



COMMONS REGISTRATION ACT 1965

Reference Nos. 38/D/5  
38/D/6  
38/D/7

In the Matter of The Fishing Beach,  
Selsey, West Sussex.

DECISION

These disputes relate to the registration at Entry No.1 in the Land Section of Register Unit No.C.L.8 in the Register of Common Land maintained by the West Sussex County Council and are occasioned by Objection No.61 made by Mr. Arthur Wood and noted in the Register on 19th February 1969 and by Objections Nos.72 and 99 made by Pontin's Broadreeds (Selsey) Ltd and noted in the Register on 13th June 1969 and 20th March 1970 respectively.

I held a hearing for the purpose of inquiring into the dispute at Chichester on 4th July 1973. The hearing was attended by Mr. Ritchie, of counsel, on behalf of the Selsey Parish Council, the applicant for the registration, and by Miss Cameron, of counsel, on behalf of the Objectors.

The land the subject of the reference is covered with shingle and is bounded on the east side by high water mark of ordinary tides. It was sought to support the registration on the ground that the land was waste land of the manor of Selsey.

There was produced to me the Inclosure Award made on 22nd March 1830 (the annexed map is dated 1821) under the Selsey Inclosure Act of 1819 (59 Geo.III,c.lix). It appears from the map that the land in question did not form part of the land the subject of the Award, but formed part of Manor Farm, which consisted of old inclosures belonging to Lord Selsey, who was then lord of the manor of Selsey. However, even if this land was waste land of the manor before the passing of the Act, the effect of the Award was, in my view, clearly to deprive it of that status. By the Act the Commissioners were directed to set out, divide, allot, inclose, and otherwise improve all the open and common fields, pastures, greens, wastes and other commonable lands in the parish of Selsey. The Act concludes with a provision saving all the rights of the lord of the manor except the right to the soil of the commons, pastures and wastes directed to be divided.

For these reasons I refuse to confirm the registration.

Miss Cameron applied for an order that the Parish Council should pay the Objectors' costs. Miss Cameron did not suggest that costs should necessarily follow the event, but based her application on what she said was the failure of the Parish Council to disclose its case to the Objectors in time to save the incurring of unnecessary costs.

In order to come to a decision upon this application it is necessary to consider the course of the proceedings.



In addition to the registration which is the subject of these disputes the Parish Council applied for a number of other registrations in respect of land adjoining the sea. Before making the registrations the Parish Council appointed a Sub-Committee to examine the position. During the course of this examination the Chairman and Mr. A.E. Mason, the Clerk of the Parish Council, saw the Inclosure Award map. In evidence Mr. Mason frankly admitted that he did not understand the map: whether the Chairman understood it did not appear. The report of the Sub-Committee in relation to the land the subject of these disputes was as follows:-

"By immemorial local custom the exercise of rights "in aleinio (sic) solo"  
"in favour of persons of a fluctuating body or class of persons having  
"reference to the proximity of the sea is established for this area.  
"These rights continue to be exerciseable (sic) on land accruing (sic)  
"and conversely where the sea advances instead of receding. Beacons,  
"watchhouses, customs and coastguards have been concentrated in this area".

While this statement can only be described as palpable rubbish, I am satisfied that the members of the Sub-Committee were doing their inadequate best and that the Parish Council acted in good faith in applying for the registration on the strength of the Sub-Committee's report.

A copy of the report of the Sub-Committee came into the possession of the solicitors acting on behalf of a number of objectors to the registrations made on the application of the Parish Council. By a letter dated 31st October 1968 these solicitors asked the Parish Council to make available for their inspection certain documents and maps referred to in the report in relation to land other than that the subject of these disputes. The Parish Council sought the advice of the National Association of Parish Councils and was told that since the Parish Council was not making a frivolous application, the solicitors were not entitled to demand the production of further evidence and that the Council should specifically ask the solicitors for any evidence as to why the land was not common land, which if conclusive would enable the Council to withdraw the registrations.

The Parish Council decided to act on this advice. On 14th January 1969 Mr. Mason wrote to the solicitors in the terms suggested, adding: "You will note that under Section 22(1)(b) 'Waste Lands of the Manor' are designated 'Common Land' under the Act". There was some subsequent correspondence, but the Parish Council did not depart from this unhelpful attitude.

However, unhelpful though the Parish Council was, it does not seem to me that the course of the proceedings with regard to the land the subject of these disputes would have been in any way altered had the documents and maps referred to in the letter of 31st October 1968 been disclosed. As foreshadowed in Mr. Mason's letter of 14th January 1969, the case was presented on the basis that the land in question was waste land of the manor, but it was apparent that neither side had investigated the evidence as to this, which was freely available to each of them in the County Record Office. The Inclosure Award and the annexed map were produced at the hearing at the request of the Parish Council, but neither side had even seen the Inclosure Act until I asked for it to be produced.



-3-

In these circumstances, I have come to the conclusion that there are no grounds for ordering the Parish Council to pay the Objectors' costs.

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 July 1973

Chief Commons Commissioner