



In the Matter of Freeholders Wood and other Land,
Carperby, North Yorkshire (No. 1)

DECISION

This dispute relates to the registrations at Entry Nos 1 - 31 in the Rights section of Register Unit No. CL 138 in the Register of Common Land maintained by the former North Riding of Yorkshire County Council and is occasioned by Objection No. 0234 made by Mr J U Machell and Sir Henry Lawson-Tancred and noted in the Register on 30 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Richmond on 20 July 1977. The hearing was attended by Mr E R D Johnson, solicitor, on behalf of the applicants for the registrations other than that at Entry No. 31, by Mr J.C.Scott, solicitor, on behalf of the applicant for the registration at Entry No. 31, and by Mr J H N Towers, solicitor, on behalf of the Objectors.

Mr Johnson and Mr Towers agreed that the registrations at Entry Nos ~~10 and 24~~ should be modified by the deletion of the references to rights over all the parts of the land comprised in the Register Unit other than the part known as New Pasture Quarry.

They also agreed that the other registrations should be confirmed save in so far as they included rights of piscary over the River Ure.

It thus only remains for me to consider the rights of piscary included in the registrations at Entry Nos 1 to 9, 11 to 23, and 25 to 30.

The rights of piscary are claimed in respect of two lengths of the northern half of the River Ure. The length to the west adjoins Freeholders Wood and the length to the east lies on either side of Harper Wath Bridge. Mr Towers conceded the existence of the right in respect of the western length and of the eastern length lying to the west of Harper Wath Bridge. This left for consideration the part to the east of the bridge. Mr Johnson called a number of witnesses who deposed to fishing in the river over many years, their evidence, however, was not of rights appurtenant to dominant tenements, but of fishing by the inhabitants of the village of Carperby generally. Such evidence does not, in my view, support the rights claimed by the applicants.

Since the only rights registered in respect of the part of the river to the east of the bridge are rights of piscary, the proper course will be for me to exclude that part from the registration in the Land Section of the Register Unit. The effect of this will be that the registrations the subject of this dispute will relate only to parts of the river remaining within the Register Unit, so that it will not be necessary to modify the wording of these registrations.



It has been agreed between Mr Johnson and Mr Towers that the land to which the rights registered at Entry No. 24 are attached was incorrectly registered as land belonging to the Objectors and that it should have been registered as a cottage which belonged to the applicant for the registration.

For these reasons I confirm the registrations with the following modifications :- in the case of the registrations at Entry Nos 10 and 24, the deletion of the references to all parts of the land other than New Pasture Quarry and in the case of the registration at Entry No. 24 the deletion of the entry in column 5 and the substitution of the words: "Terraced Cottage (unnamed) in Main Street, Carperby, occupied by Mr Metcalfe and situate near to the village shop".

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 14th day of October 1977

Chief Commons Commissioner