



In the Matter of River Don and Banks, Ashfield  
Banks and Ponds, Canal Banks and Huddle  
Ground (part), Stainforth, Sykehouse and Thorne,  
South Yorkshire

DECISION

These disputes relate to the registration at Entry No. 1 in the Land Section of Register Unit No. VG 177 in the Register of Town or Village Greens maintained by the South Yorkshire Metropolitan County Council and are occasioned by Objection No. 236 made by Mr J M Smith, Objection No. 491 made by Mr J Buckley, and Objection No. 569 made by Mr J Whiteley and all noted in the Register on 4 May 1971, Objection No. 323 made by Mr and Mrs J W Lidgett and noted in the Register on 17 May 1971, Objection No. 474 made by Mr A Pashley and noted in the Register on 29 July 1971, Objection No. 615 made by Messrs S Atkins and Sons, Objection No. 639 made by Mrs D Atkins, and Objection No. 643 made by Mr L J Riley and all noted in the Register on 24 May 1971, Objection No. 851 made by the British Waterways Board, Northern Region and noted in the Register on 26 May 1971, Objection No. 1125 made by the former West Riding County Council and noted in the Register on 4 July 1971, Objection No. 1382 made by British Railways, Eastern Region and noted in the Register on 1 September 1971, Objection No. 1530 made by the former Yorkshire River Authority and noted in the Register on 2 February 1972, Objection No. 1603 made by Messrs W and J C Harrison and noted in the Register on 29 March 1972, Objection No. 2020 made by Messrs J W and V O Fox and noted in the Register on 26 September 1972, and Objection No. 2141 made by the former Thorne Rural District Council, and noted in the Register on 25 October 1972, and the conflicting registrations at Entry No. 1 in the Land Sections of Register Unit Nos. CL 324, CL 327, CL 328, CL 329, CL 330, CL 332, CL 333, CL 334, CL 335 and CL 336 and at Entry No. 3 in the Land Section of Register Unit No. CL 401 in the Register of Common Land maintained by the Council.

I held a hearing for the purpose of inquiring into the dispute at Doncaster on 18 January 1964. The hearing was attended by Mr M A J McChrystal, Solicitor, on behalf of the Stainforth Parish Council, the applicant for the registration, Mr P R Pennington, Solicitor, on behalf of the Doncaster Metropolitan Borough Council, Messrs W and J C Harrison, Messrs J W and V O Fox, and Mrs H Whiteley, the executrix of Mr Whiteley, Mr W K Irving, the Legal Services Officer of the South Yorkshire Metropolitan County Council, Miss G E A Darley, of counsel on behalf of Mr Smith and Mr Pashley, Mr R Williams, Solicitor on behalf of Mr D J Pritchard, the present owner of Hay Green Farm, formerly in the ownership of Mrs Atkins, Mr N Beddard, of counsel, on behalf of British Railways, Eastern Region, and Mr C Dunkley, the Principal Estate Officer of the British Waterways Board, Northern Region.

Mr McChrystal informed me that the Parish Council wished to "withdraw" its application and no evidence in support of the registration was adduced on behalf of the other concerned authorities.

In these circumstances I refuse to confirm the registration.

Mr Pennington applied for costs on Scale 2 limited to £150 in the case of Mrs Whiteley and to £50 in each of the cases of Messrs W and J C Harrison and Messrs J W and V O Fox. The application for the registration was made on 20 October 1969.



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Notice of the hearing was given by letter dated 21 November 1983, but no action was taken by the Parish Council to prepare for the hearing until the receipt of a notice dated 22 December 1983 from Mr Pennington's firm asking for particulars of the Parish Council's claim. The Parish Council then instructed Mr McChrystal, who had to do a considerable amount of work in order to qualify himself to advise on the matter. It was not until the day before the hearing that Mr Pennington was informed that the Parish Council would not be supporting the registration. While costs in a reference such as this do not necessarily follow the event, it seems to me that Mr Pennington's clients have been involved in costs which would not have been necessary if the Parish Council had not given so unreasonably short notice of its intention not to support the registration. I shall therefore make orders for costs in the terms sought by Mr Pennington to Messrs W and J C Harrison and Messrs J W and V O Fox. I have, however, decided not to award any costs to Mrs Whiteley. Mr Whiteley's Objection related to a small part of the land comprised in the Register Unit and stated that he was the occupier of the land on an annual agricultural tenancy. It may be that Mrs Whiteley was entitled as the personal representative of Mr Whiteley to be heard at the hearing, but it is not necessary for me to come to a conclusion on this point. Assuming in Mrs Whiteley's favour that she was entitled to be heard, I still have to exercise my discretion in deciding to make an order for costs in her favour. Mrs Whiteley is not now the occupier of the land to which Mr Whiteley's objection was directed, so that the confirmation of the registration could not have adversely affected her interests. It seems to me, therefore, that she should bear her own costs.

Mr Williams applied for costs on Scale 2 limited to £100 in the case of Mr Pritchard. Mr Pritchard has no direct link with Mrs Atkins: he is the present owner of Hay Green Farm, which was in the ownership of Mrs Atkins at the time when she made her Objection. My only power to award costs in this matter is that conferred upon me by section 17(4) of the Commons Registration Act 1965. Under that provision I am empowered to order any party to any proceedings before me to pay costs to any other party to the proceedings. The persons who are entitled to be heard at the hearing of a dispute as to the registration of land as a town or village green are prescribed by regulation 19(1) of the Commons Commissioners Regulations 1971 (S.I. 1971, No. 1727). These persons include the person who has made an objection. Even if this would include, as in the case of Mrs Whiteley, the personal representative of an objector, it cannot, in my view, extend to a person who is the owner of land which the objector happened to own at the time when the objection was made. A person did not have to be qualified to object by being the owner of any land. Presumably this was the reason why no provision relating to successors similar to that in regulation 19(2), which relates to disputes relating to rights of common, was included in regulation 19(1). With some reluctance, I have come to the conclusion that I have no power to award costs to Mr Pritchard.

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.

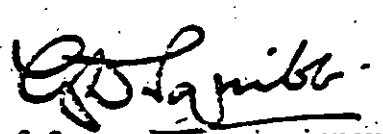
Dated this

26<sup>th</sup>

day of

January

1984

  
Chief Commons Commissioner