



COMMONS REGISTRATION ACT 1965

Reference Nos 202/D/2
to 6 inclusive

In the Matter of The Eight Yards,
Wraysbury, Windsor and Maidenhead
District, Berkshire

DECISION

These four disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos 1 and 2 in the Ownership Section of Register Unit No. VG 82 in the Register of Town or Village Greens maintained by the Berkshire County Council and are occasioned as to the Land Section registration by Objection No. 22 made by Blenheim Angling Society and noted in the Register on 14 October 1970 and by Objection No. 99 made by British Railways (Southern Region) and noted in the Register on 22 December 1971, and as to the Ownership Section registrations by these registrations being in conflict.

I held a hearing for the purpose of inquiring into the disputes at Windsor on 18 July 1978. At the hearing (1) Wraysbury Parish Council (the Land Section registration was made on their application and at Ownership Section Entry No. 2 they are registered as owners of the whole of the Land) were represented by Mr J R Smith formerly one of their members; (2) Blenheim Angling Society (as Ownership Section Entry No. 1, Mr C Cargill, Mr W Marks and Mr J W Beckett as trustees for them are registered as owners of the whole of the Land) were represented by Mr C Cargill; and (3) British Rail were represented by Mr H I Saunders of the British Rail Property Board.

The land ("the Unit Land") in this Register Unit comprises two strips each about 8 yards wide and between $1\frac{1}{4}$ or $1\frac{1}{2}$ miles long and being the east and west sides (or land very near to such sides) of Colne Brook, and extending from Hythe End Bridge on the south to Coppermill Road (where it crosses the Brook a little to the east of Wraysbury Railway Station) on the north.

The grounds of Objection No. 99 are that about 175 yards at the north end of the west strip and about 20 yards (by the railway bridge) of the east strip "forming part of the operational land of the railway, was not Village Green at the date of registration". Mr Smith and Mr Cargill at the beginning of the hearing said that their Council and Society respectively agreed this Objection; accordingly I formally decide now (as I said I would at the hearing) that this Objection succeeds.

The grounds of Objection No. 22 are: "The land of this area known as the Eight Yards Strips is not a village green; but land over which existing rights of common belonging to the inhabitants were perpetuated in the Award of 1803 made pursuant to the Inclosure Act of 1799 affecting Wraysbury".

Mr Smith who has lived in the Parish since 1939 and was a member of the Parish Council from 1943 to 1972, in the course of his oral evidence produced: (1) an historical summary which referred to the said Award and Act, to legal opinions of 1929 and 1965, and to a 1958 proposal to divert the river, (2) a manuscript quarto book being a copy (169 pages) of the Award (dated 17 June 1803), (3) a typed extract from the Award; and (4) a plan described as "annexed to the Inclosure Award at Wraysbury Co. Bucks., enrolled in the Recovery Rolls (Common Pleas) of 44 Geo. 3; Trinity Roll...". A copy of the said extract is page 2 of this decision.



Extract from the Wraysbury Award.

lotment of the space of 8 yards on each side of the River Colne.

AND FURTHER KNOW YE that they the said JAMES TAYLOR, RICHARD DAVIES and THOMAS WIATT, the Commissioners, in pursuance and direction of the said ACT before setting out and making the several allotments of the said Commons and Waste Grounds by the said Act directed to be made HAVE set out, appointed and awarded and by these presents do set out appoint and award unto and for all and every the inhabitants of the said PARISH of WYRARDISBURY, otherwise WRAISBURY for the time being ALL those Spaces, Pieces or Parcels of Land or Ground part and parcel of the Lands and Grounds by the said ACT intended and directed to be divided, allotted and enclosed being of the breadth of eight yards on each side of the River Colne or Mill River as the same is marked and distinguished by dotted lines on the said Plan herewith annexed, and which said space of eight yards on each side of the River Colne or Mill River is so set out by the said Commissioners for the purpose of being used forever by the inhabitants of the said Parish for throwing mud, cutting weeds out of the said river and for such other uses and purposes as may be necessary for their accommodation and to the same extent and in such manner as they enjoyed the same at the time of the passing of the said Act."

JRS3

COMMONS REGISTRATION ACT 1965

Re The Eight Yards, Wraysbury, Windsor and Maidenhead District, Berkshire.

Ref:- 202/D/2-6

This extract of page 2 of the decision dated 9 November 1978 and made by the Commons Commissioner in this Matter.

a. a. Baker-Jones

Commons Commissioner

*Note: Made under the Wraysbury
Commons Enclosure
Act 1797; 39 Geo. 3. c. 118
(Buckingham County).*



Mr Cargill who is and has been for the last 25 years Hon Vice-president and Trustee of the Blenheim Angling Society, in the course of his oral evidence produced: (1) a conveyance dated 2 July 1923 made by A H Benson and another to F Wilson and others (trustees) of an exclusive fishery, (2) a conveyance of 10 February 1909 by R Hough to A H Benson and another, (3) a conveyance of 22 February 1897 by W A Sparrow to R Hough (a half share), (4) a conveyance of 7 July 1886 (a third share), and (5) a detailed statement by himself to support the Blenheim Angling Society's claim to legal ownership of the land known as "eight Yards strips".

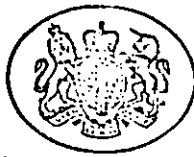
Both Mr Smith and Mr Cargill described to me the Unit Land and its surroundings, and two days after the hearing I viewed it from its north end and walked a short distance along the south part of the east strip. There is a footpath along the whole length of the Unit Land, convenient for local inhabitants who want a pleasant walk or want for some other purpose to go between Hythe End Bridge and Coppermill Road, and convenient too for anglers. Colne Brook (not to be confused with Colne River; both flow into the Thames nearby) is important not only for local drainage, but as connecting the nearby areas of water resulting from gravel extraction.

I first consider whether the Unit Land has been properly registered in the Land Section, that is whether it is within the definition of "town or village green" in the 1965 Act: "land which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality or on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes or on which the inhabitants of any locality have indulged in such sports and pastimes as of right for not less than twenty years".

On the evidence before me I am satisfied that the Unit Land is substantially the same as that in the above quoted 1803 allotment described as "space of eight yards on each side of the River Colne or Mill River". As I understood Mr Smith, the Parish Council are much concerned that the local inhabitants should not by non-registration lose the rights granted or perpetuated by it. In connection with the propriety of the Land Section registration, I need not consider the evidence and arguments of Mr Smith and Mr Cargill as to the possible ownership of the Parish Council and of the Society's Trustees, because neither wished to cast any doubt on these 1803 rights, and Mr Smith did not lead any evidence to suggest that the Land Section registration could be justified otherwise than as in consequence of the 1803 allotment.

In my opinion the allotment above quoted is not an allotment "for the exercise or recreation of the inhabitants of any locality" within these words of the definition. Although angling is or may be for the purpose of the definition a "sport", there was no evidence that those who fished did so as inhabitants; accordingly I conclude that no customary right or twenty years indulgences such as is mentioned in the definition has been established. In my opinion therefore the right granted or perpetuated by the 1803 allotment is altogether outside the scope of the 1965 Act and that for this reason Objection No. 22 succeeds. But I record that in my view the inhabitants of the Parish as a result of this decision are no worse off (or the members of the Blenheim Angling Society any better off) in relation to the 1803 allotment as a result of this decision; the rights of the inhabitants under the allotment in my view are the same as they would have been if the 1965 Act had not been passed.

I next consider the conflicting ownership registrations:- by section 6(3) of the 1965 Act when the registration of any land as a town or village green is cancelled, the registration authority shall also cancel the registration of any person as the owner thereof. In my opinion, because, as a result of my decision about the Land



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Section registration, this ~~the~~ registration will be cancelled, I ought not to express any opinion about the conflicting ownership claims of the Parish Council and the Blenheim Angling Society. Mr Smith and Mr Cargill gave me to understand that it was possible and indeed not unlikely that there would be no practical difficulties between them (the inhabitants of the parish and the members of the Society having to some extent a common interest in resisting claims which might be made by adjoining owners); however this may be, nothing I can say could possibly help the High Court or any other tribunal who might have to determine any questions there may be about ownership.

For the reasons set out above, I refuse to confirm the registration in the Land Section, and having regard to sub-section (3) of section 6 of the 1965 Act, I give no decision as to the Ownership Section registrations.

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 *9/11* —

day of *November* — 1978

a. a. Boston Feller

Commons Commissioner