



COMMONS REGISTRATION ACT 1965

Reference Nos 220/D/1
220/C/2

In the Matter of Pendleton Moor,
Pendleton, Ribbles Valley District,
Lancashire

DECISION

These disputes relate to the registration at Entry No 1 in the Land Section and to the registrations at Entry Nos 1 to 19 inclusive (Entry No 14 has been replaced by Entry Nos 22 and 23) in the Rights Section of Register Unit No CL. 83 in the Register of Common Land maintained by the Lancashire County Council and are occasioned by Objection No 434 made by Calder Water Board and noted in the Register on 27 July 1972.

I held a hearing for the purpose of inquiring into the disputes at Preston on 24 January 1978. At the same time I held a hearing for the purpose of inquiring into the disputes occasioned by Objection Nos 10, 13, 114, 117, 118, 128, 353 and 435. At the hearing (A) Mr K Shaw solicitor of Foysters, Solicitors of Manchester represented (1) Major F T Oxley, Mr G M Robinson and Mr M L Bolton (they with others applied for Rights Section Entry Nos 3, 4, 5, 6, 7, 8, 9, 10, 12 and 13, they made Objection Nos 10 and 128), (2) Mr D J Yorke and Colonel G G H Bolton (they or their predecessors applied for Rights Section Entry No 19 and they with Mr A F Clarke made Objection Nos 113 and 114), (3) Mr F E R Aspinall (he applied for Rights Section Entry Nos 15, 16 and 18 and made Objection Nos 117 and 118), (4) the Hon R J Assheton (he applied for Ownership Section Entry No 2 and he made Objection No 353) and (5) Mr G P Le G Starkie (he applied for Rights Section Entry No 1); (B) Mr G A Hartley solicitor represented (6) Northwest Water Authority (he is their principal assistant solicitor) as successor of Calder Water Authority (they applied for Rights Section Entry No 14, now Entry Nos 22 and 23, and for Ownership Section Entry No 1 and they made Objection No 434 which is the subject of this decision and also Objection No 435 above mentioned); (C) Mr I V Dearing solicitor of Steele & Son, Solicitors of Clitheroe represented (7) (as agents for Rowland Robinson & Fenton, Solicitors of Blackpool) Mr W P Robinson (he applied for Rights Section Entry No 11) and (8) Mr T R G Unsworth of Wells Spring Hotel, The Wick, Pendle, Pendleton as successor in title of Orville Lowe Limited (they applied for Rights Section Entry No 17).

The land ("the Unit Land") known as Pendleton Moor is approximately triangular having sides about 2 miles, $1\frac{1}{2}$ miles and $1\frac{1}{2}$ miles long, situate north of Sabden being for the most part east of the road from Sabden to Clitheroe. The rights registered in the Rights Section are to graze varying numbers of sheep over the whole (except for Entry No 11 which relates to the west part only) of the Unit Land; some of the registrations include rights of estovers and of turbary. The Ownership Section registration of Calder Water Authority relates to part of the Unit Land (about 1/10th of the whole) lying along the southeast boundary; the only other Ownership Section registration of the Hon R J Assheton comprises the remainder of the Unit Land.



The grounds of the Objection No 434 (stating their effect shortly) is that the part of the Unit Land of which Calder Water Authority are registered as owners was not common land at the date of registration.

Mr Hartley said that Northwest Water Authority as successors of the Calder Water Authority unconditionally withdrew Objection No 434. As regards the disputes occasioned by the other Objections:- Mr Hartley said he had not before the hearing realised that Calder Water Authority had also made Objection No 435, and he was not prepared on behalf of Northwest Water Authority to say that it was withdrawn. Mr Dearing said that he had only been recently instructed on behalf of Mr W P Robinson (Rights Section Entry No 11), had only become on that day aware of the reference, and had therefore been unable to fully advise him as to the position; he asked for an adjournment; the Objections to this Entry No are Nos 10, 114 and 118 made by persons represented by Mr Shaw, and he on their behalf agreed to an adjournment. Mr Dearing said that he also on behalf of Mr Unsworth (Rights Section Entry No 17) asked for an adjournment; the Objections to this Entry No are Nos 113, 117, 128 and 353 made by persons represented by Mr Shaw and No 435 made by Calder Water Authority, and he and Mr Hartley agreed to an adjournment.

In the result all present asked me to confirm the registration in the Land Section and adjourn the proceedings so far as they related to any other Rights Section Entries.

The 1965 Act provides that a registration to which no Objection has been made shall become final, see section 7; so as a general rule if the only Objection to a registration is withdrawn, I can in the absence of special circumstances conclude that it was properly made. The grounds of none of the Objections to the Rights Section Entries contain any contention that the right registered does not exist at all; the contentions are all either that the numbers claimed are excessive or that the registration should not include some of the rights described. So it is practically certain that whatever might be the result of the proceedings relating to these Objections the Unit Land will remain within the definition of "common land" in section 22 of the 1965 Act. In these circumstances I consider that I ought not to delay giving a decision as to the Land Section registration merely because I cannot finalise the Rights Section registrations and that I can properly give effect to the request made to me by Mr Hartley, Mr Shaw, and Mr Dearing; accordingly I confirm the registration in the Land Section without any modification.

Technically Objection No 434 also puts in issue all the registrations in the Rights Section, see subsection (7) of section 5 of the 1965 Act. But I cannot as a result of the withdrawal of this Objection now confirm Rights Section Entry Nos 1 to 13 and 15 to 19 inclusive because they are subject of the other Objections above mentioned. However a question arises (which was not considered at all at the hearing) as to whether I should now confirm Rights Section Entry No 14 (replaced by Entry Nos 22 and 23) which was made on the application of Calder Water Authority and to which there is now no outstanding Objection. Because nothing was said at the hearing about this, I will now give no decision; but I give any person who was represented at the hearing liberty to apply to me to confirm the registration at Rights Section Entry No. 14 (now replaced by Entry Nos 22 and 23); such application may be made in the first instance either by letter addressed to the Clerk of the Commons Commissioners or verbally when the proceedings relating to the other Rights Section Entries are being heard by a Commons Commissioner.



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 14th day of February — 1978

a a. Baden Fuller

Commons Commissioner