



In the Matter of Lakeside and Manorial Pound,
Crowland, Lincolnshire (No 1).

DECISION

These disputes relate to the registration at Entry No 1 in the Land section of Register Unit No CL 49 in the Register of Common Land maintained by the former Holland County Council and are occasioned by Objection No 105 made by the former Deeping Fen, Spalding and Pinchbeck Internal Drainage Board and noted in the Register on 16 December 1970 and Objection No 196 made by the former Welland and Nene River Authority and noted in the Register on 10 May 1971.

I held a hearing for the purpose of inquiring into the dispute at Spalding on 19 April 1978. The hearing was attended by Dr D G Teall, the applicant for the registration, Mr R J Moverley, of counsel, on behalf of the Anglia Water Authority, the successor of the former River Authority, and Mr C P Bennett, solicitor, on behalf of the Welland and Deepings Internal Drainage Board, the successor of the former Internal Drainage Board.

There seems to have been some uncertainty among the parties regarding exactly what land is comprised in the Register Unit. After the original Register Map had been produced, Dr Teall stated that he only wished to argue for the retention in the Register Unit of a strip of land covered with water known as Warehouse Lake or simply as The Lake.

This strip of land was included in an area of common and waste land which was drained, allotted, and inclosed under the Crowland Inclosure Award made on 16 January 1823 under the Crowland Inclosure Act of 1801 (41 Geo. III, c.116 (local and personal)). Dr Teall relied on the provisions of S.19 of the Act, the side-note of which is "The Lake across the Wash to be preserved". It is provided by the section that is setting out and allotting the land called the Washes, the same or like communications for the passage of water through it from the River Welland were to be set out and continued for the use and benefit of the parish of Crowland, in such and the like manner, and for such and the like purposes, as they (sic) had theretofore enjoyed them. Dr Teall argued that this exempted the Lake from the enclosure, so that it is still common land.

I find myself unable to accept Dr Teall's argument. There is no entry in the Rights section of the Register Unit, so that the land comprised in it could only fall within the definition of "common land" in section 22(1) of the Commons Registration Act 1965 by being waste land of a manor. Assuming in Dr Teall's favour that this land was at one time waste land of the Manor of Crowland, in my view it lost that status upon the making of the award under the Act of 1801, the effect of section 19 of that Act being no more than to ensure the continuance of the passage of water through the land for the use and benefit of the parish.

For these reasons I refuse to confirm the registration.

Both Mr Moverley and Mr Bennett asked for awards of costs in favour of their respective clients. Dr Teall stated that he applied for the registration in order to obtain a registration in the Ownership section of the Register Unit.



Since he applied for the registration for this purpose, I take the view that he must suffer the usual fate of an unsuccessful litigant. I shall therefore order him to pay the costs of the Water Authority and the Internal Drainage Board on County Court Scale 4.

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 7th day of June 1978

CHIEF COMMONS COMMISSIONER