



COMMONS REGISTRATION ACT 1965

Reference No.45/D/12

In the Matter of Lumley Moor Reservoir,
Skelding and Grantley, North Yorkshire (No.1).

DECISION

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No.C.L.128 in the Register of Common Land maintained by the former West Riding of Yorkshire County Council and is occasioned by Objection No.494 made by the former Claro Water Board and noted in the Register on 5th January 1971.

I held a hearing for the purpose of inquiring into the dispute at Harrogate on 27th March 1974. The hearing was attended by Mr. J.H. Weatherill, solicitor, on behalf of Mr. G.S. Bostock, the applicant for the registration, and by Mr. J.S. Wolstenholme, of counsel, on behalf of the Objector.

By section 21 of the Ripon Corporation Act 1886 (49 & 50 Vict.c. lxxvii) there were reserved to the Marquis of Ripon the exclusive rights of fishing, fowling, and sporting over part of the land comprised in the Register Unit. By section 23 of the same Act, there was a similar reservation for the benefit of Lord Grantley in respect of the remainder of the land comprised in the Register Unit. Mr. Bostock is now the successor in title of both Lord Ripon and Lord Grantley. The basis of Mr. Bostock's application is that the rights which he now owns are rights of common. The registration of the land and his rights under the Commons Registration Act 1965 is not in itself of any advantage to Mr. Bostock. He applied for the registrations in order to avoid the possibility that it might be argued that his rights were rights of common and, if not registered, would cease to be exercisable by virtue of section 1(2) of the Act of 1965.

Mr. Weatherill accepted that Mr. Bostock's rights would not be rights of common at common law, but he argued that they could be within the definition of "rights of common" in section 22(1) of the Act of 1965, which includes rights of sole vesture. Mr. Wolstenholme contended that the rights reserved by the Act of 1886 were not rights of vesture.

Rights of sole or several vesture are rare and there is but little learning about them. Vesture is defined in Coke on Littleton 4b as "corn, grass, underwood, sweepage, and the like". It would appear that "sweepage" means that which is taken by the sweep of the scythe. "Vesture" in this sense seems to be akin to the word in its sense of clothing, namely that with which the land is clothed. In my view it is inappropriate to describe fish, birds, and animals which, although in a sense products of the soil, do not form part of its "clothing". I know of no authority which suggests that vesture can be anything other than vegetation.

For these reasons I refuse to confirm the registration.



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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 April 1974

A handwritten signature in black ink, appearing to be 'G. J. G. G. G.' with a horizontal line underneath.

Chief Commons Commissioner