



COMMONS REGISTRATION ACT 1965

Reference No. 5/D/5

In the Matter of Hatchmere,
Norley, Cheshire (No.2)

DECISION

This dispute relates to the registration at Entry No.1 in the Rights Section of Register Unit No.C.L.10 in the Register of Common Land maintained by the Cheshire County Council and is occasioned by Objection No.4 made by Mrs. H.C. Ingram, Mr. C.C. Pcsnett, and Mr. H.W. Burrell, and noted in the Register on 2nd January 1969.

I held a hearing for the purpose of inquiring into the dispute at Chester on 15th May 1973. The hearing was attended by Mr. J.L. Fitton, who applied for the registration, by Mr. F. Blain, the Clerk of the Norley Parish Council, and by Mr. J. Fitzhugh, Q.C. for the Objectors.

I heard this case at the same time as a dispute (No.5/D/4) arising out of the registration by the Parish Council of the land the subject of this dispute in the Land Section of the Register Unit and it is not necessary to repeat here the facts set out in my decision in that dispute.

So far as this dispute is concerned, Mr. Fitton said that he had fished from the bank since 1939 without objection from anybody, at first when he lived in Runcorn, 8 miles away, and more recently while living in Norley, and that he did not trespass on the rights of the members of the angling club, who fished from boats. However, Mr. Fitton very frankly said that he was putting forward the rights of the inhabitants of Norley and that he did not claim to be more entitled than anyone else. This brings the matter firmly within the decision in Gateward's Case (1607), 6 Co.Rep.59b, where it was held that there cannot be a right to a profit à prendre in a fluctuating body like the inhabitants of a particular place.

For these reasons I refuse to confirm the registration.

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 12th day of July 1973


Chief Commons Commissioner