision a photo-copy of the Register Map on which I have indicated the various divisions of the unclaimed land by the following lettering:-

- (1) western boundary of the land claimed by Messrs. Aspinall: N-O.
- (2) eastern boundary of such land: P-Q
- (3) line of old parish boundary: R-S
- (4) line of new parish boundary: T-U

The claim of Slyne-with-Hest Parish Council is made in two parts:-

- (a) As to all the unclaimed land south of the old parish boundary (with exception of the part claimed by Aspinalls), under the Conveyance of 1936;
- (b) As to the part of the unclaimed land lying between the old and the new parish boundaries, as successors in title to Bolton-le-Sands Parish Council under the Local Government Area Changes Regulations, 1976 and the Lancaster (Parishes) Order 1980.

As regards (a) I am satisfied that the Conveyance of 1936 did include the parcels claimed by Slyne-with-Hest Parish Council, that is to say the land lying between the lines marked R-S and P-Q on the plan, and the small parcels west of the line N-O thereon. As regards (b) the title of Slyne-with-Hest Parish Council depends on the title of Bolton-le-Sands Parish Council, which is a possessory title only, both as regards this parcel of land and as to the remainder of the unclaimed land north of the line T-U.

There was produced to me the Original of an Agreement dated 14th April 1960 made between the Parish Councils of Bolton-le-Sands as lessors and Slyne-with-Hest as the lessees "relating to that portion of the land situate on the foreshore adjacent to land of the lessees to the south of Red Bank Farm land on the north". It is a little difficult to tell from this description to precisely what land the Agreement relates, but Red Bank and Red Bank House can be seen marked on the register map on the eastern side of the unclaimed land north of the line T-U. Under this Agreement the rent payable from one council to the other was £10 per annum.



Four witnesses were called to give evidence before me:-

- (1) Mr E Ritchie, Chairman of Slyne-le-Hest Parish Council and a member of that council since 1979.
- (2) Mr Frank Foster, a member of that council from 1973 to 1979.
- (3) Mr Parkinson, Clerk of Bolton-le-Sands Parish Council since 1952.
- (4) Mr Goldsworthy, a former member of the latter Council, who had lived adjacent to the foreshore for many years.

Mr Ritchie gave evidence that the rent under the 1960 Agreement had been paid from one Council to the other, and that the land to which it related was obvious on the ground because of the cliff. That his Council controlled car parking on the land and collected hundreds of pounds in parking charges per year. That the Council paid an attendant, allowing him a proportion of the fees collected. That the annual payment of £10 under the Agreement went up to £20 in 1976. That is was paid until 1982 when the parish boundaries were changed.

Mr Foster confirmed that the Slyne-with-Hest Parish Council paid the rent of £10 before 1976 and that this was increased to £20 in 1976; and that the Council collected car parking fees.

Mr Parkinson gave evidence that the Agreement of 1960 was entered into on the basis that Bolton-le-Sands Parish Council owned the whole of the unclaimed land north of the line R-S. The following acts were relied on in support of that claim:-

- (i) An ice-cream salesman was permitted by the Council to operate a van on the land for a fee now of £315 per annum; the same salesman had operated since 1976 originally for about £100.
- (ii) The Council had placed about six seats on the land for the last 15 to 18 years.
- (iii) Car parking was controlled with charges collected on a commission basis.
- (iv) In 1977 access to a rally on the foreshore below high water had been controlled by the Council.
- (v) The Council had caused abandoned vehicles to be removed from the land.
- (vi) The Council put up notices on the land about litter and prohibiting motor cycles using the foreshore for racing.
- (vii) The Council put up litter bins on the land about 15 to 18 years ago; these were replaced with new one 7 or 8 years ago.
- (viii) A handyman had been employed by the Council to pick up litter for about 20 years.

Mr Parkinson produced 3 Minute Books of the Council covering the period from 1967 to show the expenditure of money. He said that in 35 years he had never heard of any challenge to the Council's authority over the land.

Mr Goldsworthy confirmed what Mr Parkinson had said. He gave evidence that in 1953 there was one seat on the land; since then others had been installed by the Council. That litter bins had been put up by the Council for at least 20 years. That regulations had been put up for the same period. That to his knowledge the ownership of the land by the Council had never been disputed. That on half a dozen occasions he had personally told people they were not allowed to sleep on the beach. That the Council required campers to move on.



On this evidence I was satisfied that the Bolton-le-Sands Parish Council can establish a possessory title to the whole of the unclaimed land north of the line T-U on the plan annexed hereto and that the Slyne-with-Hest Parish Council has acquired a similar title through the Bolton-le-Sands Parish Council to the piece of the unclaimed land lying between the lines R-S and T-U.

I shall accordingly direct the Lancashire County Council as registration authority to register:-

- (i) Thomas Paul Aspinall William Aspinall and Union Pensions and Estate Trustees Limited as the owners of that part of the unclaimed land lying between the lines P-Q and N-O on the copy annexed.
- (ii) Slyne-with-Hest Parish Council as the owner of (a) the parcel of unclaimed land lying west of the line N-O on the map and (b) the part of the unclaimed land lying between P-Q and T-U.
- (iii) Bolton-le-Sands Parish Council as the owner of the unclaimed land north of the line T-U; 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

3rd

day of

September

1987

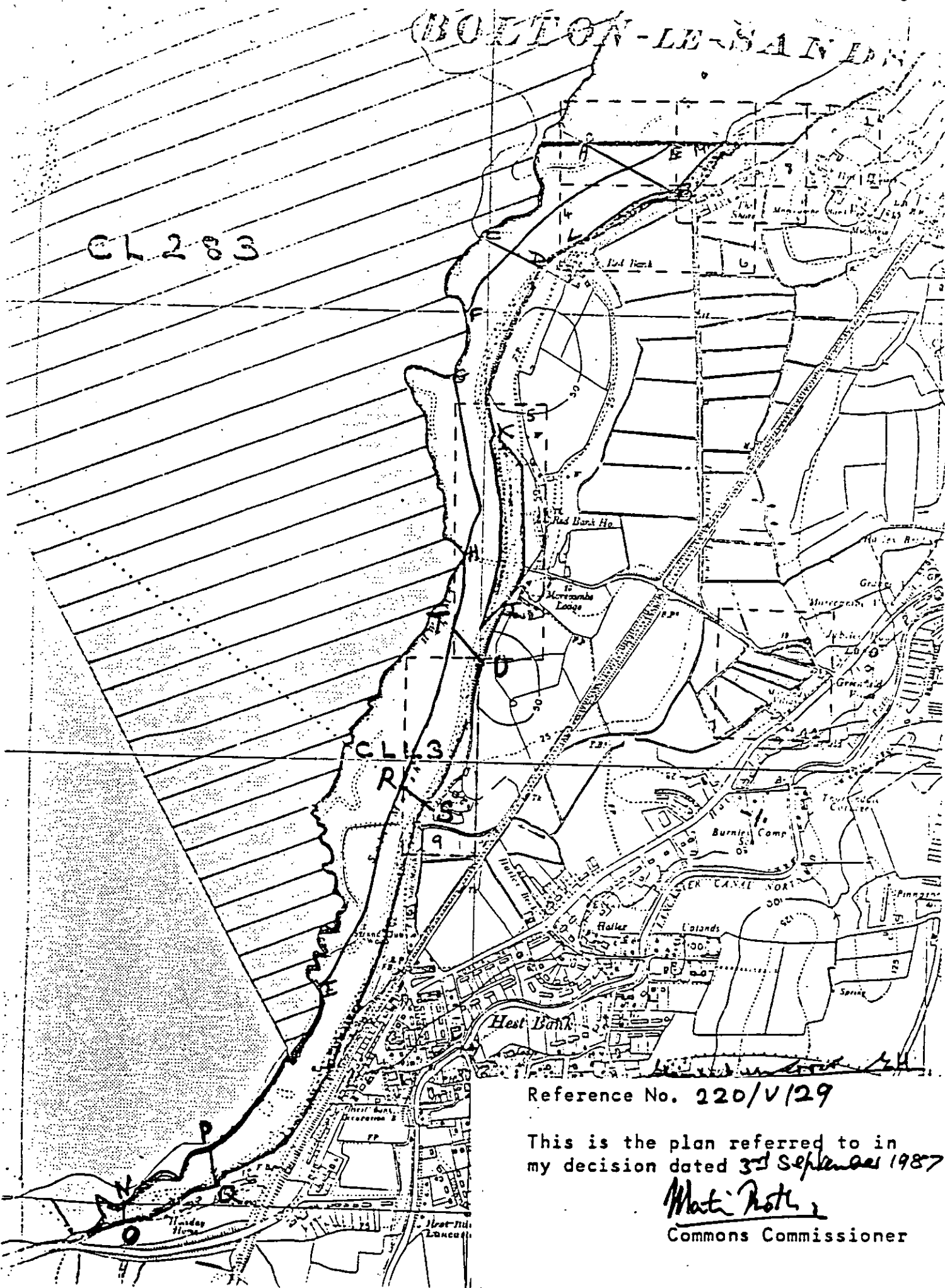
Mark Rott

Commons Commissioner

BOLTON-LE-SANNE

CL 283

CL 13
P



Reference No. 220/V/29

This is the plan referred to in my decision dated 3rd September 1987

Martin Roth
Commons Commissioner