



COMMONS REGISTRATION ACT 1965

Reference Nos 220/D/78-86

In the Matter of Pilling Marsh,
Pilling, Wyre Borough, Lancashire

DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section and at Entry No 1 in the Rights Section of Register Unit No GL. 119 in the Register of Common Land maintained by the Lancashire County Council and are occasioned by Objection No 12 made by Mr Richard Clegg Watson and noted in the Register on 4 December 1970, by Objection No 25 made by Mr Samuel Alfred William Kellet, Mr Richard Samuel Kellet, Mr James Gilbert Kellet and Mr William Norman Kellet and noted in the Register on 11 December 1970, by Objection No 169 made by Mr R A Hall and noted in the Register on 23 March 1971, by Objection Nos 238 and 239 made by Mr Philip Shepherd Brown, Mrs Eileen Annie Clarkson and Mrs Katherine Margaret Richardson and noted in the Register on 10 February 1972.

I held a hearing for the purpose of inquiring into the disputes at Lancaster on 25 November 1976. At the hearing (1) Pilling Parish Council (the applicants for the Entry in the Land Section) were represented by Mr P J Brewer solicitor of Ingham Clegg and Crowther, Solicitors of Fleetwood; (2) Mr R C Watson (the said Objector No 12, and also one of the applicants for Entry No 1 in the Rights Section and for Entry No 2 in the Ownership Section) attended in person; (3) Mrs Betty Watson (the other applicant for Entry No 1 in the Rights Section and for Entry No 2 in the Ownership Section) was represented by Mr R C Watson (her husband); (4) Mr R S Kellet; (5) Mr J G Kellet and (6) Mr W N Kellet (three of the said Objectors No 25) were represented by Mr R M N Gillibrand of Oglethorpe Sturton & Gillibrand, Solicitors of Lancaster; (6) Mrs A Kellet (she and Messrs R S, J G and W N Kellet are the executors of Mr S A W Kellet who was the other of the said Objectors No 25 and the applicants for Entry No 1 in the Ownership Section) was also represented by Mr Gillibrand; (7) Mr P S Brown; (8) Mrs E A Clarkson and (9) Mrs K M Richardson (the said Objectors Nos 238 and 239 and the applicants for Entry No 3 in the Ownership Section, they being in 1969 the trustees of J B Clarkson deceased) were represented by Mr A W Simpson of counsel instructed by Rawsthorn Ambler & Brown, Solicitors of Preston, (10) Mr J P Jackson (he is now a trustee in the place of Mr P S Brown of the J B Clarkson Trust) was also represented by Mr Simpson and (11) Her Majesty's Attorney General for the Duchy of Lancaster (the Duchy's Solicitor in a letter dated 17 July 1973 and sent to the Lancashire County Council claimed on behalf of Her Majesty in Right of the Duchy ownership of so much of the land in this Register Unit as is bed and foreshore of Broad Fleet) was represented by Miss Cameron of counsel.

The land ("the Unit Land") comprised in this Register Unit is a strip between the sea on the north and the village of Pilling on the south, being (as ¹ scale the Register map) between 2 and 2½ miles long from east to west and having an average width of about ¼ mile; it is crossed by an inlet or mouth of a river known as Broad Fleet.



After a short adjournment during which the parties discussed a possible compromise, Mr Watson said (in effect) that he on behalf of himself and his wife withdrew his claim to be entitled to rights of common as registered at Entry No 1 in the Rights Section, and Mr Brewer said (in effect) that in view of Mr Watson's withdrawal, the Parish Council did not wish to support the registrations as regards any of the land comprised in this Register Unit. It was said that these withdrawals were pursuant to an agreement which included certain terms relating to the future use of the Unit Land and with which I am not concerned.

As regards all those present or represented at the hearing, there is no reason why I should not, as they asked, refuse to confirm all the registrations referred to me. Mr Brewer said he had been told by Harrison, Drury & Moorby, Solicitors of Garstang that Mr R A Hall agreed that the application of the Parish Council for the registration of his land should be withdrawn, and these solicitors in a letter dated 24 November 1976 to the Clerk of the Commons Commissioners so stated. To each of the said Objections, is annexed a plan showing the parts of the Unit Land in which the Objectors are respectively interested. These parts together comprise nearly all the Unit Land; some comparatively small areas are not included being the bed of Broad Fleet and some of the Unit Land to the east. Similarly the Ownership registrations (not disputed) comprise nearly all the Unit Land, although similar (but not in all respects identical) areas are omitted. Miss Cameron said that the Duchy, although they had not made any formal Objection, were interested in Broad Fleet (being a strip of tidal water), and favoured the avoidance of its registration along with the parts of the Unit Land to which objections had been expressly made.

In my opinion I have jurisdiction on these references to refuse to confirm the registrations altogether, so that they will all become entirely void, notwithstanding that the Objections do not expressly apply to all. The registration of all the Unit Land appears to have been a consequence of the applications made by the Parish Council and by Mr and Mrs Watson. The information given me at the hearing showed that no useful purpose would be served by leaving on the Register parts of the Unit Land to which no objection had been expressly made, and I conclude therefore that I ought to avoid these registrations not only as regards the greater part of the Unit Land about which those concerned have by way of compromise agreed but also as regards the comparatively small other parts, the registrations of which neither the Parish Council nor Mr & Mrs Watson wish to support.

For the above reasons I refuse to confirm the registrations at Entry No 1 in the Land Section and at Entry No 1 in the Rights Section. I give no decision as to the Entries in the Ownership Section; to these Entries subsection (3) of section 6 of the 1965 Act will be applicable.

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 30th day of November — 1976

A. A. Baines
