



COMMONS REGISTRATION ACT 1965

Reference Nos: 269/D/212-246

In the Matter of (A) Thorne Rural District or the Manor of Hatfield or Hatfield Chase in Sykehouse, Fishlake, Thorne, Stainforth and Hatfield parishes, Doncaster District, South Yorkshire

AND

Reference Nos: 269/D/36-39 and /69-74

In the Matter of (B1) White Lane Pond, Four Doles Clay Pit and (B2) Ashfield Bank and Ponds, both in Thorne and Stainforth parishes, Doncaster District, South Yorkshire

AND

Reference Nos: 269/D/24-27, /28-29,
/30-32, /47-48,
/59-63, /61-64,
/82-92, /104-114

In the Matter of (C1) Southend Guyme or Cow Shit End and Guyme, (C2) Church Yards or Old Grave Yards, (C3) North Station Guyme, (C4) Thorne Market Place, (C5) Durhams Warping Drain, all (the 5 last named) in Thorne parish, (C6) Huddle Grounds in Stainforth and Thorne parishes, (C7) River Don and its banks in Kirk Bramwith Snaith and Cowick, Fishlake, Sykehouse and Thorne parishes and (C8) River Went and its banks in Sykehouse parish, all (the said 8) in Doncaster District, South Yorkshire

AND

Reference Nos: 269/D/308-313

In the Matter of (D) The Landing in Fishlake and Stainforth parishes, Doncaster District, South Yorkshire

DECISION

Introductory

These matters relate to the registrations made under the 1965 Act in the Land Sections and Rights Sections of 12 Register Units which are herein grouped as A, B, C and D. My decision as regards each of these registrations is set out in the Fourth (and last) Schedule hereto. The disputes and applications which have occasioned this decision, the circumstances in which they have arisen or been made, and my reasons for my decision are as follows.



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The Group A dispute relates to the registration at Entry No. 3 which on 2 June 1971 replaced that at Entry No. 1 in the Land Section and the registrations at Entry Nos. 1 and 2 in the Rights Section of Register Unit No. CL401 in the Register of Common Land maintained by the South Yorkshire (formerly West Riding) County Council and are occasioned by the Objections (about 740 in all) numbered, made by the persons and noted in the Register on the dates, specified in the First Schedule hereto, and by the Land Section registration being in conflict with the Land Section registrations in Register Unit Nos. VG68, VG110, VG111, VG112, VG113, VG114, VG115, VG116, VG117, VG119, VG120, VG127, VG138, VG154, VG162, VG177 and VG182 in the Register of Town or Village Greens also maintained by the South Yorkshire County Council.

The Group B disputes relate to (B1) the registration at Entry No. 1 in the Rights Section of Register Unit No. VG113 in the said Register of Town or Village Greens and are occasioned by Land Section Objection No. 850 made by British Waterways Board and Objection No. 1379 made by British Railways and both noted in the Register on 25 May 1971, which Objections by sub-section (7) of section 5 of the Commons Registration Act 1965 are applicable to the Rights Section registration, and Rights Section Objection No. 2128 made by Thorne Rural District Council and noted in the Register on 20 October 1972; and (B2) the registration at Entry No. 1 in the Rights Section of Register Unit No. VG117 in the said Register of Town or Village Greens and are occasioned by Land Section and Rights Section Objection No. 271 made by J and D Stubbley Estates and noted in the Register on 11 May 1971 by Land Section Objection No. 853 made by British Waterways Board Northern Region and noted in the Register on 3 June 1971, by Land Section Objection No. 1529 made by Yorkshire River Authority and noted in the Register on 2 February 1972, by Land Section and Rights Section Objection No. 2136 made by Thorne Rural District Council and noted in the Register on 23 October 1972 and by Land Section Objection No. 2190 made by the National Coal Board and noted in the Register on 25 October 1972, which said Land Section Objections Nos. 853, 1529 and 2190 by the said sub-section (7) are applicable to the Rights Section registration. By decisions dated 30 March 1984 and made by the former Chief Commons Commissioner Mr G D Squibb QC after a hearing on 13 February 1984, both the said VG Land Section registrations were confirmed with the modification as to VG113 the exclusion of the land on the north side of the Stainforth and Keadby Canal and as to VG117 the exclusion of all the land other than the former marshy area and the ponds which will be defined more precisely on a map attached to the notice of final disposal. The said 1984 decisions did not deal with the VG113 and VG117 Rights Section registrations at Entry No. 1 or with the registrations by regulation 14 of the Commons Registration (General) Regulations 1966 deemed to have been made in the VG113 and VG117 Rights Sections by reason of the CL401 Rights Section registrations so far as CL401 Land Section registration conflicts with the VG113 and VG117 Land Section registrations.

The Group C applications were made by Mr William Bunting in all or some of his letters dated 14, 20 and 27 February, 5, 6 and 7 March and 11 and 18 April 1984 and sent to the office of the Commons Commissioners; his applications were (in effect) that the decisions dated 28 February and 30 March 1984 and made by the former Chief Commons Commissioner Mr G D Squibb QC be set aside and his hearings



in February 1984 be reopened. By his said decisions confirmation was refused of the registrations, all of which were made on the application of Mr William Bunting in the Land Section of the following Register Units in the said Register of Town or Village Greens, that is to say:- (C1) VG110 (no registration in the Rights Section, Objections No. 849 by British Waterways Board Northern Region, No. 1377 by British Railways Eastern Region and No. 2125 by Thorne Rural District Council, and Land Section registration conflicting with the CL401 Land Section registration). (C2) VG111 (no registration in Rights Section; Objection No. 2131 by Thorne Rural District Council, and Land Section registration conflicting with the CL401 Land Section Registration). (C3) VG112 (Rights Section registration made on the application of Messrs Joyce, Nicholas and William Bunting; Objection No. 1378 made by British Railways, Objection No. 2127 by Thorne Rural District Council; Land Section and Rights Section VG registrations conflicting with CL401 Land and Rights Section registrations). (C4) VG114 (No registration in Rights Section; Objection No. 2132 made by Thorne Rural District Council and Land Section registration conflicting with CL401 Land Section registration). (C5) VG115 (Rights Section registration made on application of Messrs Joyce, Nicholas and William Bunting; Objection No. 1849 made by Arthur Firth, Objection No. 2006 made by National Farmers Union, Yorkshire West Riding County Branch, Objection No. 2133 made by Thorne Rural District Council; and Land Section and Rights Section Registrations conflicting with CL401 Land Section and Rights Section registrations). (C6) VG116 (Rights Section registration made on application of Messrs Joyce, Nicholas and William Bunting; Objection No. 857 made by British Waterways Board Northern Region, Objection No. 1531 made by Yorkshire River Authority and Objection No. 2135 made by Thorne Rural District Council; Land Section and Rights Section registrations conflicting with CL401 Land Section and Rights Section registrations). (C7) VG119 (Rights Section registration made on application of Messrs Joyce, Nicholas and William Bunting; Objection No. 475 by Mr A Pashley, Objection No. 645 by Mr W H Lucas, Objection No. 858 by British Waterways Board Northern Region, Objection No. 1128 by West Riding County Council, Objection No. 1527 by Yorkshire River Authority, Objection No. 1677 by Mrs Mildred Harrison, Objection No. 1735 by Mr Sam Pownall, Objection No. 2143 by Thorne Rural District Council; and Land Section and Rights Section registrations being in conflict with the CL327, CL333 and CL401 Land Section and Rights Section registrations). (C8) VG120 (Rights Section registration made on application of Messrs Joyce, Nicholas and William Bunting; Objection No. 1312 by Mrs K Scott for Mr C Hayward, Objection No. 1380 by British Railway Eastern Region, Objection No. 1532 by Yorkshire River Authority, Objection No. 1609 by Mr R O Lamb, Objection No. 1732 by Mr Charlie Shaw, Objection No. 1803 by Messrs R & G Thompson, Objection No. 1844 by the West Internal Drainage Board, Objection No. 2005 by National Farmers Union, West Riding County Branch, Objection No. 2010 by Mrs Alice May Asquith, No. 2138 by Thorne Rural District Council, and No. 2437 by Mr Roy Clarke and the Land Section and Rights Section conflicting with the CL325 and CL401 Land Section and Rights Section registrations.

The Group D disputes relate to (D) the registrations at Entry No. 1 in the Land Section and at Entry No. 1 in the Rights Section of Register Unit No. CL333 made in the said Register of Common Land, and are occasioned by Objection No. 1558 made by the Yorkshire River Authority and noted in the Register on 21 February 1972, and by Objection No. 2124 made by Thorne Rural District Council and noted in the Register on 19 October 1972 and by the said registrations being in conflict with the registrations at Entry No. 1 and the Land Section and at Entry No. 1 in the Rights Section of Register Unit Nos. VG119 and VG154 made in the said Register of Town or Village Greens.



I held a hearing for the purpose of inquiring into the said disputes and applications at Doncaster on 2, 3, 4 and 5 December 1985. At the hearing so far as it related to Group A (1) Mr D Perrett QC and Mr R TerHaar of counsel instructed by Blyth Dutton, Solicitors of London represented the following persons (in many cases as agents for or by arrangement with Dawson & Burgess, Solicitors of Doncaster and Kenyon Son & Craddock, Solicitors of Thorne and possibly other Solicitors whose names I did not record) (a) British Railways Board (b) Black Drain Drainage Board, (c) Fisons plc, (d) Hatfield Aggregates Limited (e) Imperial Group plc, (f) National Coal Board, (g) National Farmers Union, (h) Severn - Trent Water Authority (i) South Yorkshire County Council (as successors of West Riding County Council), (j) Doncaster District Council (as successors of Thorne Rural District Council), (k) Yorkshire Water Authority, (l) Christian Salvesen (Properties) Ltd as successors of Kenton Homes (Builders) Ltd and (m) numerous other persons who have made Objections and against whose names in the First Schedule hereto appear the letters "Mr Perrett QC"; (2) Mr B K Levy of counsel instructed by the Treasury Solicitor represented the Secretary of State for Defence and the Secretary of State for Home Affairs; (3) Mr Peter R Pennington, solicitor of Kenyon Son & Craddock, Solicitors of Thorne represented Fishlake Parish Council who are noted in the CL401 land Section as having applied for the registration of part of the CL401 land and Went Drainage Board who made Objection No. 1843; (4) Mr Colin Dunkley FRICS represented British Waterways Board; (5) Mr John Norman Duckitt of Ivy House Farm, Wormley Hill, Sykehouse as successor of his father Mr Norman Duckitt deceased who made Objection No. 174 attended in person; (6) Mr Reginald Clayton of Corbiere, West Street, Thorne who made Objection No. 1730 attended in person; (7) Mr Leslie Fotheringham of 15 Somerton Drive, Hatfield Woodhouse who made Objection No. 1673 attended in person; (8) Miss Winifred Molyneux of 3 Staceys Cottage Fishlake as successor of her mother Mrs Amelia Molyneux who made Objection No. 2049 was represented by her brother Mr James Molyneux; (9) Mr T P Smith, →

→ solicitor of Pearlman Grazing & Co, Solicitors of Leeds represented Mr William Bunting and Mrs Joyce Bunting and (10) Mr K Farrow of counsel and Mr M I Hinchcliffe solicitor represented the Official Solicitor of the Supreme Court on 2 December and Miss Turner represented him during the rest of the hearing. At the part of the hearing which related to the many Register Units other than No. CL401: (1) Mr Peter R Pennington solicitor of Kenyon Son & Craddock, Solicitors of Thorne represented: (a) Fishlake Parish Council as before, (b) Doncaster Borough Council (as successors of Thorne Rural District Council), (c) British Railways Board (d) Yorkshire Water Authority, (e) Went Drainage Board (f) the said Mr Sam Pownall who objected to the (C7) VG119 registration and (g) and (h) the said Mrs Alice May Asquith and Mr Roy Clarke who objected to the (C8) VG120 registration; (2) Mr Colin Dunkley FRICS represented British Waterways Board as before (3) Mr R M Williams solicitor of Dawson and Burgess Solicitors of Doncaster represented (a) Black Drain Drainage Board and Cyril Philip Heptonstall and Fred Firth as executors of Arthur Firth who with Mr Fred Firth made VG115 Ownership Objection No. 1845; (4) Mr J D S Adams represented the National Coal Board; (5) Miss Gillian Darley barrister employed by the National Farmers' Union represented them; (6) Mr Cyril Cadman of Inglemore Farm, Goole Road, Moorend, near Doncaster, as a person concerned with the (C5) VG115 registrations attended in person; and (7) Mr T P Smith (who attended only on 2 and 4 December) represented Mr William Bunting and Mrs Joyce Bunting as before.



Course of proceedings

(2 December) During an introductory discussion as to programming these proceedings, Mr T P Smith on behalf of Mr and Mrs Bunting applied that the proceedings be adjourned.

Before the hearing I had from his firm the letter (and enclosure) dated 28 November 1985 specified in Part I of the Second Schedule hereto, from which I extract the following paragraphs:-

Both our Clients are in poor health but particularly Mr Bunting. Since March he had been waiting to be admitted to hospital for surgery and he only consulted us recently when it became apparent that his health would not improve and he had still not been admitted to hospital.

We have not had the opportunity to consider in depth at all the Buntings applications and indeed an application for legal aid has been refused, notice of the refusal only having been received at the beginning of this week.

We have to say that we were unable at the time the application was made to furnish sufficient information about the proceedings to enable the Law Society to properly consider the merits of the case.

Therefore we propose to appeal to the Area Committee of the Law Society against the refusal to grant legal aid. We may then make a personal attendance before the Committee to make them fully conversant with the nature of the applications and the objections being raised and to explain to them how complex the issues are.

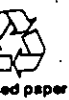
We would take the view that there is a very fair prospect of our clients obtaining legal aid on appeal and that it would be contrary to their interests and the interests of justice to allow the hearings to proceed until the outcome of legal aid application is known.

This is particularly re-enforced by the fact of Mr Bunting's failing health. He is in fact was admitted to hospital on the 28th October and underwent surgery. Whilst he is now back at home he is clearly unfit to attend the hearing and his health is still not sufficiently recovered to enable him to present his own case.

It would therefore be wrong to deny him and indeed ourselves the opportunity to pursue the legal aid appeal (which could be done most swiftly) and to then give ourselves the opportunity to properly prepare the case for presentation to the Commissioner.

Before the hearing I also had from the Official Solicitor the letter specified in Part II of the Second Schedule enclosing a copy of a letter dated 25 November 1985 to him from Mr Bunting from which I extract:-

My health at its best precludes me from any hearing in Doncaster ... My last operation took place on 28 October discharged on 5th inst ... I suggest you should join with me in ensuring that any hearing is at Thorne at a time which I can reasonably be expected to attend...





At the hearing Mr Smith said that his firm was first instructed late in September 1985, and that the basis of the application is that Mr Bunting is a sick man, is not able to present his own case (as he himself acknowledges) and wants to obtain legal aid.

Mr Farrow said (in effect):- On behalf of the Official Solicitor he did not support the application for an adjournment; it would not be right he submitted to grant the application as things stand at present. He referred to a letter dated 6 March 1984 from the Clerk of the Commons Commissioners to Mr Bunting suggesting that he apply for legal aid. In these proceedings the burden of proof is on Mr Bunting, see re Sutton Common 1982 1WLR 647. The basis of the disputed registrations is the 1630 Exchequer decree (in the Rights Section the applicants Messrs Joyce, Nicholas and William Bunting are said to apply "as successors to the tenants and inhabitants of the Manor of Hatfield as described in the Decree and Award in the Exchequer dated 30 November 1630"); this decree was considered in High Court proceedings relating to Register Unit No. CL386 (Thorne Moors or Thorne Waste north of and adjoining the CL401 land); it was therein held ("the 1983 High Court judgment") by Mr Justice Mervyn Davies that no rights under the 1630 decree are now subsisting (anywhere) except for turbarry; none of the registrations in this CL401 Register Unit include turbarry. There is no case for an adjournment because any delay about the grant of legal aid would have been avoided if the application for it had been made before."

Following a discussion, I said that on the information then put before me by Mr Smith, his application for an adjournment was refused without prejudice to his renewing the application within the next few days while I was in Doncaster and still concerned with these Register Units.

Next (2 December), Mr Perrett submitted that the burden of proof being on those who wished to support the registrations, I should in the absence of any evidence or argument in support of them, conclude that none made on the applications of Mr Bunting was properly made and there was therefore no need to continue the hearing. My then knowledge of the CL401 land and the disputes relating to it was based on my recollection of the reports of the High Court proceedings about it: *Thorne RDC v Bunting*: No. 1, 1972 Ch 471, and No. 2, 1972 3 AllER 657 and 1084, my recollection of the evidence given at my 9 day hearing in October and November 1975 about the said CL386 land, Thorne Moors, and what I had deduced when in my office considering how to programme the hearing of the applications dated 16 and 17 May 1985 ("the Preliminary Applications") and the other matters specified in the Cause List as sent out on 22 July 1985. I then held the view that having regard to the size of the CL401 land (more than 30 square miles) and the numerous Objections, it was in the public interest that I should hear some evidence about the CL401 land and the circumstances surrounding the disputes. So after some discussion, Mr Perrett without prejudice to his submission proceeded (and I suppose others proceeded likewise) in accordance with my view.

Next Mr Perrett produced and expounded the documents specified in Part II of the Second Schedule hereto referring also to the three maps (01/8) during the hearing



displayed on an easel, one of which had been prepared by or with the advice of Dr Harley of the University of Exeter, an expert cartographer who would give oral evidence if required. The points made by Mr Perrett are summarised in paragraph 6 of the affidavit made on the following day as specified in Part XV of the said Schedule. The points, which would be relevant if evidence or argument in support of the registrations was given on the lines of that given by Mr Bunting during my said 1975 CL386 hearing, were to this effect:- The CL401 land and the CL386 land comprise what was the ancient Manor of Hatfield. Following an agreement made in 1626 between HM King Charles I and Sir Cornelius Vermuyden and as a result particularly of the 1630 Exchequer decree (referred to in the Rights Section registrations) and the 1633 enfeoffment which followed it, all rights of common over the CL401 land had been extinguished save for turbary as decided in the 1983 High Court judgment. ———→ Under the 1811 Act, particularly section XLI all these turbary rights were extinguished except those over the CL386 land, those over Crowle Yorkshire Common (outside the CL401 land) and those enjoyed by persons living in any houses or tenements standing or being upon any part of the Level Lands commonly called the Scotted Lands. The address of Mr Bunting is a house in the centre of the ancient township of Thorne and is well away from the Scotted Lands.

Next Mr B K Levy who was concerned to support Objections No. 78 by the Secretary of State for Defence, No. 1674 by the Department of the Environment for the Post Office, No. 2165 by the Home Office, Prison Department and No. 2543 by Mr Eric Graville, read the affidavits specified in Part III of the Second Schedule hereto. Mr E Graville said (in effect):- The land RAF Lindholme before 1938 when it was acquired by the Secretary of State for Air was agricultural land made up of Clownes Farm, Eastram Hill Farm, a part of Woodhouse Grange, a part of Huggins Farm and the majority of Red House Farm; as a local resident (born 1913) he had never seen anyone exercising rights of common over this land. Mr J R Bell (now 83 years of age) said (in effect):- He from 1920 to 1938 worked at Clownes Farm and from 1939 to 1966 worked for the Air Ministry on the airfield in the rank of Leading Groundsman; Clownes Farm before 1939 had been used for no other purpose than commercial farming; he never saw anyone exercising rights of common over the land either during the period 1920 to 1938 or after its acquisition by the Secretary of State for Air. Mr G A Bell who was born in 1930 said things about the RAF Lindholme land to much the same effect. Mr C J Page said (in effect):- The Prison Commissioners took possession of Tudworth Hall Farm (conveyance dated 11 May 1960) and had been in possession ever since except for the part a few years before 1979 taken for the motorway (M180); he had been placed in charge of the farm from December 1959 in the rank of Foreman to work under the Farm Manager; his duties were to see that cultivation and planting were done at the right time; he retired in 1979; he had never seen anyone exercise rights of common over any part of the farm, and particularly never saw anyone cutting and taking turves; the ground beneath the surface is sand, below that it is not physically possible to do this. Mr Levy said:- The 1938 purchase of the Airfield was an open market purchase (not compulsory); the A614 road adjoins the west side of the Airfield; it has now been transferred to the Home Office and is now a prison, surrounded with a security perimeter fence.



Next (3 December), oral evidence was given by Mr Reginald Clayton in the course of which he produced the documents specified in Part VI of the Second Schedule hereto. The grounds of Objection No. 1730 are: "The land 1934 & 1936 ... was not common land at the date of registration"; the pieces of land having these OS Nos contain 6.961 and 7.536 acres, are situated a short distance south of Thorne, and adjoin west side of the Thorne-Hatfield road (All46). He said (in effect):- These pieces of land (now one field of 14½ acres) were owned and farmed by his grandfather Frederick Clayton who died in about 1950 and then by his father Thomas William Clayton who died in 1955 since which time he had let them to local farmers. He identified these pieces with the allotment of 14a.2r.2p. "part of the Common called Pissey Beds" made in the abstracted (RC/2) award dated 11 July 1825, and with "that new inclosed allotment ... being part of Pissey Beds Common containing fourteen acres and two perches" granted to John Bladworth by the 1837 indenture (RC/3). He has other deeds relating to the pieces. They are one field now; and ever since he could first remember except for a broken down hedge which had now all gone.

Questioned by Mr Levy, Mr Clayton said he was born at Tudworth Grange Farm and confirmed the affidavit (MOD/1) of Mr Page, particularly the exhibit "CJP.1" on which Tudworth Grange is marked and the said two pieces are outlined as one.

Questioned by Mr Perrett, Mr Clayton identified his pieces as within the yellow on the map 01/Harley/(1) and identified the M18 and the M180 motorways as being within the yellow. He said that nobody had attempted to graze the pieces without his permission or used it without paying him and was very much surprised when he learnt that it had been registered as common land. As to shooting, there was no game except he had himself shot a hare or so. There is no local hunt.

Next (3 December) oral evidence was given by Mr Leslie Fotheringham who had made Objection No. 1673 the grounds of which are set out in Part VII of the Second Schedule hereto. He said (in effect):- The land shown coloured red on the Objection plan is approximately rectangular containing about 1000 square yards with a frontage of about 15 yards; now on it is a bungalow with its garden. →
→ He bought the land in 1967; it was then just grassland; it was one of 5 plots (No. 4) and he built the bungalow.

Questioned by Mr Perrett, Mr Fotheringham said (in effect):- The builder concerned was Mr Ted Lay; it was not until after the bungalow had been built that he heard that land had been registered by Mr Bunting as common land. When he bought the land it was part of an agricultural field; between it and the Robin Hood public house was open farmland; it is now all built up. So far as he was concerned nobody had made any use of the land except himself. It is hatched green on the map 01/Harley/(1).

Next (3 December) oral evidence was given by Mr James Molyneux in support of Objection No. 2049 the grounds of which are: "The land coloured red on the attached plan was not common land at the date of registration". He produced the documents specified in Part VIII of the Second Schedule hereto; in her letter (JM/1) Miss Winifred Molyneux (his sister) said: "It (3 Staceys Cottages) has been the family home since 1938 and I am currently the owner of the property. During this time I can honestly declare that no person has exercised Rights of Common". He said (in effect):- It has been in the family since 1938 in that his father Henry



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Molyneux who died about 1975 became in 1938 tenant and in the mid 1960s owner; his mother Amelia Molyneux who made the Objection died in 1984. It is one of 4 dwellings (built as 2 houses) which front on the road from Fishlake to Sykehouse (a little south of the turning to Kirkhouse Green). All the years he (born 1932) had known it, it has been a dwellinghouse, and the field at the back (where the cesspits are) has always been a farm field.

Next (3 December) oral evidence was given by Mr Walter Aubrey Rhodes FRICS, acting Area Estate Manager for the National Coal Board who made Objection No. 445, the grounds of which are "That those parts of the land included in the registration which are shown coloured pink on the attached plan were not common land at the date of registration". In the course of his evidence Mr Rhodes produced the documents specified in Part IX of the Second Schedule hereto, and said (in effect):- The map (NCB/1) shows edged red the land now owned by the Board. The colliery land (pit head and tips) shown north of Thorne (near Moorends) was closed in 1956 and has not since been producing; but, for it, there is an extensive modernisation programme; development work is going on; and he thought that there are reserves of at least 50 years. The accommodation land (houses etc) shown on the Objection plan (not on NCB/1) for the miners working at the colliery has since been sold off and is no longer owned by the Board. Of the other land shown on the plan NCB/1 near to this colliery, the plot to the west is a recreation ground now managed by Thorne Town Council and the plot further west on the other side of the railway is a road for heavy vehicles to the colliery land; the rest is agricultural land farmed by tenants; the strip marked Broadbent Gate Moors is an agricultural part of a farm holding and the piece further west is now divided into 2 by the motorway (M18). The other colliery shown on the plan (NCB/1) north of Hatfield ("Hatfield Main Colliery"), mostly between Stainforth and the railway is active and producing, employing about 1,000 men who live mainly in Stainforth or in Dunscroft; this colliery was opened about 1911 and the land not used for colliery purposes was agriculturally let as set out in the paper (NCB/2) he produced. Nobody had ever tried to exercise rights of common over the land of the Board and apart from Messrs Bunting, → nobody had ever claimed to have such rights.

Next (3 December) oral evidence was given by Mr Julian Gott FRICS of British Rail Property Board in support of Objection No. 1375 the grounds of which are "The land - shown by green colour on the attached plans Nos. 4480, 4481 and 4482 - was not common land at the date of registration. The majority of the land shown by green colour on the plans is required for operational purposes by the British Railways Board". Mr Gott in the course of his evidence produced or referred to the documents specified in Part X of the Second Schedule hereto and said (in effect):- He had lived in the area for 26 years and had general knowledge of the Board's land in the area. The map (BR/1) is a strip at the north-east corner and within the CL401 land west of Sykehouse formerly used as a railway and as such has ceased to be operational having been closed for the last 30 years. The map BR/2 shows the land used for the now existing railway crossing the CL401 land; this land is fenced, the Board being under duty to fence and breaking boundaries in the vicinity of a railway being a trespass under the British Transport Commission Act 1949*. The land hatched red on the plan BR/2 had since been sold either in the late 1960s or the early 1970s to adjacent owners.

*Note: 12 & 13 Geo. c.xxix, section 55.



Next (3 December) oral evidence was given by Mr William Farman who is and has been since 1974 the Principal Valuer of Doncaster Borough Council; he said (in effect):- His Council are the successors of Thorne Rural District Council whose area was to all intents the same as the CL401 land. As successors they took over the social services; the school services, drainage functions (foul and surface water as opposed to land drainage), so he was familiar with the CL401 land. Generally it is flat level land now fairly well drained; it includes some hundreds of acres of urbanised land, being Thorne, Stainforth, Hatfield and Dunscroft, something in excess of 800 acres he estimated, not taking into account smaller villages in the outlying areas. The principal town is the market town of Thorne, and such town and Hatfield are the largest centres of population. The CL401 land is crossed by the motorways M18 and M180; The Borough Council are not the highway authority now (1985) but will be in April 1986. His duties included the acquisition of property to be owned or to be used by the Council; apart from the applications of Messrs Bunting no-one had ever asserted that such property (part of the CL401 land) was subject to rights of common; the Council when acquiring land had never paid or been asked to pay for compensation for such rights, and they had never had to recourse to purchasing common rights. Generally the CL401 land is agricultural with moorland; the moorland is generally well fenced from the road and Hatfield Moor, marked on the OS map, is fenced from adjoining arable land; generally pasture land is no longer economic because since the advent of EEC, wheat and barley are more profitable.

Questioned by Mr Levy, Mr Farnham qualified his above summarised general observations, saying (in effect):- Not all undeveloped (not urbanised) land was arable; for example the part of Hatfield Moor near what was Lindholme Airfield, although other land near the A614 road is arable. Some land was in the 1920s when the coalfields were developed, left open, as also land in outlying villages and the school playing fields; as also the roadside verges, sometimes grazed by gypsies with tethered animals.

Next (3 December) oral evidence was given by Mr John Cundall Harrison who referred to or produced the documents specified in Part XI of the Second Schedule including Objection No. 2003 made by the National Farmers Union the grounds of which are: "That the land covered by Unit No. CL401 was not common land at the date of registration". The maps (JCH/2 etc) are (a little more or less) the same as those annexed to Objection No. 1605 made by Winston & John C Harrison the grounds of which are: "The land edged red ... not common land at the date of registration and the rights did not exist at the date of registration; objectors are owners of freehold fee simple in possession". In reply to questions by Mr Ter Haar, Mr Harrison said (in effect):- He was and is a farmer and had lived in the area all his life (born 1929). Within the CL401 land he owned about 160 acres and tenanted about 240 acres. Most of the farmland owned by him had been in his family for about 30 years some for longer than that; most of the land he tenanted had by him been tenanted for some length of time. The map (JCH/2) showed edged red farmland owned by him being all arable accommodation land adjoining the farm buildings "Ings Farm" now occupied by a foreman; it was all fenced in so the farm was arable mainly although some parts of the Riverbank are pasture. Physically these parts cannot be farmed as arable; they are all fenced; nobody had ever claimed any rights of common over them; they are now well drained; about 10 or 12 years ago they were improved.



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As I read the map (JCH/2) the farm comprises a strip containing about 33 acres between the Stainforth-Keadby Canal and the River Don called Huddle Grounds; a piece of land containing about 54 acres also between the Canal and the River Don northeast of Huddle Grounds called Stainforth East Ings, some fields to the north containing about 17 acres and some fields to the east (on the other side of the railway line between it and the swing-bridge) containing about 21 acres.

Next Mr Pennington intervened about the CL333 land (Group D), a strip about 75 yards wide, which extends northwards from the middle line of the River Don to the main street of the village of Fishlake and which is situated approximately at right angles to the middle point of the Huddle Grounds part of the Ings Farm owned by Mr Harrison and is completely surrounded by the CL401 land. Mr Pennington on behalf of the Yorkshire Water Authority said I need not bother with the questions raised in his firm's letter of 17 January 1985 (File 269/D/308), but on behalf of Fishlake Parish Council wished to question Mr Harrison.

About the CL333 land; Mr Harrison said (in effect):- It includes near its north end the old bed of the River Don; between the old course and the new course, there is a floodbank and also washland (for the water of the River flooding over the bank). He (the witness) is the tenant of the Yorkshire River Authority of all the area (the washland and banks) to the north of the River extending for about a mile from Jubilee Bridge on the north to Stanford Bridge on the south. This tenancy includes the south part of the CL333 land; he had been such a tenant for the last 10 or 20 years; the area (the washland and banks) are grassland which he grazed with cattle. The south part of the CL333 land crosses the land on which he is so tenant; nobody had ever attempted to take from the CL333 land clods or gravel or sand or stone or attempted to graze it with cattle other than the cattle belonging to him. As to the CL333 land being called "Town Landing", it might have been such at one time used by the villagers, but it could not be used as a town landing now; he did not remember it ever having been a town landing even before the works which resulted in the new flood bank (they started between 1943-1945 and ended in 1950). Although the north end of the CL333 land is in the middle of Fishlake Village next to the road and would have been next to the old River Don it had never within his recollection been used as a town landing but he could not say it was physically not possible for it ever to have been so used.

Mr Pennington also intervened about the VG113 land (Group B), which is a short distance east of Ings Farm Buildings; by the decision of 30 March 1984, the VG113 Land Section registration was confirmed with the modification: the exclusion of the part on the north side of Stainforth and Keadby Canal. About this VG113 land, Mr Harrison said (in effect):- The part north of the Canal was owned by himself; it is partly pond and partly canal bank and partly grassland; the "boating dike" (marked on the VG113 and JHC/2a maps) runs up to the shipyard; the grass land is used for mowing or for grazing cattle; the part is fenced and has only been "used by ourselves" for the 40 years he had known it; it is not possible to angle in the pond part (OS No. 8038) because there are no fish in it. He was familiar with the part south of the Canal although it was not in his ownership; as to so much of it marked on the map "Fishpond" he did not know whether there were any fish in it; although he had been told that people fished there, he had not himself seen fish; the pond is clear enough for cattle to drink from. The surrounding area has been drained and small vehicles have access to it to the south by going under the railway.



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Mr Pennington also intervened about the VG117 land (group B) which is a short distance from the west end of the Huddle Grounds and on the other side of the Canal. About it Mr Harrison said (in effect):- It is very wet, its shooting value is "very low" and he doubted whether there is sufficient water in the pond for fishing.

Next (4 December) Mr T P Smith on behalf of Mr Bunting renewed his application that the proceedings be adjourned, and in support of it oral evidence was given by Dr Rhys Prys Owen MB, CHB, medical practitioner of Thorne; my note of his evidence is set out in the Third Schedule hereto.

Being at this stage not clear about what Mr Smith had personally done in this matter, I invited him to give evidence. All present agreed what Mr Smith had already said was factually correct, and accordingly he then summarised what he had said for my benefit as noted at the end of the Third Schedule hereto.

Mr Perrett opposed the application submitting (among other things):- The effect of Dr Owen's evidence is: Mr Bunting is unfit to present his own case or to give instructions to a lawyer about a complicated affair; he (Dr Owen) as a medical practitioner hopes for improvement, but he does not expect it. His evidence covers both the health of Mr Bunting as it now is and his health so far as concerns the delay in his applying for legal aid as it has been deterioration over the last 2 years; making it abundantly clear that no advantage would accrue to this inquiry from any adjournment. The prognosis is gloomy; his present symptoms from his recent hernia operation are of passing significance; the essential matter is his spinal condition; there is no reason for thinking that this condition is going to improve; he is a determined man able to follow the advice of his doctor. His application for legal aid made on 16 October of this year (1985) was 15 years after the registrations*. It is wholly uncertain whether an appeal from the Committee's November 1985 decision would be successful; they thought they could do no more than authorise an opinion of counsel. Mr Farrow as amicus spoke of the burden of proof and did not support the application.

Mr B K Levy also opposed the application submitting (among other things):- There were two elements: the health of Mr Bunting and the opportunity to obtain legal aid. Although an adjournment to get legal aid might be an answer in terms of health, he had had two years to apply for it. For two years he had not been able to conduct his case, see WB/1 and WB/2. In the letter of 6 March 1984 (that mentioned by Mr Farrow), legal aid was suggested to Mr Bunting and in paragraph 5 of his letter of 7 March 1984 (mentioned in Cause List) it was by him refused: such paragraph was wholly improper. In the past Mr Bunting has under legal aid had the benefit of Mr Balcombe QC (as he then was) and Mr J A Macdonald of counsel and Messrs Pearlman, as solicitors in Thorne RDC v Bunting 1972 1Ch 470 (see also Thorne RDC v Bunting, No. 2 1972 3 All ER 657 and 1784) and also of counsel (Mr J Rankin QC and Mr J A Macdonald) in March 1976 in the hearing relating to Crowle Moor (Humber-side, formerly Lincoln, Lindsey: Register Unit No. CL83) before Mr Justice Walton; so Mr Bunting has full experience of legal aid. As to the second element, Dr Owen said that Mr Bunting

* Land Section 25 March 1969 and Rights Section 16 June and 20 July 1970.



could make his own decision as to what he was able to do or not to do. Mr Bunting in his letter dated 28 August 1985 to the Clerk of the Commons Commissioners (in answer to the notification dated 22 July 1985 of this Doncaster hearing) showed what he could then do; he wanted the hearing in a hall in Thorne and spoke of Doncaster being "beyond ... financial reach"; disregarding the interest of the enormous number of people involved in these proceedings, he is silent about anything he would or could do about their costs occasioned by the adjournment he was seeking. His application for legal aid was made too late.

Mr Duckitt opposed the application saying (in effect):- For 15 years he and others had been in a state of uncertainty; this should not be prolonged. Mr Bunting should have approached Mr Pearlman when he wrote his letter of 28 August 1985; he did not go straight along; if he had, the legal aid position would have been advanced and the application for an adjournment not needed.

Mr Pennington also opposed the application submitting (in effect):- The legal aid application should have been made earlier as already said. The application for an adjournment was made in bad faith, not on the part of Mr Smith but on the part of Mr Bunting; he had done it before at various Commons Registration inquiries to achieve his naturalist and environmental interests; secondly he has boasted in the past that he had not been defeated. For many years about his registrations there have been delays: notably in the proceedings *Fisons plc v Bunting* where the delay* was deliberate. The particulars requested 4 January 1984 as specified in Part XIII of the Second Schedule hereto, have not been given by Mr Bunting. At hearings at Thorne in February 1984 (relating to Group B, VG113 and Group C, VG110, VG111, VG112, VG114, VG115, and VG120) Mr Bunting did not himself appear but Mr David Owen (not a lawyer) appeared and was authorised to speak for Mr Bunting; nevertheless Mr Bunting applied for an adjournment. Delay is prejudicial to many people; only recently (November 1985) Mr Clarke, who he represented in these proceedings, suffered the loss of a sale of about one acre of land, when the purchaser discovered it was included in a Commons Registration Act 1965 registration.

Miss Darley also opposed the application and relied on the submissions made by Mr Perrett, Mr Levy and Mr Pennington.

Mr Smith replied saying (among other things):- Mr Bunting is a determined man defeated by his ill-health. Any procrastination which has been mentioned is justified by Dr Owen's evidence. It is clear he is not well enough to concentrate sufficiently long for himself to deal with the complexity of a hearing. Dr Owen considered that Mr Bunting had retained a hope that his health would improve sufficiently for him to represent himself; but Dr Owen now considers that at long last he has accepted that he will no longer be physically capable of presenting his own case. Initial refusal of legal aid is not decisive in that he (Mr Smith) had cases when appeals from such refusal had been successful (no appeal has yet been lodged); he thought the appeal could be dealt with within 4 weeks. As regards these proceedings, (under the Commons Registration Act 1965) his application was for an adjournment of at least 3 months.

* Case stated dated 27 April 1976 about CL386 decision dated 4 March 1976; High Court hearing June 1983 resulting in the 1983 High Court Judgment.





Next, I said that I refused the application for an adjournment, and would give my reasons in my final decision.

Next (4 December) Mr Perrett and Mr Levy said that having regard to the course these proceedings have taken, they would not be proceeding with the preliminary points mentioned in the Cause List.

Next oral evidence was given by Mr Stanley Marshall who has lived for more than 40 years in Thorne, was employed by British Moss Litter Co Ltd from 1937 until in 1963 when they were bought by Fisons Ltd and thereafter continued in their employment retiring in 1983 as a Moor Manager of Fisons plc.; he produced the documents specified in Part XIV of the Second Schedule hereto and said (in effect):- The green land on the map Fisons/1 was owned by Fisons plc; their main processing work is at and around "Peat Moss Litter Works". The land coloured green on the plan Fisons/2 comprises bits of land now farmed including Hatfield Woodlands. The moor worked by Fisons is about 3,000 acres. The cutting and outside processing employ about 25 people all the year round and additionally 75 people in the summer. In the factory about 100 people are employed all the year round. Extraction of peat from Hatfield Moors had been continuous during the 45 years he had known it and he thought that such extraction had commenced at the turn of the century. During his 45 years as an employee the public had not been allowed any access to the moor from which the peat was being extracted not only because of the possible damage to the machinery but also in summertime the dropping of a lighted cigarette would cause a fire. They have there security at night and at weekends, but the public are not a problem because people when told that the land is private property go off without arguing. The moor is in substance a raised block of peat bog, perhaps 2 or 3 feet above the surrounding land and in the middle perhaps 8 or 9 feet higher. It drains on the north side into the River Trent and on the south side into the River Torne. In the middle there is heather, bracken and birch, not unlike Thorne Moor (CL383) which the witness had shown me in 1975. There is nothing for cattle to eat nor any game to shoot except perhaps a few pheasants. He had known of Mr Bunting for some 40 or 50 years but he had never seen him or Mrs Bunting or Mr Nicholas Bunting on the moor. Nobody apart from Fisons and British Moss Litter had ever taken peat off the moor during the whole of his working life. As to the surrounding land generally, it is all agricultural: between Hatfield Moors and Thorne Waste or Moors (marked on the map Fisons/2 and being the CL383 land) it is all agricultural, the boundaries being small hedges and drains; between Hatfield Moors and Hatfield Village, it is agricultural land hedged and ditched; such also it is between Hatfield Woodhouse and Tudworth Hall. He passed Thorne Colliery on the way to work; between it and Thorne Moor (CL383) it is agricultural land like he had just mentioned. As to the yellow land on the map 01/Harley/(1), the following are agricultural land and not apparently common land: Reedholme Common, Ditchmarsh (North Common), Brewham Kirton Common, Hatfield Hills, Kairtown Common, Ferne Carr and Remple Common and the land to the southwest (see Q - marked on the said map); the "Airfield" (marked on Fisons/2) is not now farmed, there being at its south end buildings (marked on the map).



Questioned by Mr Levy, Mr Marshall agreed that Tudworth Hall Farm was all agricultural land, that the public had been kept out of it (being a prison) and that on the south of it (as marked on Fisons/2) there are 2 or 3 lakes (by me marked "PQ" and "RS"), which are part of Canberra Farm and not part of Fisons' land.

Next Mr Perrett put in the affidavit by Mr Charles Nigel Ouin specified in Part XV of the Second Schedule hereto. Mr Perrett asked if for his clients I needed more evidence such as he was prepared to adduce on the following day.

Next Mr Levy referred me to my CL386 decision and emphasised that my finding that after the 1650 decree and the events associated with it, all rights of common except turbary had been extinguished, had been upheld by Mr Justice Mervyn Davies and that the Rights Section registrations of the CL401 Unit, save that they do not include turbary are identical with those of the CL386 Unit, and submitted that I should approach the evidence as directed by Walton J in re Sutton supra. Mr Levy referred me to the Objections specified in Part XVI of the Second Schedule hereto with all of which he was concerned; the land referred to in Objection No. 1674 was and is a telephone exchange now privatised, and that referred to in Objection No. 2543 was made by Mr Eric Gra-ville of Canberra Farm.

After some discussion, I said that I was satisfied on the evidence so far given that the CL401 registrations made by Messrs Bunting were "questionable" within the meaning of the word as used by Walton J in re Sutton supra, and for this reason it was unnecessary for those present or represented to incur trouble and expense by calling any more evidence in support of the Objections with which they were concerned; and in particular it was unnecessary for Mr Harley to come (as had been provisionally arranged) from Exeter to Doncaster to explain the map 01/Harley/(1). So the hearing so far as it related to Group A, CL401, subject to my then intended inspection, was then concluded.

Next (5 December) I considered the Group B, C and D registrations. That the VG113 and VG117 registrations made on the application of Mr Bunting should be avoided and that the VG110, VG111, VG112, VG114, VG115, VG116, VG119 and VG120 decisions should stand was submitted by Miss G Darley, Mr C Dunkley, Mr J D S. Adams, Mr P R Pennington and Mr R M Williams.

Mr C Cadnam said that he was concerned with the ownership of the Durham Warping Drain, (Group C: VG115) and referred me to the documents specified in part XVII of the Second Schedule hereto. Mr R M Williams as representing the Black Drain Drainage Board and also Messrs C P Heptonstall and F Firth, executors of the late Mr Arthur Firth (he died 6 May 1976) objected to Mr Cadnam making any statement saying that he was no longer either chairman or a member of the Board, that he (Mr Williams) as their solicitor represented the Board at this hearing and that they had purchased the land from the Firths' who made the Objection. I decided that I would permit Mr Cadnam to give evidence without prejudice to any questions that might thereafter be raised as to its admissibility.



Mr Cadnam in the course of his oral evidence said (in effect):- On his application as chairman of the Board he having been such for 20 years up to last November, the VG115 Ownership Section registration had been made at Entry No. 1 "Cyril Cadnam, Chairman of Black Drain Drainage Board..." of the whole of the land in the Register Unit. He was concerned about Mr Williams as representing not only the Board but also an Objector. The Board has been doing things on the VG115 land contrary to it being common land; it should be used for parish purposes; it was open land with no gate or fence of any description. Mr Cadnam said other things which were possibly of a controversial character about angling in the drain and about decisions with which he did not agree having been taken by the Board.

At the hearing I said I would not hear him further because I considered the matters he raised were not within my jurisdiction and I could not and would not take any action about it. My reasons for so saying are hereinafter set out under the heading: (C) VG 110, 111, 112, 114, 115, 116, 119 and 120.

In notes 2 and 3 to the VG115 Land Section it is recorded that the VG registration is in conflict with the CL401 Land Section registration in that the whole of the VG115 land is included in the CL401 land, so that every entry in the Rights and Ownership Section of the VG Register Unit is deemed so far as it relates to land registered in both registers, also to be made in the corresponding Section of the other register. As to these deemed VG115 registrations consequential on the CL401 Rights Section registrations, after some discussion I understood that all present including Mr Cadnam agreed they should be avoided.

Next (5 December) after Mr Pennington had on behalf of Fishlake Parish Council called attention to the evidence given 2 days before by Mr Harrison about the Group D: CL333 registration, oral evidence was given by Mrs Mary Silvester who has lived since her marriage 55 years ago in Fishlake, has been during the 1950s and the early 1960s a member of the Thorne Rural District Council and during the late 1950s and all the 1960s a member of Fishlake Parish Council; in the course of such evidence she produced the documents specified in Part XVIII of the Second Schedule hereto and among other things said (in effect):- She was familiar with the land known as "The Landing", meaning that comprised in the VG154 registration and extending southwards from the road through Fishlake to the north side of the old bed of the River Don and being only the northern end (about 1/10 of the whole) of the CL333 land. She first remembered The Landing as a place where children used to play. The River is tidal; she thought boats used to come up and disembark there. When she was first elected to the Thorne Council, she suggested the Landing should be tidied, this having been brought up at Parish Council meetings; there are now flower beds, some trees and a seat; it contains about 1/4 of an acre. The part of the CL333 land south of the Landing is below the level of the road and is now grazing land; it was part of the old bed of the River Don. The River was diverted; she remembered the new banks being erected: one 10-12 years ago; the old bed of the River is now grazing land, subject (she thought) to a public right of way. In the Minute Book (MS/2) there is an entry (1921) about the landing being converted into a garden and (1927) recording a payment of a yearly rent of 5s to the Council.



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Mr Pennington submitted that there was no evidence that any part of the CL333 land was common land; the landing had he thought been shown by the evidence of Mrs Silvester to be parish property and as such owned by the Parish Council, but such ownership was not by itself evidence of it being common land.

On the day after the hearing (6 December) I inspected (in part on foot but mostly by motor car) the lands mentioned at the hearing. I first went by Dunscroft and the entrance to Stainsforth Colliery to Ashfield Bank (the VG117 land except that by the March 1984 decision removed from it). Next I went to Fishlake and walked over the Landing (being or having been the VG154 land) from the road to the top of the nearby now effective north bank of the River Don and thus in effect saw the whole of the CL333 land. Next I stopped by 3 Stacey Cottages owned by Mrs Molyneux. Next I looked at the New Junction Canal by Sykehouse Lock and then drove over Kirk Lake Bridge. Next I visited Ivy House Farm (owned by Mr Duckitt). Next I looked at as much of the Durham Warping Drain (VG115) as was visible from the road. Next I observed the cultivated state of Reedholme Common. Next I viewed Thorne Colliery from the newly constructed road to it. Next I walked around the White Lane Pond land (VG113) which is south of the Canal. About this time it began to rain heavily so I could do no more than look distantly at Mr Clayton's field, and a little later see from my car 15 Somerset Drive owned by Mr Fotheringham. Next I viewed from the main road what was Lindholme Airfield and very distantly and not distinctly Hatfield Moors belonging to Fisons plc. While my inspection did not cover all that I intended on the assumption that the weather would be fine, I concluded that I could properly write my decision without seeing any more.

After the hearing Mr Cadnam wrote a letter to me dated 16 December 1985 enclosing with it the documents specified in Part XIX of the Second Schedule hereto (filed 269/D/49).

Adjournment

To me this in retrospect appears to have been the most important part of the hearing.

The application on behalf of Mr Bunting was for an adjournment of at least 3 months (not before 4 March 1986) and was based simply on the medical evidence of Dr Owen and the undisputed legal aid facts stated by Mr Smith.



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Dr Owen gave his evidence carefully and deliberately and I consider it reliable; nobody suggested otherwise. I thank him for the trouble he took in what for him must have been a difficult matter. His evidence generally and particularly during the first half of it was directed to whether Mr Bunting was incapable for health reasons of presenting his case in person; by presenting his case Dr Owen had I think in mind doing things essentially the same as the things which he Dr Owen was doing at Doncaster County Court on 4 December before myself, that is giving in a court a careful exposition of the matters by him and others thought to be relevant and answering questions about them. I (and others present) knew although Dr Owen did not know, that Mr Bunting was capable of presenting his case in person in June 1983 because he did so for several days before Mr Justice Mervyn Davies. Dr Owen did not in his evidence go back much before August 1984 (when he wrote WB/1); on his evidence I find first that Mr Bunting was at no time between August 1984 and the day of the hearing (December 1985) capable by reason of his arthritic condition of presenting his case in person in the sense of these words as understood by Dr Owen, and secondly that he while being treated in and out of hospital for hernia was additionally disabled but such additional disablement was temporary and its passing did not affect the disability I have first found.

I also find that Dr Owen had at or shortly before the hearing (December 1985) considered whether Mr Bunting was ever likely to get back his former capacity to present his case in person and had formed the opinion that he would not in the foreseeable future. On this finding which was not disputed, I consider that I ought in these proceedings to consider the said incapacity as permanent.

It was implicit in the evidence of Dr Owen, that Mr Bunting is (and always has been) capable of understanding the extent of the disability from which he suffers as a result of his arthritic condition. Although he finds mental activity tiring and sometimes exhausting, there was no suggestion that he is not able to manage his own affairs in the sense that he is not able for himself to choose who should on his behalf represent him at a legal hearing, or do —→ for him any other thing which by reason of his arthritic condition he cannot himself do personally; rightly no-one suggested at the hearing that Mr T P Smith was not regularly and properly authorised by Mr Bunting to apply for the proceedings to be adjourned and on his behalf in support of the application/say what he did.

Dr Owen was questioned about Mr Bunting's capacity to do things possibly helpful in these proceedings but not so onerous as presenting his case in person: such as attending a hearing at a hall in Thorne and/or giving evidence (someone else presenting his case). My note (Third Schedule hereto) of what Dr Owen said about this is not perhaps as clear as it might have been, so I record my recollection of the effect of what he said. Dr Owen had not before the hearing (December 1985) considered particularly Mr Bunting's capacity to present a case in person in a



hall in Thorne rather than in a County Court in Doncaster; his arthritic condition is such that any attempt by him to present his case in person (using these words in the same sense as above) would by reason of his arthritic condition lead to the same tiredness and exhaustion making it impossible for him to proceed, wherever he made the attempt. As to the other less onerous matters suggested, Dr Owen's view was that Mr Bunting could decide on his own what he was capable or not capable of doing.

On the legal aid aspect, the grounds put forward for adjourning are extraordinary in that the grounds put forward for adjourning are to enable Mr Bunting, not for the first time to apply for legal aid at my December 1985 hearing, but for a second time to apply for legal aid, his first application having been refused; such second application would (as I understood Mr Smith) be on the information already placed before the refusing Committee (to this extent I suppose an appeal) and/or on further information which could and would be made available (a rehearing).

Those against the adjournment submitted that it should be refused because the first application for legal aid was made too late. So I must first consider whether Mr Bunting might or could or should have approached Pearlman & Co before the end of September 1985.

In my opinion it is for Mr Bunting to explain why he did not do this. About this question the only possibly relevant evidence given on his behalf was the statement of Dr Owen to the effect that he would say that "fairly recently" Mr Bunting had come to terms with never being able to present his case. Notwithstanding the question is not wholly a matter for a medical opinion, Dr Owen's statement is admissible as to Mr Bunting's knowledge; but it falls short of what is requisite because in my view Mr Bunting was not necessarily justified in doing nothing about legal aid until the moment that he (or Dr Owen) concluded that he would never be able to present his case in person. The absence of any explanation and of any other evidence on this question is my first reason for my rejecting the adjournment application.

But because this my first reason for refusing an adjournment may be mistaken, I secondly consider the letters written by Mr Bunting to which my attention was at the hearing particularly directed. In my opinion such letters are admissible on the question now under consideration as indicating not only what Mr Bunting was in relation to these proceedings at the time they were written capable of doing but also his then attitude of mind. In his letter of 7 March 1984 Mr Bunting decisively rejects the suggestion of the former Chief Commons Commissioner that he apply for legal aid; from this I infer that he then considered that he could present his case in person himself more effectively than any solicitor or barrister provided under legal aid could do, and felt no need for any legal advice as to how he should do this or as to whether his presentation would be legally supportable; this letter therefore confirms what was perhaps implicit in the questions by Mr Smith put to Dr Owen that the application for legal aid was occasioned by and only by Mr Bunting's realisation that he could not (or might not) be able to present his case in person. In his letter of 28 August 1985 Mr Bunting insists that the hearing must be in Thorne, and by a Commissioner other than myself and says he



is hoping to obtain legal aid; as to a hearing in Thorne I have the evidence above-mentioned of D^r Owen; as to the hearing by some other Commissioner, to this he has no legal right and in my opinion his letter discloses no grounds for a change; his hope about legal aid supports the submissions made by Mr Duckett and Mr Pennington that he must at least by then have realised that he could not present his case in person and should therefore have by then applied for legal aid. In his letter of 25 November 1985 Mr Bunting insists that the hearing should be at Thorne and by another Commissioner. These letters also show that Mr Bunting was able to set out his ideas clearly and intelligibly in a short letter.

The letters ^{attempt} show no ~~by~~ by Mr Bunting to co-operate so as to enable a Commissioner to produce a decision on the questions arising out of the CL401 registrations made on his application and an indifference as to the effect any change of the date and place of the hearing might have on the very numerous persons who have made Objections to them. Such persons would be prejudiced not only obviously by the legal costs and expenses in preparing for and attending the hearing which would be thrown away, but also less obviously by the loss and inconvenience likely to be incurred by any of them attempting to sell any part of the CL401 land and having then to satisfy the purchaser that he could disregard the registrations; they would appear on the searches usually made by an intending purchaser, if not before, certainly after the High Court decision in *Ladenbau v Crawley* 1978 1WLR 266.

On these letters, read in conjunction with the other letters from Mr Bunting which are listed in the Cause List and relate particularly to his failure for health reasons to attend hearings at Thorne in February 1984, I infer that Mr Bunting was at least by early in the year 1985 able to conclude and had good reason for concluding that there was a strong probability that he would for health reasons be unable personally to attend the CL401 hearing whenever or wherever it might be fixed, and that he should therefore for the benefit of the numerous other persons concerned prepare himself for getting such representation as would in his view be best if he was unable personally to attend. Even if under legal aid regulations or practice any formal application for it in relation to a CL401 hearing could not be made before the hearing date was published (22 July 1985) Mr Bunting had no good reason for not at the latest early in 1985 for the benefit of the legal committee, setting out in a statement the contentions he thought should be put forward on his behalf and collecting the documents needed to enable them to decide whether or not he should have legal aid.

Further I had at my December 1985 hearing no explanation either as to the additional information which Mr Bunting could so it was said within the next 3 months give to the Legal Aid Committee or as to why such information could not have been given before November 1985.

Balancing as best I can the benefit likely to accrue to Mr Bunting from an adjournment against the prejudice the numerous other persons concerned would be likely to suffer as a result of an adjournment, my decision as to the CL401 proceedings is against Mr Bunting upon the considerations above set out.



As to adjourning the proceedings relating to the 1984 decisions made about the Group C registrations, Mr Bunting in his said March 1984 letter decisively rejected the suggestion of the former Chief Commons Commissioner made in the context of these registrations that he apply for legal aid; so the considerations against an adjournment of these proceedings are similar and if anything stronger than they are against a CL401 adjournment. As to adjourning the proceedings relating to the Group B and D, I cannot imagine how any of the Group B and D registrations with which I am concerned and which were made on the application of Mr Bunting could sensibly be confirmed if the CL401 registrations essentially the same over the much larger area of the CL401 land are invalid; so no useful purpose would be served by adjourning the Group B and D proceedings by themselves.

However as a person holding an inquiry into a matter of public interest, I must I think not necessarily limit myself, as I have in my first and secondly above, to → the arguments and evidence put before me on behalf of Mr Bunting, I must consider any information I have from any source which could be relevant. I therefore thirdly record some conclusions I have reached from what I have learnt about Mr Bunting not only at my December 1985 hearing but also at my 1975 CL386 hearing and the 1983 High Court judgment.

At my 1975 hearing Mr Bunting put before me documents which I numbered 1 to 146, some of them lengthy, and many of them being documents or copies of documents more than 300 years old. Mr Justice Mervyn Davies said (he considered the same documents) that Mr Bunting is a learned man in the matter of tracing and expounding local ancient documents. As to the Register Units with which I am concerned, the Rights Section registrations were all made upon applications made by Mr Bunting (and Mrs Joyce Bunting and Mr Nicholas Bunting) numbered 2279 applicable to the whole of the CL386 and CL401 lands and not including turbarry; and numbered 2281 applicable to part of the CL386 and part of the CL401 land and 12 other CL Register Unit lands, also not including turbarry; and the resulting registrations were all expressed to be made by the applicants "as successors to the tenants and inhabitants of the Manor of Hatfield as described in the (1630) Decree and Award in the Exchequer (dated 30 November 1630)".

In the 1983 High Court judgement about the documents produced by Mr Bunting, it was decided that the only rights at the commencement of the 1965 Act subsisting under the 1630 decree were of turbarry. The meaning and effect of written documents is a matter of law, and the judgment is therefore as to such meaning and effect binding and conclusive upon me. If Mr Bunting with or without legal aid was prepared to produce the 146 documents again at a hearing and it was open to him (or any counsel acting for him) to contend that their meaning and effect was different than that set out in the judgment, "the issues involved" might indeed be of "obvious complexity" as supposed by the Legal Aid Committee in their November 1985 reasons. But if the only question about documents is whether those relating to the CL401 land and the other lands with which I am concerned in these proceedings can in any relevant way be distinguished from the documents produced at the CL386 hearing, it seems to me that the issue is simple, and the answer must have been known to Mr Bunting for some time, certainly since the 1983 High Court Judgment; for he can have hardly failed to notice when expounding the documents before me in 1975 and before the High Court in 1983 any differences there might be in them between the CL386 land and the CL401 land. I am not concerned with how he puts his case



in his application for legal aid but in considering whether it is just for his benefit to conduct these proceedings so as to make them more expensive and more detailed for the numerous persons who have objected to the registrations, it is I think relevant that neither at nor before my December 1985 hearing has Mr Bunting given any indication at all as to the nature of this possible difference or indeed of their being any difference at all.

It is ———→ importantly relevant that at hearings before a Commons Commissioner persons need not be represented by a solicitor or counsel, see regulation 20 of the Commons Commissioners Regulations 1971, and the note on page 3 of the Cause List for these December 1985 hearings. Although Mr Bunting must have known before November 1985 that his application for legal aid might be and afterwards that it had been rejected, I have no evidence that he attempted to arrange for his representation by someone other than counsel or solicitor.

From my 1975 CL386 hearing I infer that Mr Bunting about his registrations primarily relied on documents as expounded by himself and as regards non documentary considerations relied on the oral evidence of others. So as regards happenings within his personal knowledge or in his own lifetime within his exclusive knowledge a short affidavit would be enough. From the evidence of Dr Owen and from the letters written by Mr Bunting I find that his disability would not prevent him from making such an affidavit and I incline to the view it would not prevent him from giving oral evidence in his own house before a Commons Commissioner (on a number of occasions I as a Commons Commissioner listen to oral evidence given by a witness unable to come to the place of hearing). As to oral evidence by others I cannot think of any difficulty.

As to adjournments generally, there is a distinction between a party to legal proceedings who is presently unable but should within 2 or 3 months be able to attend a hearing and a party who is never likely to be able to attend, see *Rose v Humbles* (1972) 1 WLR33. This case shows I think that a party who is unfortunately in the second category has no legal grounds for insisting that the tribunal should by reason of his disability either not proceed with the case at all or should proceed on the basis that the decision must be in his favour.

So I can think of nothing leading me to suppose that an adjournment could result in my giving in the public interest a decision other than that which is hereinafter set out.

Fourthly and not unimportantly, I have the advantage at the hearing of the Official Solicitor being represented at it. He was represented at the June 1983 hearing leading to the 1983 High Court Judgment, by the direction of the Vice-Chancellor to see that any case which could properly be made was put before the Court. Before my December 1985 hearing the probable similarity between the 1983 High Court proceedings and those listed before me for hearing in December 1985 was pointed out to the Official Solicitor.

That the Official Solicitor did not support an adjournment is not I think a reason for my refusal to adjourn if otherwise I would have. But his representation is confirmation (valuable to myself) that my attention has been drawn to every point favourable to an adjournment which could have been made. And in particular, bearing in mind that all the said 146 documents of Mr Bunting were considered in detail in the 1983 High Court hearing at which (according to the judgment) Mr Farrow gave "clear and careful observations", I infer that he as an independent counsel knew of nothing in the said documents which could, except as to turbarry, show any relevant difference between the CL401 land and the CL386 land.





So upon the considerations above set out first, secondly, thirdly and fourthly I adhere to my refusal on 4 December 1985 of the adjournment then on behalf of Mr Bunting applied for.

(A) The CL401 land

The land ("the CL401 land") in this CL401 Register Unit as originally registered on application No. 807 dated 6 June 1968 and made by Mr William Bunting comprised (except as next mentioned) the whole of what then was Thorne Rural District, being an area about 9½ miles long from north to south and about 8 miles wide from east to west, including the well built up areas of Thorne, Moorends, Stainforth, Hatfield and Dunscroft and the lesser built up areas of Sykehouse, Fishlake and Hatfield Woodhouse. Exceptionally from this very large Thorne Rural District area are the lands, all comparatively very small (none more than about 1½ acres and some much less) in the following 14 Register Units, being Nos CL324, CL325, CL326, CL327, CL328, CL329, CL330, CL331, CL332, CL333, CL334, CL335, CL336 and CL337. Adjoining and north east of the CL401 land is the extensive land in Register Unit No. CL386 being Thorne Moors or Thorne Waste. At Land Section Entry Nos 4 to 10 inclusive, it appears that certain areas coloured purple on the Register map have been removed from the Register pursuant to requests made on or before 15 May 1972 by William, Joyce and Nicholas Bunting; roughly estimated by myself from the Register Map these lands are not more than 1/8th of the whole area of that originally registered, and include much built up land in Thorne and elsewhere.

Entry No. 1 in the CL401 Rights Section was made on application No. 2279 dated 10 December 1979 and made by Joyce Bunting, Nicholas Bunting and William Bunting "as successors to the tenants and inhabitants of the Manor of Hatfield as described in the decree and Award in the Exchequer dated 30 November 1630, and is of rights attached to "all or any land within the Manor of Hatfield as shown edged red on the supplemental map ..." of (1) Right of piscary (2) Right of venery (fur) (3) Right of Auceptary (feather)" over the whole of the CL401 land. Entry No. 2 in the CL401 Rights Section was made on application No. 2281 dated 11 December 1969 and made by William Bunting, Joyce Bunting and Nicholas Bunting "as successors ... (as for Entry No. 1) of rights attached to (all those lands) (as for Entry No. 1) of "(1) right to get clods sand warp and gravel (2) to graze 1,000 cattle over that part of" the CL401 land edged red on the register map. The Rights Section contains no other actual registrations but as appears in the notes there are or may be 11 deemed registrations consequential on the CL401 Register being in conflict with the following town or village green Registers, namely VG110, VG111, VG112, VG113, VG114, VG115, VG116, VG117, VG119, VG120, and VG127; these deemed registrations are all (so far as I have been able to check them) consequential on registrations made on the application of Messrs Joyce, Nicholas and William Bunting.

Application No. 807 included the lands in the Register Units Nos. CL324 to 337 inclusive and CL386. Application No. 2279 includes CL386. Application No. 2281 relates to the CL324 to 337 inclusive lands, to part of CL401 land and to part of the CL386 land.

Many of the Objections (I have only looked at some) are expressed to be made to some part of the CL401 land identified by a plan annexed; however there is at least one Objection being No. 2003 made by the National Farmers Union which puts in question the whole of the CL401 Land Section registration. The difference does not affect my jurisdiction, because an Objection expressed to be part only puts the whole registration in question, see re Sutton 1982 1WLR 647 and re West Anstey 1985 Ch 329.



No one at the hearing offered any evidence in support of any of the registrations. In proceeding before a Commons Commissioner the burden of proof falls on those who want the registration to be upheld, see *Corpus v Gloucestershire* 1983 QB 360. However it does not I think follow (as was on 2 December suggested by Mr Perrett) from the circumstance that neither the applicant nor anyone else attending the hearing offered any evidence in support of the registration, that a Commons Commissioner must without any regard to the circumstances refuse to confirm the registration; Walton J in *re Sutton supra* at page 657 supposes an objection which theoretically although not intentionally puts in question the status of the whole area and indicates that a Commissioner may be entitled to rely upon the statutory declarations made in support of the registration as discharging necessary burden of proof "provided that nothing else arises to cast the slightest doubt upon the status ... But if it is borne in mind upon the Commissioner ... that the registration is questionable, then he should insist ... the burden of proof is properly discharged ..." and this statement was approved by the Court of Appeal in *re West Anstey supra* at page 343. Any judicial observation about burden of proof must I think be taken in the context of the well established practice by which persons who cannot or without difficulty may not be able to give evidence, can discharge such burden from documents discovered and answers to interrogatories made by hostile persons under compulsion of law. So I adhere to the view I expressed at the hearing that those who gave oral evidence before me against the CL401 registration were not wasting time.

About particular parts of the CL401 land I have the evidence of, Mr Duckett about his farm, Mr Dunkley about the water ways, Mr Molyneux about his sister's house, Mr Rhodes about the operational and other lands of the National Coal Board and Mr Gott about the land of British Railways; all to the effect that the use made of these parts for many years inconsistent with them being subject to any such rights of common as have been registered. On my inspection such inconsistency appeared obvious, and the inclusion of any of these parts appeared to be outside any intention which could from the Commons Registration Act 1965 possibly be ascribed to Parliament when enacting it. I found it difficult to trace the 15 acres of Mr Clayton because it was raining so hard, but from what I could see in the rain I reached the same conclusion. The bungalow of Mr Fotheringham was part of a recently developed building estate and on appearance alone it was not obvious that the estate could not have been built on common land; but the estate comes within the general evidence below mentioned. The land formerly part of the bed of the River Don and now generally dry is not unlike other flood lands which have elsewhere been registered under the 1965 Act (locally grazed as Lammas Lands); but against the River Don lands being registrable under the 1965 Act I have the above summarised evidence of Mr Harrison. About the parts specified in the affidavits produced by Mr Levy, their appearance even in the rain confirmed the like → conclusion, deducible from what the deponents said. It was raining too hard for me to get any idea of the appearance of the land described by Mr Marshall but I have no reason to doubt that its use as deducible from his evidence is and has been for many years inconsistent with it being in any sense common land. As to the remainder of the CL401 land I have the general evidence of Mr Farman and Mr Harrison above summarised against it being in any sense common land, a conclusion → which I accept as generally according with what I saw during my inspection. There may be included in the CL401 land roadside verges and other like wastes which could be described as common land within the popular meaning of these words, but about them I have nothing to indicate that they come within the 1965 Act definition. I accept the evidence of the said deponents and named witnesses as establishing that within living memory no one over any part of the CL401 land has ever exercised any rights of common such as have been registered in the CL401 Rights Section. In the absence of any



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documentary or other evidence supporting the Rights Section registrations, I conclude that they were not properly made and that the CL401 land was not at any now relevant time "subject to rights of common" within paragraph (a) of the definition of "common land" in section 22 of the 1965 Act.

As to the CL401 land being "waste land of a manor not subject to rights of common" within paragraph (b) of the 1965 Act definition:- Although the land may at one time have been waste land of the Manor of Hatfield, I have no evidence that it has at any now relevant time been "of" the said Manor or any other manor; as to "of" in this context, see re Box 1980 Ch 109. Further except for some comparatively small areas of roadside verges and other like unfenced lands, I conclude from the oral evidence above summarised and from what I saw on my inspection, that the CL401 land is not "waste land".

For the above reasons my decision is that none of the CL401 registrations was properly made and I therefore refuse to confirm them as stated in paragraph (1) of the Fourth and last Schedule hereto.

(B1) White Land Pond, Four Doles,
Clay Pits: VG113

This VG registration was made on application No. 793 dated 6 June 1968 and made by William Bunting; it was originally two plots of land west of and adjoining the railway (BR from Stainforth northwards), one part OS No. 7636 containing .97 acres north of and adjoining the Stainforth and Keadby Canal and the other part being OS No. 7128 containing 1.44 acres and a part (about $\frac{1}{4}$ of an acre) of OS No. 6430 south of and adjoining the Canal. Entry No. 1 in the VG 113 Rights Section was made on application No. 2701 dated 24 December 1969 by Joyce Nicholas and William Bunting "as successors to the tenants and inhabitants of the Manor of Hatfield as defined by the Decree and Award in the Exchequer dated 30 November 1630" of rights of "(1) piscary, (2) venery (fur), (3) auceptary (feather), (4) vert, (5) estovers, (6) pannage, and (7) to graze 20 beasts (cattle or horses) or 40 sheep over the whole of the land in this Register Unit; these rights were attached to land in the parish of Thorne as identified in a map showing about $1\frac{1}{4}$ miles long and having an average width of about 600 yards, situated north of and adjoining the Stainforth & Keadby Canal and extending from the railway BR from Stainforth northwards on the west to Whikewell Bridge on the east and comprising a well built up area of dwellinghouses and other buildings. The former Chief Commons Commissioner (Mr G D Squibb QC) by his decision dated 30 March 1984 confirmed the VG Land Section registration with the modification: the exclusion of the land on the north side of the Stainforth and Keadby Canal; he gave no decision as to the propriety or otherwise of the said Rights Section registrations. The whole of the land in this Register Unit was and is also registered in the Register of Common Land as part of Register Unit No. CL401, so under regulation 14 of the Commons Registration (General) Regulations 1966 the two CL401 Rights Section registrations (both made on the application of Messrs Bunting as summarised under the above heading (A) The CL401 land, are deemed to have been registered in the VG113 Rights Section.

As above stated I inspected the VG113 land, as it now is (south of the Canal). It is (as apparent from the Register map) mostly a pond, attractive to and convenient for persons living in Thorne, particularly children; the less part is appurtenant



scrub land an amenity for those enjoying the pond or using the path by the Canal. As to its possible use for the exercise of rights of common as registered, it is not relevantly different from the nearby CL401 land.

The considerations set out above under the heading: the CL401 land are applicable to this VG113 land, and my decision is the same, that is as stated in paragraph (2) of the Fourth and last Schedule hereto I refuse to confirm the said Rights Section registration at Entry No. 1 and the said VG113 Rights Section registrations deemed to have been made by reason of the registrations in the CL401 Rights Section. When the Cause List was prepared it was overlooked that about the said VG113 March 1984 decision Mr Bunting had made the same application to have it set aside as he made as regards the Group C dealt with below under the heading: VG110, 111, 112, 114, 115, 116, 119 and 120. Such application not having been mentioned in the Cause List, I cannot in this decision now deal with it and it will therefore have to be the subject of a future decision by a Commons Commissioner, possibly after a further hearing. All I can say in this decision is that if at any such further hearing the evidence and arguments in favour of the application being granted are no more than those put forward about the said Group C registrations, Mr Bunting must not be surprised if his VG113 application is dismissed.

(B2) Ashfield Bank and Ponds: VG117

This VG registration was made on application No. 804 dated 6 June 1968 and made by William Bunting. It was originally for a strip of land about $2\frac{1}{2}$ miles long for much of its length not more than 50 yards wide (nowhere more than about 100 yards) situated on the south side of the Sheffield and South Yorkshire Navigation, the Stainforth and Keadby Canal and the Stainforth East Ings Drain. Entry No. 1 of the Rights Section was made on application No. 2706 dated 24 December 1969 by Joyce Nicholas and William Bunting: essentially the same as the said Entry No. 1 in the said VG113 Rights Section except that it is for 40 beasts (cattle or horses) or 80 sheep. The former Chief Commons Commissioner (Mr G D Squibb QC) by his decision dated 30 March 1984 confirmed the VG Land Section registration with the modification: the exclusion of all the land other than the former marshy area and the pond which "will be defined more precisely on a map to be attached to the notice of final disposal"; the said marshy area and ponds so intended are defined in a map initialled "G.D.S.1." by him which is in the office of the Commons Commissioners with his said decision; they comprise OS Nos 1152, 2851, 4532 and 4856 respectively containing .88 acres 5.03 acres, .36 acres and 1.38 acres (altogether 7.32 acres), are a little under 150 yards long, and their west end is near to and easily accessible from Dunston Hill Bridge.

As above stated I inspected this former marshy area and these ponds. They are to a willing walker not far from the built up area of Stainforth and are an attractive addition to the footpath by the side of the Stainforth & Keadby Canal.

The considerations relevantly applicable to them are the same as those above stated as applicable to the VG113 land. My decision is accordingly the same; as stated in paragraph (2) of the Fourth and last Schedule hereto I refuse to confirm VG117 Rights Section registrations at Entry No. 1 and the registrations deemed to have been made therein by reason of the registrations in the CL401 Rights Section. For the reasons set out under the previous VG113 heading a similar application by Mr Bunting to set aside the said VG117 March 1984 decision is not herein dealt with and will have to be the subject of a further decision by a Commons Commissioner and possibly a further hearing.



(C) VG 110, 111, 112, 114, 115, 116, 119 and 120

By his said VG 110, 111, 112, 114, 115 and 120 decisions of 29 February and VG 116 and 119 decisions of 30 March 1984 the former Chief Commons Commissioner refused to confirm the Land Section registrations in these Register Units. These decisions resulted from hearings on 13, 14 or 15 February 1984 at which Mr William Bunting was not present. The decisions were sent out on 2 March and 11 April 1984.

The letters from Mr Bunting dated 14, 20 and 27 February 1984 which are specified in the Cause List were before the decisions were sent out and are relevant as being directly or indirectly referred in the later letters so specified. In his letter dated 6 March, Mr Bunting acknowledged receipt of the VG 110, 111, 112, 114, 115 and 120 decisions, expressed surprise at them despite his request for an adjournment and said "I now ... invoke the ten day rule applying for the decisions to be set aside and for a proper hearing to be held in a suitable place and at a suitable date". His two letters dated 7 March (one in the Cause List is mistakenly dated 6 March) dealt with earlier correspondence.

In a letter dated 15 March 1984 Mr Bunting was informed by the Clerk that in reply to his application under regulation 21(2) of the Commons Commissioners Regulations 1971 in respect of VG110, 111, 112, 114, 115 and 120:

"a report has been received from Dr Owen and the Chief Commons Commissioner is satisfied that you had sufficient reason for your absence from the hearing.

He will therefore in the exercise of his powers under regulation 21(1) reopen the hearings and set aside his decisions on the following terms, namely:-

1. That before 1 May 1984 you deliver to me a statement in writing specifying in respect of each of the Register Units the part of the definition of "town or village green" in Section 22(1) of the Commons Registration Act 1965 upon which you rely, and, if you rely on the first part of the definition, also specifying the provisions of the Act and of any award or other instrument made under the Act upon which you rely; and

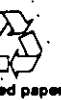
2. That before 1 May 1984 you deliver to me an affidavit containing the evidence which you personally can give regarding the relevant activities of the inhabitants of each relevant locality."

In his letter dated 11 April 1984 mentioned in the Cause List, Mr Bunting describes his medical condition saying that he had been admitted to hospital last month but it was found necessary to have two operations.

In a letter dated 13 April 1984 Mr Bunting was informed:

"The Chief Commons Commissioner asks me to say that he is very sorry to hear about your operations and that he hopes that your recovery is progressing without further complications.

Since your first priority must be to regain your strength without unnecessary worry, or exertion; the Chief Commons Commissioner asks me to say that he is willing to extend the time for complying with the terms for re-opening the first group of village green hearings set out in my letter of 15 March 1984 (which is due to expire on 1 May) until you feel able to deal with the matter."





In a letter dated 18 April 1984 Mr Bunting acknowledged "correspondence, decisions, etc dated the 11th inst" meaning I suppose the said VG116 and 119 decisions and requesting "that the ten day rule is applied to all the decisions recently given".

In a letter dated 15 May 1984 with headings including VG110, 111, 112, 114, 115, 116, 119 and 120, Mr Bunting was informed:

"The Chief Commons Commissioner has considered your application under Regulation 21(2) of the Commons Commissioners Regulations 1971, and he is satisfied that you had sufficient reason for your absence from the hearing of each of these matters. He is therefore prepared, in the exercise of his powers under Regulation 21(1), to reopen the hearings and set aside his decisions on the following terms, namely:-

1. That before a date to be fixed later you deliver to me in respect of each of the matters a statement in writing of the part of the definition of "town or village green" in Section 22(1) of the Commons Registration Act 1965 upon which you rely and, if you rely on the first part of the definition, specifying the provisions of the Act and of any award under the Act upon which you rely.

2. That before the date to be fixed for the purposes of para. 1 above, you deliver to me an affidavit containing the evidence which you personally can give regarding the relevant activities of the inhabitants of each relevant locality.

That you do not further argue the point about the validity of the objections, which was fully and ably argued by Counsel for the Stainforth Parish Council. If you are aggrieved by the Chief Commons Commissioners decision on this point, he will be prepared to state a case or cases for the opinion of the High Court under section 18(1) of the Act of 1965, if you require him to do so.

4. That you do not recall the witnesses who gave evidence at the hearing to repeat their evidence, which was directed to the third limb of the definition of "town or village green".

In view of your present state of health, the Chief Commons Commissioner will not fix the date referred to above for the time being. I should be glad if you would let me know when you feel able to deal with these cases ..."

In a letter dated 15 June 1984, Mr Bunting was informed that the Chief Commons Commissioner had fixed 20 July 1984 as the date for the compliance with the terms set out in the letters of 15 March and 15 May 1984. No reply from Mr Bunting was received to this last letter but letters dated 7 August 1984 and 29 March 1985 were received from Dr R P Owen, these letters being "WB/1 and 2" set out in Parts II and III of the Third Schedule hereto.

Before the letter next mentioned, ^{as follows:} no letters from Mr Bunting were received, and no letters to him were sent from the office of the Commons Commissioners. In a letter dated 22 July 1985 Mr Bunting was referred to (among other things) the said letter of 15 May 1984 about the former Chief Commons Commissioner being prepared to open the hearings and set aside his decisions on the terms therein set out which terms included the expression "before a date to be fixed later" and he was informed that I, as successor to the former Chief Commons Commissioner had now fixed such a date for Monday 14 October next and that I would while in Doncaster starting on Monday 2 December give my final consideration on the information I then had as to whether I would or would not set aside the said decisions and reopen the said hearings.



In a letter dated 28 August 1985 Mr Bunting replied to the said letter of 22 July making a number of points but not delivering an affidavit such as was specified in the said letters of March and May 1984 or otherwise complying with any of the terms mentioned in such letters.

The relevant regulation is as follows:-

21.- (1) A Commissioner may, if he thinks fit, proceed with a hearing in the absence of any person entitled to be heard: provided that, where there has been a hearing under this regulation in the absence of a person entitled to be heard, the Commissioner may, on an application made by that person in accordance with paragraph (2) below, reopen the hearing and set aside any decision on such terms as he thinks fit if he is satisfied that that person had sufficient reason for his absence.

(2) An application by any person under this regulation must be made within 10 days from the date on which notice of the decision was sent to that person.

In this decision I shall assume that Mr Bunting had as the former Chief Commons Commissioner assumed and is likely a "sufficient reason for his absence" from the February 1984 hearings. I record however that I feel some doubt whether the regulation contemplates that a decision given under the first sentence of the regulation can be set aside in a difficult or contested or contestable case without giving an opportunity to the persons who benefit from the decision of contending that the applicant did not have a "sufficient reason".

The regulation above quoted does not require a Commissioner to set aside a decision merely because the applicant had "sufficient reason for his absence"; the operative word in the regulation is "may". In giving effect to this word, I consider I should follow the High Court decisions about rule 9 of Order 13 of the Rules of the Supreme Court dealing with the comparable cases of a default of appearance by a defendant; under such cases a distinction has been established between a judgment which is regular and one which is irregular; to set aside the former there must be an affidavit of merits, ie an affidavit stating facts showing a defence on the merits; if the latter, an applicant is entitled as of right to have the judgment set aside, see the Supreme Court Practice 1979, 13/9/4. There has been no suggestion that the said 1984 decisions followed a hearing which was in any way irregular, ie that proper notice of them was not given to Mr Bunting or that any other of the 1971 Regulations were not complied with; in substance the sole ground of Mr Bunting's applications is that at the time of the hearing he was through illness excusably either unable to attend in person the hearing or to arrange for any other person on his behalf to attend. I therefore reject any suggestion there may be in his letters that because he had sufficient reason for his absence he is as of course entitled to have the decision set aside. I therefore respectfully agree with the former Chief Commons Commissioner when he insisted upon the production of some evidence of "merits".

So as matters were left by the former Chief Commons Commissioner, Mr Bunting had not complied with the conditions he had laid down. So in the absence of some good reason being shown to the contrary, at my December 1985 hearing all I needed to do was formally to dismiss his applications, so that notices as required by section 6 of the Commons Registration Act 1965 could be sent to the County Council as



registration authority. At my December 1985 hearing for Mr Bunting there was no evidence indicating that the said 1984 decisions were in any respect mistaken; on the contrary as above stated all that for him was requested was an adjournment. For the reasons given under the heading Adjournment I refuse this request. Accordingly the said applications are dismissed as stated in paragraph (3) of the Fourth and last Schedule hereto.

By his said decisions the former Chief Commons Commissioner dealt only with the Land Section registrations and gave no decision about: (1) the Rights Section registrations which are (a) in the CL112, CL115, CL116, CL119 and CL120 Registers actually made therein (all on the application of Messrs J, N and W Bunting) and (b) in all these 8 registers deemed to have been registered therein by the operation of regulation 14 of the Commons Registration (General) Regulations 1966 on the registration in the CL401 Register; and (2) the Ownership Section registrations which are (a) in the CL114 and CL115 Register actually made therein (on the application of Thorne Parish Council "c/o William Bunting" and Mr C Cadman respectively) and (b) in all these 8 Registers deemed to have been made therein by the operation of the said Regulation 14 on the said CL401 registrations. Accordingly decisions of a Commons Commissioner about these registrations (actual and deemed) will be requisite and there may be a further hearing about them. If at such further hearing the evidence in favour of the Rights Section registrations is no more than it was at my December 1985 hearing in favour of the CL401 Rights Section registrations, the result of such further hearing will I suppose be a refusal of confirmation; no decision about the Ownership Section Registrations will be needed because the County Council will as registration authority be obliged to cancel them under sub-section (3) of section 6 of the 1965 Act.

As above stated under the heading Course of Proceedings, about Register Unit No. VG115 Mr Cadman referred to Objection No. 1845 by Messrs A and F Firth to the registration at Entry No. 1 in the Ownership Section, the grounds of which are that "The Black Grain Drainage Board were not at the date of this registration the owners of the land comprised in this Register Unit". In his 1984 decision the former Chief Commons Commissioner gave no decision about this Ownership Section registration apparently confining himself (intentionally as I read the decision) to the Land Section registration. The Cause List for my December 1985 hearings does not indicate any intention on my part to give any consideration to the Ownership Section, and in my opinion I cannot properly give any decision about the dispute consequential on the said Objection or consider any evidence Mr Cadman may wish to give about it. Of any further hearing about the VG115 Rights Section and Ownership Section registrations, Mr C Cadman will have notice. But I am not encouraging him to attend or attempt to give evidence at such hearing such as he apparently wanted to give at my December 1985 hearing because if it becomes apparent (as seems likely) that confirmation of the Rights Sections registrations will be refused, by reason sub-section (3) of section 6 of the 1965 Act the Ownership Section registrations will be cancelled and no useful purpose would be served by a Commons Commissioner hearing the evidence which might otherwise be relevant to the dispute occasioned by Objection No. 1845; so any difference between Mr Cadman and Messrs Firth as to the ownership of the VG115 land will if need be have to be determined by the High Court or such other tribunal as would have jurisdiction in the matter if the Commons Registration Act 1965 had never been passed.

As to Mr Cadman's after the hearing letter of 16 December 1985, I doubt whether I can properly as against persons who attended the hearing now pay attention to it.



However this may be, because the two points raised in it relate to the Ownership Section registration made on his application, for the reasons above stated, I would not even if he had read it at my December 1985 hearing, have paid any attention to it then, being then only concerned with Mr Bunting's application to set aside the said March 1984 decision relating to the Land Section registration. It may be that at a further hearing Mr Cadman can put in his after hearing letter; but I am not now encouraging him to do this, because for the reasons above stated I think it likely that a Commons Commissioner will never have to consider the Ownership Section registration.

(D) The Landing, Fishlake, CL333

The registrations in dispute are at Entry No. 1 in the Land Section made on application No. 797 dated 6 June 1968 by William Bunting and at Entry No. 1 in the Rights Section made on the said application No. 2281 dated 11 December 1969 of William, Joyce and Nicholas Bunting (mentioned above under heading: The CL401 land). The grounds of the Yorkshire River Authority Objection No. 1558 are: "(a) that the land was not common land at the date of registration, (b) that rights referred to in the register did not exist at the date of registration, (c) the person making the registration is not entitled to the rights in the capacity stated, (d) the land cannot possibly be used as common land for the purposes mentioned in the registration". The grounds of Thorne Rural District Council Objection No. 2124 are stated at greater length and include a reference to the said 1630 Decree and Award in the Exchequer (mentioned in the Rights Section Entry No. 1); and Inclosure Award 1825 and a number of other contentions; thus the two registrations are by them put wholly in question. The Land Section registration is or was in conflict with the registrations in the Register of Town or Village Greens Register Unit Nos VG119, VG1154 and VG177; as to these Unit Nos. see below.

The land in this Register Unit ("the CL33 land") is approximately rectangular being from north to south about 250 yards and from east to west about 75 yards wide. The north end adjoins and is open to the main street through the village of Fishlake a short distance west of a point where this street not far from the Church turns sharply to the north into Pinfold Lane; the south boundary is the middle line of the River Don which here is about 50 yards wide and is (except during exceptional floods) confined by substantial banks.

For the purposes of exposition I divide the CL333 land into three parts: "the VG154 Part", "the VG177 Part", and "the VG119 Part" being the north, middle and the south parts of the CL333 Land. The VG154 Part is more or less level with the Main Street, for the most part grass and with some attractive young trees; along its south side it slopes steeply downwards, such slope being apparently the former bank of the River Don and is marked as such on the OS Map 1/2,500 of 1931; according to such map it contains 0.371 acres; from its south-west corner runs a footpath westwards along the top of the bank and this Part is apparently a valuable amenity for those of the village living nearby and probably to many others. The VG177 Part extends southwards from the VG154 Part to a high bank which was apparently at one time the north bank of the River Don. The VG169 Part extends from the last mentioned bank down to the present north bank of the River Don and across the existing north bank of the River to the middle line. The said bank and the existing line of the river are shown on the OS Map 1/10,560 of 1966. The VG154 Part is (or was) registered in the Register of Town or Village



Green under Register Unit No. VG154; in his decision dated 26 January 1984 the former Chief Commons Commissioner refused to confirm this registration and gave to the County Council as registration authority a notice dated 29 March 1984 that the VG154 Land Section Entry No. 1 had become void. The land in the VG119 registration, is therein described as "River Don and its banks in the Parishes of Kirk Bramwith (Doncaster Rural District), Snaith and Cowick (Goole Rural District), Stainforth Fishlake Sykehouse, Thorne (Thorne Rural District Council ... as marked with a green verge line ... Register Map"; the Register Map of the part near Fishlake is based on OS Map 1/2,500 of 1931 and therefore shows the River Don as it then was; as stated under heading VG110-120, the former Chief Commons Commissioner by his decision dated 30 March 1984 refused to confirm this VG119 registration. The land comprised in the VG177 registration was therein described as "pieces of land known as River Don and banks, Ashfield Banks and ponds without banks ... as marked with a green verge line ... Register Map ...", so it does not include the VG119 land but does include near Fishlake some of the River Don and the land north of it as such river is shown on OS Map 1/10,560 of 1966. For the purposes of this decision it is not necessary precisely to equate the parts of the CL333 land with the parts of the VG119 and VG177 land which are included in it; it is enough said that the VG154 Part appears to be a Parish Green within the popular meaning of these words and that the VG119 and VG177 Parts appear to be either substantial bank on the north side of the River Don as it now is or substantial bank on the north side of the River Don as it was in 1932 or grass ground below river level between these two banks; all indistinguishable from the extensions of the banks and of the said grass ground on either side.

The definition of "common land" in section 22 of the 1965 Act is "(a) land subject to rights of common ... (b) waste land of a manor not subject to rights of common".

As to (a) of the definition, the only right of common suggested as possibly applicable is that made by Messrs William, Joyce and Nicholas Bunting specified at Right Section Entry No. 1. Of the existence of any such right I had at the hearing no evidence at all. Against the existence of such a right I have the above summarised evidence of Mr Harrison who said he had grazed the CL119 and CL177 Parts as tenant and inconsistently with the existence of any rights of common. The evidence of Mrs Sylvester and the appearance of the VG154 Land as I saw it is against there being any such right. My decision is therefore that the said Rights Section registration was not properly made and that no part of the CL333 land is within paragraph (a) of the definition.

As to the CL333 land being within paragraph (b) there was no evidence that it was or had been at any now relevant time connected with a manor, although the grounds of Objection No. 2124 seemingly presuppose that it was so connected before the 1630 Decree. The appearance of the CL154 Part is consistent with it being common land within the popular meaning of this expression; but contra from the evidence of Mrs Sylvester I infer it has been treated as "Parish Property" belonging to the Parish Council and is in law no way different from any other property they might own. I conclude therefore that none of the CL333 land is within paragraph (b) of the definition.

In the Rights Section of both the VG119 and VG177 registers are registrations made on the application of Messrs Joyce, Nicholas and William Bunting Nos 2698 and 2704 both dated 24 December 1969 being of rights attached to lands in the Parish of Thorne shown on the supplemental map therein mentioned of



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"1 ... piscary, 2 ... venery (fur), 3 ... auceptery (feather), 5 ... estovers, 6 ... pannage, 7. VG119 right to pasture 300 beasts/VG177 to graze 150 beasts or 150 horses or 75 sheep". Upon like considerations as those set out in the preceding paragraph I conclude that the registrations deemed under the said regulation 14 to have been made in the CL333 Rights Section consequential on these VG119 and VG177 registrations were not properly made.

In the result, in accordance with paragraph (4) of the Fourth (and last) Schedule hereto I refuse to confirm all the CL333 registrations actually made or deemed to have been made as aforesaid.

Final

The effect of the decisions hereinbefore contained is set out in the decision table being the Fourth (and last) Schedule hereto and such Schedule should be treated as part of this decision.

Consequentially on this decision all questions within the jurisdiction of the Commons Commissioners as regards the CL401 registrations and the CL333 registrations have been dealt with under the headings: (A) The CL401 land, and (D) The Landing, Fishlake, CL333. As explained under the headings: (B1) White Lane Pond, Four Doles Clay Pits, VG113 and (B2) Ashfield Bank and Ponds, VG117, an application by Mr Bunting to set aside the decisions dated 30 March 1984 and made by the former Chief Commons Commissioner and to reopen the hearings held by him in February 1984 as regards these Registers remains to be determined. As explained under the heading (C) VG110, 111, 112, 114, 115, 116, 119 and 120 the regularity or otherwise of the Rights Section and Ownership Section registrations (actual and deemed) of these VG Register Units remains to be determined.

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.

TURN OVER



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FIRST SCHEDULE
(Objections)*

Objection No. and name of Objection	Noted in the Register	Representation
78. The Secretary of State for Defence	25 August 1970	Mr B K Levy
108. Calen Johnson Arnold	7 January 1971	--
112. Annie Mary Hedger	do	--
116. William Percival Webster	do	--
136. Barrie Gover	12 March 1971	--
137. George Doherty	do	--
152. C H Parkinson	do	Mr Perrett QC

TURN OVER

NOTE*
to this Schedule

In this Schedule for the following reasons there may be errors and omissions.

This Schedule is based as regards all except "Representation" on the lists annexed to the references (form 85) to a Commons Commissioner dated 1 March 1979 and made by South Yorkshire County Council of the disputes about the registrations at Entry No. 3 in the Land Section and at Entry Nos 1 and 2 in the Rights Section occasioned by the Objections made as specified in the lists, being three: (a) containing 12 pages mostly of Nos between 78 and 1736, (b) containing 15 pages mostly of Nos between 1737 and 2103, and (c) containing 11 pages mostly of Nos between 2145 and 2545 but including Nos 112, 676, 833, 1389, 1613, 1678 and many Nos between 1878 and 1901. Much help in the preparation of this Schedule has come from the list (33 pages) being exhibit CNO/1 to the affidavit of Mr C N Ouin, such list being the only statement I have of those represented by Mr Perrett QC. Some (very few) of the entries in these lists have been checked against the notes in the Land Section (130 foolscap sheets) as they appear in the copy of the Register available to me and/or copy Objections (very voluminous) also available to me.

No detailed consideration has been given to possible errors and omissions in this Schedule, because to do this would be troublesome and time consuming and because having regard to the substance of this decision any error or omission could not I think be of great consequence to anyone. However any person who is misdescribed or whose name has been omitted should as soon as possible by letter inform the Clerk of the Commons Commissioners saying how he considers the error could affect him.

No. 819 Ralph Tompson Ltd, Nos 1960 and 1962 both Fisons Horticultural Ltd and No. 2039 Barry Danworth included in the list of Mr Ouin have been intentionally omitted from this Schedule because not found in any of the County Council lists. Mr Arthur Firth specified in No. 1848 may perhaps have been incorrectly identified with the deceased whose executors were represented by Mr R M Williams.

Any trouble and expense which may be occasioned by this Schedule being incorrect, is regretted.



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150.	C T D Coggan	do	Mr Perrett QC	in person
174.	Norman Duckitt	24 March 1971	Mr J N Duckitt	as successor
176.	J Conroy	do	Mr Perrett QC	
177.	H Hall	do	--	
207.	Mrs R M Winder	24 May 1971	Mr Perrett QC	
213.	Fred and Esther Braithwaite	do	--	
227.	Mr & Mrs E A Hargreaves	do	--	(Mr Perrett QC)
446.	Thorne Rural District Council	do	Doncaster BC	as successor,
1075.	County Council of West Riding	do	NYCC	as successor Mr Perrett
240.	William Teale	(Yorks) 14 June 1971	Mr Perrett QC	(QC)
241.	Joseph Teale	do	Mr Perrett QC	
242.	Horace Roy Haddon and Lilian	do	--	
243.	R W Peacock	Haddon do	--	
260.	Thomas Henry Bulmer	do	--	
267.	Miss A Curtis	do	--	
235.	Thomas Norman Smith	17 June 1971	--	
270.	Sarah Lilian Seels	do	Mr Perrett QC	
272.	J & D Stubley	do	Mr Perrett QC	
276.	Harry Lewis	do	--	
287.	Allan George Bulmer	do	--	
299.	William Yates and Son	do	--	
307.	Stephen Toulson and Sons Ltd	21 June 1971	Mr Perrett QC	
321.	W Wright		--	
322.	J William and Marjorie Lidgett	do	Mr Perrett QC	
324.	Arthur Bernard Mawson	do	Mr Perrett QC	
325.	Thomas William Smith	do	Mr Perrett QC	
326.	Executrix of W Ward	do	Mr Perrett QC	
327.	Frederick Wright Fox	do	Mr Perrett QC	
335.	Eric Potton	do	--	
346.	Arthur Wilson	do	--	
347.	Mr N L Durdy	do	--	
348.	J W Johnston & Co	do	--	
349.	L A A Kitching	do	Mr Perrett QC	
352.	County Council of the West Riding	do	NYCC	as successor, Mr Perrett
361.	Michael Whiteley and Ann Whiteley	do	Mr Perrett QC	(QC)
363.	Ethel & Harry Whiteley	do	Mr Perrett QC	
373.	W H Salter	do	--	
383.	John William Gordon Kitching	do	Mr Perrett QC	
269.	Mrs Marigold H K Grear	23 June 1971	--	
263.	Cawthorne & Duffield	do	--	
389.	Tom Summer Reed	do	--	
391.	John Kiss	do	--	
392.	B F Richards	do	--	
403.	Raymond Joseph Garcia, Joseph Fowler Garcia	do	--	
405.	Alan Edward Willey	do	--	
406.	Mrs M A Swales	do	--	
407.	Mr & Mrs Peter Mitchell	do	--	
408.	Mr & Mrs H T Carnley	do	--	



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409.	Florence Black	do	--
412.	John Buckley	Croft do	Mr Perrett QC
413.	Graham Norman Croft, Mrs Carol	do	--
417.	M A Silvester	do	--
419.	D C R Rhodes	do	Mr Perrett QC
436.	Frank Ellis	do	--
444.	The Trustees Stainforth (Hatfield Main) Miners' Welfare Scheme	do	Mr Perrett QC
445.	The National Coal Board	28 June 1971	Mr Perrett QC
460.	Richard Chappell	do	--
462.	Roger Albert Curtis and Jane Alison Curtis	do	--
473.	Alan Pashley	do	--
483.	Reginald Lee	do	--
485.	Charles Plumb	do	--
486.	George Rhodes Tuby	do	--
497.	Leonard William Asquith	do	--
499.	George Jubb Asquith	do	--
269.	Mrs M H K Greer	do	--
1034.	Mrs E E Bentley	do	--
579.	Mr & Mrs F P Edwards	do	--
583.	Messrs H Marshall & Sons	do	--
585.	Miss Sylvia Cooper	30 June 1971	Mr Perrett QC
588.	John Whiteley	do	Mr Perrett QC
591.	Hilda Whiteley	do	Mr Perrett QC
593.	Derrick Malcolm Holgate	do	Mr Perrett QC
594.	Mary Ann Holgate	do	Mr Perrett QC
598.	William Broad Yarwood	do	--
600.	Richard Godfrey Cundall	1 July 1971	Mr Perrett QC
601.	John Crossland North	do	Mr Perrett QC
606.	H Lucas	do	Mr Perrett QC
608.	E N Woodhall	do	--
609.	Raymond Jackson	do	Mr Perrett QC
610.	William Ernest Garbutt & Sons	do	Mr Perrett QC
616.	Sam Atkins & Sons	5 July 1971	Mr Perrett QC
618.	George William Oliver	do	Mr Perrett QC
619.	Edna Hinz	do	Mr Perrett QC
621.	Miss Eileen Asquith	do	Mr Perrett QC
622.	Miss Eileen Asquith	do	Mr Perrett QC
623.	Milton Asquith	do	Mr Perrett QC
624.	J W Lomas	do	--
628.	E H Ellis	do	Mr Perrett QC
635.	Haydn Brown	6 July 1971	Mr Perrett QC
638.	Dorothy Atkins	do	Mr Perrett QC
642.	Lewis John Riley	do	Mr Perrett QC
646.	William Henry Lucas	do	Mr Perrett QC
650.	Arthur Henry Spivey	do	Mr Perrett QC
654.	Vincent Patrick Anthony Parker	do	--
655.	Kenneth Hanson	do	--
666.	Alfred Wolstenholme Till	7 July 1971	--



667.	R K Raper Ltd	do	Mr Perrett QC
676.	George Shaw Deceased	do	--
680.	Executors J Marshall Deceased	do	Mr Perrett QC
696.	John Smith's Tadcaster Brewery Company Limited	8 July 1971	--
705.	Mrs D Riggott	do	--
708.	Alfred Louis Robinson	9 July 1971	Mr Perrett QC
713.	Kathleen Mary Walton	do	Mr Perrett QC
730.	Sydney Lee	12 July 1971	--
760.	Hyde Park Greyhounds Ltd	14 July 1971	Mr Perrett QC
761.	Herbert Beevers	do	Mr Perrett QC
762.	Mrs Hilda Tuxford Coole	do	Mr Perrett QC
775.	The Executors of the late G W Hodson, Mrs M Hodson & R G Hodson	do	--
776.	Mrs M Hodson	do	--
782.	Alfred Bellamy	do	Mr Perrett QC
797.	Raymond Bellamy	15 July 1971	Mr Perrett QC
811.	Miss A Richardson	do	--
813.	Peter Krier	do	--
821.	William Skelton	19 July 1971	--
830.	British Waterways Board	do	Mr Dunkley
833.	Ernest West	do	--
838.	Henry North West	do	--
842.	James F & Oliver Kershaw	do	Mr Perrett QC
847.	J N Bulmer	do	--
848.	J N Bulmer	do	--
863.	Colin Wright	20 July 1971	--
875.	Harvey Mordue	do	--
879.	Tom Fieldhouse Ball	do	--
893.	Francis Geoffrey Johnston	21 July 1971	Mr Perrett QC
894.	Exors Thomas Lunn deceased	do	Mr Perrett QC
900.	R Gilson	do	--
905.	Ben Spink	do	--
910.	K C Beal	do	Mr Perrett QC
913.	Atkinson & Milisic	do	Mr Perrett QC
914.	William Baxter	do	Mr Perrett QC
915.	Ernest Norman Bailey	22 July 1971	Mr Perrett QC
919.	Mrs Ida Sarah Collier	do	--
930.	Hatfield Parish Council	do	--
933.	Kenneth Barrass	do	--
944.	S Marshall & Sons Ltd	26 July 1971	--
947.	John Willans Bedford & Alice	do	--
948.	W W Clark Bedford	do	--
957.	Rachel Mary Winder	do	Mr Perrett QC
946.	W M Darley Ltd	28 July 1971	--
438.	Mrs F M Eyre	29 July 1971	--
1015.	Arthur Thompson	do	--
1032.	J Mackintosh	30 July 1971	Mr Perrett QC
1035.	Miss Edith Annie Woodall	do	--
1054.	Mrs Mary Theresa Beauchamp & Mrs Martha Elizabeth Coulthard	2 August 1971	--
1058.	Mrs Daisy Wickham	3 August 1971	--



1076.	County Council of West Riding	do	NYCC as successor, Mr Perrett ^{QC}
1077.	County Council of West Riding	do	do
1086.	County Council of West Riding	4 August 1971	do
1091.	County Council of West Riding	do	do
1098.	County Council of West Riding	do	do
1099.	County Council of West Riding	do	do
1100.	County Council of West Riding	do	do
1102.	County Council of West Riding	do	do
1108.	County Council of West Riding	5 August 1971	do
1110.	County Council of West Riding	do	do
1111.	County Council of West Riding	do	do
1122.	County Council of West Riding	do	do
1135.	Frank Weaver	do	--
1150.	John H Goodison	6 August 1971	--
1154.	James Douglas Lindsay	do	--
1155.	J Saunders	do	--
1162.	William Ernest Bailey	9 August 1971	--
1178.	Frank Hepworth & Myra Hepworth	do	--
1179.	Sam Townall	do	--
1208.	D Hunter	10 August 1971	--
1221.	John Buckley	11 August 1971	--
1222.	E A Smith	12 August 1971	--
1233.	John M North	do	Mr Perrett QC
1234.	David Reid Moncur	do	--
1238.	Graham Frederick Arrand	do	--
1244.	Gordon Bulmer	do	--
1247.	Ivan F Lunt	do	--
1266.	E A Birkinshaw	do	--
1268.	Mrs F M Gilling	do	--
1285.	Melvyn Keith Batten	16 August 1971	--
1308.	J W Lomas	17 August 1971	--
1319.	Mr & Mrs H Anelay	do	--
1331.	E P Candow	do	--
1332.	Horace Barrass	do	--
1334.	William Richardson	do	Mr Perrett QC
1337.	Mrs Margaret Sprakes & the Exors C F Bold deceased	18 August 1971	Mr Perrett QC
1338.	H Sprakes	do	Mr Perrett QC
1359.	Charles William Oliver	19 April 1971	Mr Perrett QC
1360.	John Muscroft	20 April 1971	Mr Perrett QC
1369.	Mr & Mrs Singleton	do	--
1385.	John Micklethwaite Smith	24 August 1971	--
1386.	John Micklethwaite Smith	do	--
1387.	Raymond Pickersgill	do	--
1389.	Raymond Pickersgill	do	--
1391.	John Micklethwaite Smith	do	--
1409.	B Codling	3 September 1971	--
1412.	Herbert Alfred Howsam	7 September 1971	--
1428.	Colin John Johnson	8 September 1971	--
1432.	R G Warfield	do	--



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1375. British Railways, Eastern Region	do	Mr Perrett QC
1447. R R Clifton	do	--
1459. L A Seyman	23 September 1971	--
1466. Malcolm Yarwood Higginson	28 January 1972	--
1467. Misses M A and R A Woodall	do	--
1487. Mr and Mrs S J Conliffe	do	--
1489. Johnson Harrison	19 June 1972	--
1491. J Harrison	do	--
1493. John Harrison	do	--
1506. John Edwin Parkin	do	--
1550. Kenneth Smith	do	--
1554. Yorkshire River Authority	do	Mr Perrett QC
1569. Malcolm Percy Hiron	do	Mr Perrett QC
1572. Ralph Edwin Leggott	do	Mr Perrett QC
1588. H & R E Lindley Ltd	23 June 1981	Mr Perrett QC
1579. John Kitchen	do	--
1584. George Workman Hewitt	do	Mr Perrett QC
1585. George Workman Hewitt	do	Mr Perrett QC
1586. Administrator H Oldfield Dec'd	do	Mr Perrett QC
1587. Administrator H Oldfield Dec'd	do	Mr Perrett QC
1595. A F Wilson	13 July 1972	--
1599. W B Tune	do	--
1605. Winston & John C Harrison	do	Mr Perrett QC
1612. Bass Charrington (North) Limited	do	--
1613. Bass Charrington (North) Limited	do	--
1617. C Jackson	do	--
1624. Fred Ian Bowling	do	--
1630. Mr and Mrs G W and B J Humphries	do	--
1618. Gordon Frederick Harper	do	--
1621. Gordon Duckitt	do	--
1623. Frank Douglas Hague	do	--
1619. Gordon Frederick Harper	do	--
1604. Winston & John C Harrison	20 July 1972	-- (? see 1605 above)
1631. Mr D G and Mrs E Stacey	do	--
1633. Arthur Smith	do	Mr Perrett QC
1634. Mr C and Mrs E Speight	do	--
1635. Arthur Smith	do	Mr Perrett QC
1636. Percy William Smith	do	Mr Perrett QC
1647. Colin Ernest Harry Martin	do	--
1648. Clifford Barker	do	--
1672. Mildred Harrison	do	--
1673. Leslie Fotheringham	do	Mr Fotheringham in person
1683. D Pritchard	do	--
1688. Mrs Eva Audrey Wharton	do	--
1689. Eric Tuite, Mrs Maureen Tuite	27 July 1972	--
1690. Fred Ian Bowling	do	Mr Perrett QC
1694. Martin Kugler	do	--
1698. A P Burke	do	--
1702. Hatfield Parish Council	do	--
1703. E Parkin	do	--



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1704. Mrs K Scott	do	--
1705. Sykehouse Parochical Charity	do	--
1709. R Gathercole	do	Mr Perrett QC
1710. Sarah A Gathercole	do	Mr Perrett QC
1711. Mary Torn	do	Mr Perrett QC
1712. Alice Rawson Stonehill	do	Mr Perrett QC
1713. J E Gathercole	7 August 1972	Mr Perrett QC
1714. W Fur Lyngarth Haygreen	do	--
1715. R S Parkinson	do	--
1716. G W & A S Scruton	do	--
1717. Mrs E Bowen	do	--
1718. Mr L & Mr R E Hutton	do	--
1719. Messrs Pindar Walker & Son	do	--
1720. Exors Pindar Walker	do	--
1721. Exors Pindar Walker	do	--
1722. G R Walker	do	--
1723. G R Walker	do	--
1724. J A & M Reaney	do	--
1642. David Barker	9 August 1972	--
1645. Frederick Alan Barker	do	--
1646. Maurice Douglas Barker	do	--
1695. Fishlake United Charities	do	--
1730. R Clayton	do	Mr R Clayton in person
1731. Henry Leverick Dowse	do	Mr Perrett QC
1733. Charlie Shaw	do	--
1736. Clifford Raymond Kirk and James Frederick Kirk	do	Mr Perrett QC
1737. Clifford Raymond Kirk	do	Mr Perrett QC
1738. Mr and Mrs J Collins	do	--
1739. Arthur Edwin Speake	do	Mr Perrett QC
1740. Arthur Edwin Speake	do	Mr Perrett QC
1741. Charles Edwin Speake	10 August 1972	Mr Perrett QC
1743. Mr and Mrs Lawrence Millson	do	--
1745. Teasdale Bros	do	Mr Perrett QC
1746. Audrey Mary Seaton and Myra Frances Rowe	do	--
1747. Godfrey Richardson	do	--
1748. Mary Whaley	do	--
1749. Frederick William Whaley	do	--
1752. Leonard Rusby	do	--
1754. Robert Wood	do	--
1755. J Reed	do	--
1756. Clifford Frank Harrison	do	--
1757. Messrs Teasdale Bros	do	Mr Perrett QC
1759. Pers Reprs of William Dent d'ecd	11 August 1972	Mr Perrett QC
1760. Anne Elizabeth Garnons Williams	do	--
1761. Peter Stanely Oades	do	--
1762. Ian Jonathan Geddes	do	--
1763. Mr A and Mrs V Anderson	do	--
1765. George Avery	do	--
1766. J Winstanley	do	--
1767. Geoffrey Albert Pinney and Daphney Beryl Pinney	do	--
1768. S R Sennett	do	--



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1769. J E Clarke	do	Mr Perrett QC
1770. H Barker & Sons	do	Mr Perrett QC
1771. R H Brooke & Son	do	Mr Perrett QC
1753. Ralph Shields	17 August 1972	--
1772. J S Brooke	do	Mr Perrett QC
1775. D Bichan	do	Mr Perrett QC
1776. R W Adams	do	Mr Perrett QC
1777. M Atkinson	do	Mr Perrett QC
1778. S Brooke & Sons	do	Mr Perrett QC
1779. J Brabbs	do	Mr Perrett QC
1780. A E Abbott	do	Mr Perrett QC
1781. Mrs E Birkett	do	Mr Perrett QC
1782. E Camplejohn	do	Mr Perrett QC
1783. A Firth & Sons	do	Mr Perrett QC
1784. H Kershaw & Sons	do	Mr Perrett QC
1674 Department of Environment	19 September 1972	Mr B K Levy
1744. Michael V Sykes	do	--
1785. Mrs M Lyon & Sons	do	Mr Perrett QC
1786. F Myers	do	Mr Perrett QC
1787. H Maddison	do	Mr Perrett QC
1788. R Oliver	do	Mr Perrett QC
1789. H Reid & Son	do	Mr Perrett QC
1790. F G Salmon	do	Mr Perrett QC
1791. E Shaw	do	Mr Perrett QC
1792. A Stones & Son	do	Mr Perrett QC
1793. A Tawse	do	Mr Perrett QC
1794. R Wood	do	Mr Perrett QC
1795. Alfred Ernest Wood	20 September 1972	Mr Perrett QC
1796. T E Wroot	do	Mr Perrett QC
1797. Mrs N Weaver	do	Mr Perrett QC
1798. R J Wroot	do	Mr Perrett QC
1799. H White & Son	do	Mr Perrett QC
1800. A Stones Esq	do	Mr Perrett QC
1801. R White & Sons	do	Mr Perrett QC
1802. J B & J Wood	do	Mr Perrett QC
1804. J Singleton	do	Mr Perrett QC
1805. J D & A R Stones (Exors of G Stones)	do	Mr Perrett QC
1806. G S Platt	do	Mr Perrett QC
1807. G E Payling	do	Mr Perrett QC
1808. Miss M R Mindham	21 September 1972	Mr Perrett QC
1809. Mrs R Kirk	do	Mr Perrett QC
1810. J P Jones	do	Mr Perrett QC
1811. Hasselby & Hull	do	Mr Perrett QC
1812. E T Heath	do	Mr Perrett QC
1813. W Holgate & Son	do	Mr Perrett QC
1814. C & E Fox	do	Mr Perrett QC
1815. J Demskis	do	Mr Perrett QC
1816. W F Cliffe	do	Mr Perrett QC
1817. G T Clark	do	Mr Perrett QC
1819. R & G Thompson	do	Mr Perrett QC
1820. J Burtwhistle	do	Mr Perrett QC
1821. H Burtwhistle & Son	do	Mr Perrett QC
1822. Geoffrey Brown	do	--



1823. Arthur Edwin Speake	do	Mr Perrett QC
1824. Duckitt Bros & Sons	do	--
1825. Mrs Harriet Annie Downing	do	--
1827. Duckitt Bros & Sons	do	--
1828. David & Alfred Duckitt	do	--
1829. Mr Douglas Southwell & Mrs Elsie Southwell	do	--
1830. Mrs Harriet Annie Downing Mr Douglas Southwell and Mrs Elsie Southwell	do	--
1833. Mr & Mrs J E Harrap	do	--
1834. Cook, William Reginald	do	--
1836. Arthur Lawson & Edward Allen Lawson	do	Mr Perrett QC
1838. A Peel	25 September 1972	--
1840. J B Wright	do	--
1841. R Pickles	do	--
1843. Went Internal Drainage Board	do	Mr P R Pennington
1846. Richard Dunston Limited	do	--
1848. Arthur Firth	do	(?) C P Heptonstall and C
1850. Martyn J Webb	do	A Firth as successors, Mr
1851. Joyce Hodgson & Stanley Foster	do	Mr Perrett QC R A Williams
1852. Richard Michael Desmond Dunston Cyril Philip Heptonstall	do	--
1855. Leslie Robinson	do	--
1857. Keith Ernest Crouter	do	--
1858. Colin Armitage Newton	do	--
1859. Derek Fletcher	26 September 1972	--
1860. Charles Arthur Wagstaff	do	--
1861. William Hawksworth Crossland and Doris Eva Crossland	do	--
1862. Allen Spencer	do	--
1863. Mrs E Henry	do	--
1864. J D Pickering	do	--
1865. Walter Cecil Leeson	do	--
1867. Derek Holt	do	--
1868. Mr & Mrs C & E Dowman	do	--
1869. J Laycock	do	--
1870. Geoffrey Wimbush	do	--
1871. John Swaby	do	--
1872. H Lawson	do	Mr Perrett QC
1873. Mr & Mrs J Hattersley	27 September 1972	--
1874. M Griffiths	do	--
1875. William Henry Hands	do	--
1876. John Chapman	do	--
1877. Roy Bailey	do	--
1878. P Baigent	do	--
1879. Ralph Middlebrook	do	--
1880. A M Bedford	do	--
1881. Raymond Barker Charnock	do	--
1882. J Fox	do	--
1883. E F J Hoy	do	--
1884. Frederick William Roe	28 September 1972	--
1885. John Peter Robertshaw	do	--
1886. Jack Hemsworth	do	--

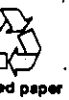


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1887. E Sayles	do	--
1888. Mrs I Sharpe	do	--
1889. T Sharpe	do	--
1890. Douglas Chappell	do	--
1891. John Edmund Sumner	do	--
1892. H Needham	do	--
1893. H Needham	do	--
1894. H Needham	do	--
1895. H Needham	do	--
1896. H Needham	do	--
1897. H Needham	do	--
1898. John Kenneth Spivey	do	--
1899. Baden Rhodes	do	--
1900. Donald Chapman	do	--
1901. Terry Marshall	do	--
1902. Mrs Joan A Porter	do	--
1903. E T Mellor	do	--
1904. Robert Lincoln	do	--
1905. James Arthur Hellam	do	--
1905. Roy Barrie Page	do	--
1907. Mrs L Watkinson	do	--
1908. D S Jeffries	do	--
1909. William Ledger Abbott	do	--
1910. Mr & Mrs B P Fuller	do	--
1911. Misses L E & P E Mabbit	do	Mr Perrett QC
1913. Stanley John Poncia	do	--
1914. Keith Bailey	do	--
1915. Walter Johnson	do	--
1916. G W Middleton	do	--
1917. G W Middleton	do	--
1918. A J Moore	do	--
1919. John Alan Bielby	do	--
1920. Gilbert Grinney	do	--
1921. Mrs T M E Shillito	do	--
1922. L Hampstead	do	--
1927. Ronald Frank Green	do	--
1928. Gordon Hutchinson	do	--
1929. Charles Plumb	do	--
1930. Evelyn Turner	do	--
1931. T Oliver	do	--
1932. P H Bayes	do	--
1933. Joseph Dawson	do	Mr Perrett QC
1934. Charles T D Milnes	do	--
1935. R C Sayers	do	--
1936. Mrs Joan Gillyean	do	--
1937. D Boardman	do	--
1938. Brian Robinson	do	--
1939. F E Fox	do	Mr Perrett QC
1940. Exors. J Marshall deceased	do	Mr Perrett QC

29 September 1972

3 October 1972





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1941. B A Rowley	do	Mr Perrett QC
1942. Miss M Bell	do	Mr Perrett QC
1943. P Cartwright	do	Mr Perrett QC
1944. J Conroy	do	Mr Perrett QC
1945. F Collis	do	Mr Perrett QC
1947. Miss E Hinchliffe	do	Mr Perrett QC
1946. J A Credland	do	Mr Perrett QC
1948. A J Harris & Son (Farmers)	do	Mr Perrett QC
1949. Messrs W Kirk & Son	4 October 1972	Mr Perrett QC
1950. G A Poskitt	do	Mr Perrett QC
1951. W Pearson	do	Mr Perrett QC
1952. E Wrightam Ltd	do	Mr Perrett QC
1953. G Krapp	do	Mr Perrett QC
1954. F Cundall	do	Mr Perrett QC
1955. G W Oliver	do	Mr Perrett QC
1956. Raymond Allen	do	--
1957. Ronald Miller	do	---
1958. John Breen	do	---
1959. Fisons Horticulture Ltd	do	Mr Perrett QC
1961. Fisons Horticulture Ltd	do	Mr Perrett QC
1967. T M Watson	5 October 1972	---
1969. J Metherringham	do	---
1970. Kenneth Penistone	do	---
1971. John Gordon Evans	do	---
1972. P A Smith	do	---
1973. Francis Louis Castle	do	---
1974. Philip Acaster	do	Mr Perrett QC
1975. Arnold Peter Dale	do	Mr Perrett QC
1976. William Hepworth	do	Mr Perrett QC
1977. Harold Livsey and Herbert Livsey	do	Mr Perrett QC
1978. H Stafford Bids	do	--
1979. George Whitaker	do	Mr Perrett QC
1980. Norman Duckitt	6 October 1972	---
1981. Bernard Plumb	do	---
1982. B G Pemberton	do	---
1984. D G Handley	do	---
1985. Paul Benson	do	---
1986. Alan Winston Goodlad	do	---
1987. G Edwards	do	---
1988. Alan Lowndes	do	---
1989. Harold Raymond Lenard	do	---
1990. R Ella	do	---
1991. Mrs E Walker	do	---
1992. Trustees of C S Parker	do	Mr Perrett QC
1993. Messrs Parker Brothers	do	Mr Perrett QC
1994. R Fletcher	do	Mr Perrett QC
1995. Messrs J Town & Son	do	Mr Perrett QC
1997. Mr Jowitt	do	Mr Perrett QC
1998. Mrs M H Boldy	do	Mr Perrett QC
1999. J Wardle	do	Mr Perrett QC
2000. J H Brabbs	do	Mr Perrett QC



2001. F B Blanchard	do	Mr Perrett QC
2002. Mrs I Howarth	do	Mr Perrett QC
2003. The National Farmers Union	do	Mr Perrett QC
2008. Alice May Asquith	do	Mr Perrett QC
2011. Alfred George Batty	do	Mr Perrett QC
2012. V W Higgins	do	--
2017. J J Hughes	9 October 1972	--
2018. David James Ketteridge	do	--
2019. H D R Green	do	--
2021. Mrs E Mettham	do	--
2022. John William & Victor Oliver Fox	do	--
2023. Mrs Alice Oliver	do	--
2024. Sydney Waite	do	--
2025. Leslie Christopher Smith	do	--
2026. George Beckett	do	--
2027. Melvyn Spencer	do	--
2037. Harold Needham Limited	do	--
2038. Annie Gwendoline & J D Cliff	10 October 1972	Mr Perrett QC
(Exors of John Cliff deceased)		--
2040. Barry Danforth	do	--
2041. Herbert John Robinson	do	--
2042. Clive Reay	do	--
2045. F Norman & Sons	do	--
2046. F Norman & Sons	do	--
2047. F Norman	do	--
2048. F Norman & Sons	do	--
2049. Mrs Amelia Molyneux	do	Miss W Molyneux as
2050. Herbert Brown	do	<u>successor, Mr J Molyneux</u>
2051. John Thomas Herbert Lee	do	Mr Perrett QC
2052. John Philip Hurst	do	--
2053. Michael Stephen Crawford	11 October 1972	--
2054. Mr & Mrs A T Kilgour	do	--
2055. John Thomas Herbert Lee	do	Mr Perrett QC
2056. Tom Hepworth	do	Mr Perrett QC
2057. John Redfern	do	Mr Perrett QC
2058. Norman Duckitt	do	Mr Perrett QC
2059. Alice Mary Lyons	do	Mr Perrett QC
2060. Walter Grivil	do	Mr Perrett QC
2061. Herbert Stanley Booth Clarke & Arleen June Patricia Clarke	do	Mr Perrett QC
2062. Sarah Louisa Hetherington	do	Mr Perrett QC
2063. H Bradbury & F A Bradbury	do	Mr Perrett QC
2064. George Bernard Walker	do	Mr Perrett QC
2065. William Burr Knox	do	Mr Perrett QC
2066. Frank Heap Widdup	do	--
2077. Stanley Thompson	do	--
2081. Exors of W Ward	do	Mr Perrett QC
2082. Brian Lindley	do	--
2083. Mrs Lily Ridsdal	do	--





2084. Mrs D W Monk	do	--
2085. F A Watkinson	do	--
2086. E A & R H Brown Ltd	do	--
2087. Walter Robert Arrand	do	--
2088. Keith Bruce Reed (Exec of Mrs Iris Ward Reed deceased)	do	Mr Perrett QC
2089. Elizabeth Mary Duckitt (as Exec of Alfred Louis Robinson deceased)	do	Mr Perrett QC
2090. Fishlake Educational Foundation	12 October 1972	Mr Perrett QC
2091. Frank & Vera Smith	do	--
2092. Alfred Ernest Wood	do	--
2093. John Hebblewhite	do	--
2094. The Personal Representative of Maria Wright deceased	do	--
2095. E A & A G Brown Ltd	do	--
2096. Mrs P A Duggan	do	--
2097. R Taylor	do	--
2098. M Bell	do	--
2099. W A Brocklesby	do	--
2100. Mrs L Smallshaw	do	--
2103. Thorne Rural District Council	do	Mr Perrett QC
2145. J D Gladstone	24 October 1972	--
2146. G R Tuby	do	--
2147. W Gladstone	do	--
2148. H Lindley & J Lindley	do	--
2149. Mr & Mrs H Durant	do	--
2151. C P Robinson	do	--
2152. Mr & Mrs F Smith	do	--
2153. Robert Smith	do	Mr Perrett QC
2154. Benjamin Norman Lovatt	do	Mr Perrett QC
2156. James Richardson	do	--
2161. Messrs L & R Kent	do	Mr Perrett QC
2162. J Middleton	do	Mr Perrett QC
2163. A Middleton	25 October 1972	Mr Perrett QC
2165. Home Office Prison Department	do	Mr B K Levy
2166. Mrs C R Greenwood	do	--
2168. William Hepworth	do	Mr Perrett QC
2169. Frederick Harrison	do	Mr Perrett QC
2170. Michael Vasya and Florence Holden	do	Mr Perrett QC
2171. Evelyn & Elsa Coom	do	--
2172. John Arthur & Len Smith	do	Mr Perrett QC
2173. John Hanson	do	--
2174. Mrs Louisa Gore	do	--
2175. L P Orpwood	do	--
2176. George Alan Poskitt	do	--
2178. Mr J R & Mrs B Whitlam	26 October 1972	--
2179. Mr V P Molloy & Mrs V Molloy	do	--
2182. George Edwin Woodall	do	--
2183. Mr & Mrs T & E Page	do	--
2186. Dennis James Slatcher	do	--
2188. Gordon Gravil	do	--
2189. Ernest Cairns	do	--
2191. N Rukin	do	--



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2193. Elizabeth Alice Redgard	do	--
2194. Hubert John Greenwood Griffiths	do	--
2195. H Wherritt	do	--
2196. Mr & Mrs B Rhodes	do	--
2198. John Riggott	do	--
2204. E A Brown & A G Brown	27 October 1972	--
2205. A G Brown	do	--
2206. Mrs Dilys Gwyneth Elisabeth Oldfield	do	--
2207. Arthur & Thomas Saxon Jackson and	do	--
2208. Revd Stuart Forbes Mrs Annie Chant	do	--
2209. Mr & Mrs H Bolland	do	--
2210. Miss Eva Parish Mrs Joanna McKilligan Brown Mrs Dorothy Clarke Mrs Nellie Walton	do	--
2211. Thomas John and Sadie Dryer	do	Mr Perrett QC
2212. Frank Edward Fox Enid Alice Drury	do	Mr Perrett QC
2213. Enid Ketteringham, Annie Hibbard,	do	Mr Perrett QC
2214. Hilda Bisatt	do	Mr Perrett QC
2215. Geoffrey Craddock	30 October 1972	Mr Perrett QC
2216. James Russel Tate	do	Mr Perrett QC
2217. R Pickersgill	do	Mr Perrett QC
2218. R Pickersgill	do	--
2219. J M Smith	do	--
2220. J M Smith	do	--
2221. R Pickersgill	do	--
2222. J M Smith	do	--
2225. Francis William Beadshaw Jennifer Ann Thomas	do	--
2232. Royston Walter James Thomas &		
2240. Geoffrey Smethurst	do	--
2244. Arnold Leslie Sanderson	do	--
2192. Mrs Nellie Maud Bradbury	31 October 1972	--
2261. Anthony Cyril Stephen LeGonidec	do	--
2266. Neville Barton Ruby	do	--
2267. C W Humphreys & Mrs E M Humphreys	do	--
2273. James Arthur Hallam	do	--
2275. Douglas Braham Hall	do	--
2284. Hames Hilton Edwards	do	--
2300. Charles Anthony Cawkwell	do	--
2302. Raymond Brooks	do	--
2305. William Baldwin Bland	do	--
2310. Jeffrey Edwin Bates and Hazel Bates	do	--
2312. N A Arundel	do	--
2349. Frederick Walter Duckitt	2 November 1972	--
2350. B A Wright	do	--
2352. Harold Maxfield	do	Mr Perrett QC



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2353. Mr & Mrs S E Birch	do	--
2356. P. reps. of Samuel Francis Noble Webster	do	--
2357. Charles William Gilliat	do	--
2358. Charles William Gilliat	do	--
2359. Dennis Beevers	do	--
2361. Arthur James Gillatt	do	--
2362. Brian Lindley	do	--
2363. Mrs Alice Oliver	do	--
2364. Minnie Lunn	do	Mr Perrett QC
2365. Michael James Taylor	13 November 1972	Mr Perrett QC
2366. Reginald Ball & Robert Finney	do	Mr Perrett QC
2367. The Lord Farmoor	do	--
2368. Ralph Bartaby Phillips	do	--
2370. The Lord Farmoor	do	--
2371. Doncaster and District Joint Water Board	do	--
2372. Doncaster and District Joint Water Board	do	--
2373. Trent River Authority	do	Mr Perrett QC
2385. Kenneth Edward Dunn	do	--
2386. Thomas Simpson	do	--
2387. Thomas Sanders	do	--
2388. Kenneth Sanson	do	--
2389. Joseph Birkinshaw & Frances May Gilling, Executors of Annie Birkinshaw deceased	do	--
2390. Richard Wain	do	--
2391. Robert Singleton & Lily Singleton	do	--
2392. Ernest Briggs	do	--
2393. Kenneth Edward Dunn	do	--
2394. Kenneth Edward Dunn	do	--
2395. Kenneth Edward Dunn	do	--
2397. George Edwin Layhe	do	--
2398. David Norman Bulmer and Marie Bulmer	do	--
2399. David Norman Bulmer	do	--
2400. William Ritch Bichan	do	--
2401. Francis Ronan & Keith Barry Tomlinson	do	--
2402. Ronald Howe	14 November 1972	--
2403. George Thomas Andrewartha	do	--
2404. William Ritch Bichan	do	-- (as successors
2405. David Attey	do	-- Mr Perrett QC
2406. Kenton Homes (Builders) Limited	do	Christian S(P)Ltd
2407. Kenton Homes (Builders) Limited Wright	do	do
2408. Anthony Trevor Wright & Jone Elizabeth	do	--
2409. Distinctive Homes (Doncaster) Ltd	do	--
2410. R C Blanchard Esq	do	Mr Perrett QC
2411. E S Dixon & Son	do	Mr Perrett QC
2412. Charles Hayward	do	--
2413. Keith Howard and Rita Howard	do	Mr Perrett QC
2414. Kenneth Greaves	15 November 1972	Mr Perrett QC
2415. Lilian Kynman	do	Mr Perrett QC
2416. Thomas Oates Firth	do	Mr Perrett QC



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2417. Percy Rodolph Mabbit	do	Mr Perrett QC
2418. Geoffrey William Oliver	do	Mr Perrett QC
2419. J & C E Johnson	do	Mr Perrett QC
2420. John Nichol and Kathleen Nichol	do	Mr Perrett QC
2421. John Riggott and Mary Hartford Riggott	do	Mr Perrett QC
2422. Gordon Spriggs	do	Mr Perrett QC
2423. John William Roberts	do	Mr Perrett QC
2425. G Boughen	do	---
2429. Ernest Harol Varley	21 November 1972	---
2430. Ernest Harold Varley	do	---
2431. R W Turner	do	---
2434. John England	do	---
2435. Ella Douglas Coupland	do	Mr Perrett QC
2436. Roy Clarke	do	Mr Perrett QC
2438. Alexander William Elder	do	Mr Perrett QC
2444. Reginald Lee Margaret Louisa Maud Clegg	do	Mr Perrett QC
2447. Thomas Clegg, Thomas Graham Clegg	do	---
2448. Philip Micklethwaite Vaughan	do	---
2449. Horace Derek Vaughan and Yvonne Lilian	do	---
2451. William Parker	do	---
2456. H & H Bishop Ltd	22 November 1972	---
2484. J Harlow	do	---
2508. D Pritchard	do	---
2509. Geoffrey Srocks	do	---
2510. Ronald Hancock	do	---
2511. Edward James Dyer	do	---
2512. Arthur Hall	do	---
2513. R M Taylor	do	---
2515. Kenneth Grantham	do	---
2518. Old Thornesians RUFC	do	---
2519. Frank Mangham and Gladys Mangham	do	---
2520. T Priestley	do	---
1866. P H Bullers	12 December 1972	---
2433. D A Langton	do	---
2442. Michael C Wright	do	---
2473. M Y Higginson	do	---
2516. R Lister	do	---
2521. Mr K Quest	do	---
2528. John Harlow	do	---
2529. Thomas Singleton	do	---
2536. Tilling Construction Services Ltd	do	---
2539. The Yorkshire Brick Co Ltd	do	---
2540. Henry Hall	do	---
2541. Robert Walton	do	---
2542. P Alcock	do	---
2543. Eric Graville	do	---
2544. C Goldthorpe & Sons	do	---
2545. Keith Sands	do	---

*Objection No. 2543 was supported by Mr B K Levy.



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SECOND SCHEDULE
(Documents)Part I: referred to by Mr T P Smith
or Mr K Farrow

- 28 November 1985 Letter to Commons Commissioners from Pearlman Grazin & Co on behalf of Mr William Bunting and Mrs Joyce Bunting; will apply for adjournment: Official Solicitor may be able to support application: copy letter next mentioned enclosed
- As post mark Copy letter to Mr William Bunting from Doncaster Health Authority, Doncaster Royal Infirmary: arrangements have been made for you to be admitted on Monday 28 October
- 28 November 1985 Letter to Commons Commissioners from Official Solicitor enclosing copy letter of 25 November 1985 from Mr Bunting (see below)
- 25 November 1985 Copy letter from Mr Bunting to Official Solicitor: ... my health at its best precludes me from any hearing in Doncaster ... suggest ... any hearing is at Thorne at a time when I can reasonably expected to attend ...
- 6 March 1984 Letter from Clerk of Commons Commissioners to Mr W Bunting suggesting legal aid

Part II: by Mr Perrett QC
during his opening

- 01/1 1626 Agreement between Charles I and Vermuyden respecting the drainage of Hatfield Chase
- 01/2 1626 Royal Grant of King Charles to Vermuyden of Hatfield Manor etc



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- 01/3 1627 PRO ref. E178/5960: certificate of Sir John Savile
- 1639 Map of John Arlebou
- 01/4 30 November 1630 Decree in the Exchequer
- 01/5 15 July 1633 Deed of enfeoffment
- 01/6 11 April 1811 Hatfield, Thorne and Fishlake Inclosure Act (51 Geo.3. c:xxx)
- 01/7 1825 Award pursuant to 1811 Act
- 01/8 2 December 1985 List of documents and maps available to the Commons Commissioner
1. Original of 1824 Award
2. Original plan attached to 1825 award.
3. Map 30" x 30" showing 1825 awarded lands transcribed onto a modern OS sheet (2½" = 1 mile) and coloured yellow (easle).
4. "Harley Map 1" showing hatched green land enclosed before 1911, outlined yellow land in 1633 enfeoffment.
5. --
6. Tracing for superimposition on 4 to show effect of 1925 award on CL401 land.
- 01/Harley/(1)
- 01/9 4 March 1976 Decision of Commons Commissioner about Thorne Moor or Thorne Waste, Register Unit No. CL386, after hearing in October and November 1975
- 01/10 20 July 1983 Copy judgment of the Hon Mr Justice Mervyn Davies reversing in part the said 1976 decision
- Part III: by Mr B. K Levy
- MOD/1 20 November 1985 Affidavit of Eric Graville with exhibit EGL showing Lindholme Airfield and pieces of land to the west and north
- MOD/2 28 February 1985 Affidavit of John Reginald Bell about Clowes Farm with exhibit JRB.1 (plan similar to EGL)



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- MOD/3 15 September 1981 Affidavit of Gordon Alfred Bell (now deceased)
- MOD/4 27 November 1985 Affidavit of Charles Joseph Page with exhibit CJP.1 showing Tugworth Hall Farm as it was before 1979 (now crossed by Motorway M180)

Part IV: by Mr J N Duckett

- JND/1 16.9.1970 Objection No. 174 made by Mr Norman Duckett; grounds "the land and properties comprising Ivy House Farm, Wormley Hill, Sykehouse shown hatched red on the attached plan (scale six inches to one mile) were not common land at the date of registration
- JND/2 -- Plan of farm based on OS Map scale 1/2,500

Part V: by Mr C Dunkley

- CD/1 3 December 1970 Objection No. 830 by British Waterways Board; grounds, the land edged red on the plans was not common land at the date of registration and no rights exist thereover; 14 annexed plans scale 1/2,500

Part VI: by Mr R Clayton

- RC/1 June 6 1972 Objection No. 1730; grounds "the land 1934 & 1936 shown hatched red on the attached plan was not common land at the date of registration". The plan attached showed OS Nos. 1934 and 1936 containing 6.961 and 7.536 acres; and draft of Objection with printed notes
- RC/2 1837 Abstract of the title of Mrs Ann Benson to certain closes called Gibbon Lane Closes in the Township of Hatfield and also to an allotment in Thorne called Pissey Beds allotment sold to Mr Bladworth (33 pages), commencing with admittance by Manor of Hatfield at a Court on 23 October 1781 and ending with Royal Licence of 1 January 1836 granting Henry Mitton right to use name of Eadon.



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RC/3 9 June 1837 Release of land and hereditaments by Mrs Ann Benson and others to Mr John Bladworth and his Trustee (parchment, 3 skins)

Part VII: by Mr L Fotheringham

LF/1 22.4.1972 Objection No. 1673; grounds "the lands shown coloured red on the attached plan was not common land at the date of registration"

Part VIII: on behalf of Miss W Molyneux

JM/1 27 November 1985 Letter to Commons Commissioner signed W Molyneux

JM/2 18 July 1972 Objection No. 2049, grounds "the land shown coloured in red on the attached plan is not common land at the date of registration"

Part IX: on behalf of National Coal Board

NCB/1 -- Plan (40" x 23", scale 1/10,560) showing land owned by Board (mostly as on plan annexed to Objection No. 455).

NCB/2 -- Agricultural tenants of NCB at Stainforth and Moorends with names, acreage, commencement and termination

Part X: on behalf of British Rail Property Board

BR/1 -- Land showing site of Hull and Barnsley railway (closed 1958) where it crossed CL401 land west of Sykehouse

BR/2 -- Plan of existing railways where they cross land in this Register Unit being a Y piece south west of the Stainforth Junction land, the Junction lands were the line to Thorne Junction, and Y piece northwards and eastwards from it



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BR/3 28 June 1971

Objection No. 1375 grounds "the land shown by green colour on the attached plans Nos. 4480, 4481 and 4482 - was not common-land at the date of registration. The majority of the land shown by green colour on the plans is required for operational purposes by the British Railways Board"; with plans attached.

Part XI: By Mr J C Harrison

JCH/1 14 July 1972

Objection No. 2,003 by National Farmers Union, Yorkshire West Riding County; grounds "that the land covered by Unit No. CL401 was not Common Land at the date of registration"

JCH/2(a) --

Map (54" x 23") based on OS map (?) 1/2,500 showing Ings Farm including Huddle Grounds and Stainforth East Ings between the River Don and the Sheffield & South Yorkshire Navigation: Stainforth & Keadby Canal, some land north of Boating Dike (extending nearly to the Selby Road A614) and some land south east of the railway (extending up to near the swing bridge by Thorne Lock)

JCH/2(b) --

Map (10" x 9") based on OS map showing OS No. 2721 containing 5.86 acres (northwest of the Hatfield Road A1146 and near to and south of the railway)

JCH/2(c) --

Map (11" x 9½") based on OS map showing OS Nos. 7985, 9400 and 0005 containing 7.43, 2.14 and 4.84 acres (between Sour Lane on the northeast and Town Ing by the River Don on the south east).



Part XII: on behalf of Mr and Mrs Bunting

TPS/1 --

Legal Aid Committee: summary
of reasons for refusal of applica-
tion by Mr Bunting for legal
aid

Part XIII: referred to by Mr Pennington

PRP/1 November 1983

Copy exhibit made to affidavit
by Peter Richard Pennington

-- 4 January 1984

Request on behalf of Doncaster
Metropolitan District Council
for particulars of registration
of town or village green to
W. Bunting Esq:
D/24-27 South End Guyme etc
D/28-29 Church Yards or old
grave yards
D/30-32 North Station Guyme
D/43-53: Durham Warping Drain
D/61-64 Huddle Grounds
B/82-92: River Don and its banks
D/104-118: River Went and its
banks

Part XIV: on behalf of Fisons plc

Fisons/1 --

Map (30" x 30") based on OS
map scale 1/25,000
showing coloured green the
land owned by Fisons plc

Fisons/2 --

Map (16" x 16") based on OS
land ranger map 1/50,000 as
owing CL401 land edged red and
land owned by Fisons plc edged
green.

Part XV: by Mr Perrétt QC

-- 3 December 1985

Affidavit of Mr Charles Nigel
Quin partner of Blyth Dutton
as to those represented by his
firm as to documents and as
to procedure envisaged by him
with exhibit CNO.1 being Schedule
of outstanding Objections with
names of those represented



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by Blyth and Dutton therein
indicated

Part XVI: referred to by Mr B K Levy

--	4 May 1970	Objection No. 78 made by S of S for Defence
--	24 April 1972	Objection No. 1674 made by P B Norman for Department of Environment
--	24 July 1972	Objection No. 2165 made by L M Stone for Home Office Prison Department
--	28 July 1972	Objection No. 2543 made by Eric Graville

Part XVII: referred to by Mr C Cadman

CC/1	12 December 1969	County Council receipt for application dated 12 December 1929 made by Cyril Cadman as chairman of Black Drainage Board
CC/2	--	--
CC/3	12 December 1969	Application No. 2278 (CR. Form 10) by Cyril Cadman chairman Black Drainage Board claiming on their behalf ownership of VG115 (see File 269/59-60)
CC/4	15 September 1973	Notification of objection No. 1845 (copy on said file) dated 30 June 1972 and made on behalf of Arthur Firth and Fred Firth



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Part XVIII: by Mrs M Sylvester

- MS/1 -- VG154 register map showing the old bed of the River Don.
- MS/2 -- Minute Book of Fishlake Parish Council including minutes of the years 1921 and 1927

Part XIX: after hearing by Mr Cadnam

-- 16 December 1985

Letter. (filed with VG115 papers, 269/D/49) from Cyril Cadnam to myself, saying that his application was dated 12.12.69 but the Objections were not received until 15.9.72 and 3.10.72; and that no minute was ever passed by the Board about their Objection, and enclosing copy of minutes 2262, 2276, 2277, 2287, 2290, 2293, 2297, 2308, 2320, 2334, 2360, 2396, and of paper signed Wm Bunting.

TURN OVER



THIRD SCHEDULE

Part I: Oral evidence of Dr. Owen

1042

RHYS PRYS OWEN

SWORN

52 Northeastern Road, Thorne; medical practitioner.

Xd

Mr T P Smith

Q. General practitioner in Thorne?

A. Yes.

Q. William Bunting is a patient of your practice?

A. Yes.

Q. How long (yourself)?

A. 5 years myself.

Q. Is medical condition when he first became ...?

A. He was a sick man. In 1980 ——— first complained to me, I visited him. He had many symptoms which needed referral to different specialists. I did refer him to a number of specialists. After about 2 years he was seen by Dr Legatt of Doncaster Infirmary; he was able to make a diagnosis of chronic renal failure arising from obstruction of the prostate gland. For this he underwent surgery in August 1982 and there was a dramatic improvement in his general wellbeing and physical health. Unfortunately all this took place against a background of chronic progressive arthritic condition of the spine, for which he has received treatment from me and from a consultant acting for me as an outpatient. He has had further surgery; in March 1984 he had repair of inguinal hernia; there was a complication and he was readmitted in April 1985, but it settled without surgery (1985). In October 1985 further surgery on his right side for a different type of inguinal hernia. These are some of the features of his medical history. He has a very complicated personality; there are other features which are probably irrelevant.

Q. Can you explain to the Commissioner how the spinal conditions manifest ...?

A. The main problem is pain and headache caused by the degenerative cervical spine.

Q. Mobility?

A. Greatly limits his mobility. A few years ago he was reasonably ambulant; but not like that now; has difficulty in getting from one room to another; if he turns suddenly or moves his neck suddenly he is liable to faint and has on occasions passed out. He needs large doses of painkillers; he can just about manage stairs.

Q. How does this affect his concentration and ability?

A. His concentration is now very poor; so for the past few years he has not been able to devote as much time to his cases (? causes) which he would like and he has been able to do very little work over the last 2 years.



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Q. Mr Bunting has come to terms with it?

A. He has come to accept that he can't give any prolonged attention to ... Physically unable to spend hours in a witness box; and I would imagine mentally unable because of persistent pain and need of analgesics to concentrate on the work required.

Q. Most recent surgery October 1985? When discharged from hospital?

A. 4 November.

Q. To what extent has he recovered?

A. He seems to have recovered but he has been advised to do very little for the next 6 weeks. Should certainly avoid heavy lifting or straining for the next 6 months; but that is out of the question in view of his spinal condition.

Q. His spinal condition going to improve?

A. No.

Q. Is he fit enough to be in court today at the hearings which are taking place at this present time?

A. No.

Q. Is he capable of presenting his case to a court like this, himself?

A. I would be most surprised if he were ever fit enough again to present a case himself.

1104

(Xd

Mr Perrett QC.

Q. Last seen Mr Bunting?

A. Last week.

Q. Did you discuss with him his ability to argue this case in court?

A. No I did not.

Q. Did he mention to you about the Commissioner's inquiry to start last Monday?

A. I do not remember this as a topic of conversation it was mainly his hernia and his general debility.

Q. Present position with regard to hernia recently operated on? transient condition that will mend?

A. That is true.

Q. Prognosis to the hernia recently operated on is good?

A. Yes.

Q. Position however: arthritic condition of spine chronic one and unlikely to improve?

A. That is so.

Q. It is likely to deteriorate?

A. As aging process; he is getting older; born in 1916.

Q. Two years ago he would have been able to cope despite his arthritic condition: it is certainly not the case now?

A. I would be very surprised if he could cope with a hearing now; two years ago he may have been able to cope with a hearing.



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- Q. Two and a half years ago still fainting on brisk movement of his neck?
A. Yes.
- Q. History of that sort of disability for many years?
A. (Witness pauses and looks at his records) My personal recollection starts from 1980.
- Q. Back for years he has not been a well man: for how long?
A. 20 years with special problems.
- Q. Special problem is also as to general mobility?
A. He has not been out of the house; I visit every 2 weeks at his home; he staggers about from room to room.
- Q. You as a doctor and general practitioner ... entirely housebound?
A. That is the only conclusion I could draw.
- Q. Is this right: the next 6 weeks or 2 months expect him to be over the residual symptoms of the hernia operation?
A. Yes.
- Q. Spinal condition needs treatment of it by analgesia; is going to be no better and possibly worse?
A. Yes.
- Q. Loyalty to your patient: his complicated personality: his personality does not enable him ... never ... morale?
A. I am not sure what you mean.
- Q. Morale?
A. I cannot say that his morale will not improve: I don't think his hernia has influenced his morale.
- Q. (By Commissioner) Could he give evidence in his own house?
A. I would not have thought it right now.
- Q. (Mr Perrett continues) Write out what his case is and send it?
A. I don't think he could concentrate.
- Q. Difficulty with his concentration for the last 2 years?
A. I don't think he can.
- Q. No reason to improve?
A. Possibly not: we all hope.
- Q. Concentrate: power of thought?
A. Yes (witness meaning agrees it is improbable that his power of concentration will improve: witness hesitates) I would not wholly disregard the possibility of some improvement.
- Q. Mr Bunting's case not a straightforward one and difficult to follow: does his present health enable him to give complicated instructions to lawyer?
A. I may be doing him an injustice but I would not have thought so.

1120
XXd

Mr B Levy

- Q. Qualifications?
A. MB: CHB.



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Q. Mr Bunting not been able to present a case without assistance: a hearing in Doncaster or a hall in Thorne?

A. Even at a hall in Thorne he would not be able to present his case now or in the future I am afraid: I would be most surprised if he could ever become fit enough to do that in a hall in Thorne.

Q. When you discussed with Mr Bunting did you indicate to him that he ... fit → hall in Thorne?

A. Yes.

Q. Can you remember when you last discussed ... → at Thorne?

A. On the telephone recently: this year, cannot remember when.

Q. Not be able to present case: September of this year just before the hernia?

A. Yes that would be my personal view.

Q. Was it also the position in August of this year?

A. I would have thought so, but the fellow never fails to amaze me.

Q. You would have thought so: qualify it if you were asked in August of this year?

A. I do not recall advising him not to present a case. I would leave to his own decision if he is fit enough to put a case: I would let him carry on.

Q. On 7 August 1984 you wrote about a possible hearing (WB/1 see Part II of this Schedule): you could not predict when he would be fit?

A. Fair comment. I could not imagine him to be fit enough ... I thought he would not be fit in the near future, and by now he has reached the stage when he will not be fit in the foreseeable future.

Q. We could look back to between August 1984 and today: now we can look back: no true difference between August 1984 and today as to whether he is fit to conduct his case?

A. (Witness pauses) No (witness meaning agrees no difference).

Q. Your letter of 29 March 1985 (WB/2, see Part III of this Schedule) that accords with your earlier reply?

A. (Witness reads letter) Where are you leading to!

Q. On the ... Mr Bunting, March 1984, 21 months ago, the prospect of trying to get legal aid; did he discuss it with you?

A. He has never asked my opinion as to whether he is fit and never taken advice.

Q. Did you tender advice which he did not take?

A. I have never advised him not to take a particular course of action.

Q. You have offered advice not to lift and too much after an operation?

A. Whether he is physically fit to attend a hearing is a matter he is capable of deciding on his own.



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- Q. Did you know that there was a hearing* in June 1983?
A. I was not aware of that.
Q. Did you become aware of it?
A. (Hesitates): I do not recall.
Q. Any reference as to how he felt during that hearing?
A. I don't recall.

XXD Mr Pennington

- Q. Hernia of longstanding origin?
A. Two operations: the recent one: in June 1985 seen by consultant surgeon put his name on a waiting list: repair of right inguinal hernia: the previous case right femoral hernia.
Q. Hernia normally treated on the waiting list for operational treatment?
A. Yes.
Q. Waiting period June-November 4: waiting short or long period how estimate time?
A. I was surprised he had the hernia repaired so quickly.
Q. Was it accelerated through your auspices in any way?
A. No.
Q. Your records for January 1984 did he consult; state of his health at that time?
A. End of January 1984 complained of pains in ankles, shins, elbows and left hip: he had collapsed and vomited. I saw him two days later (3 February) and he was better: end of January must have been 31 January.
Q. Any other entries for February 1984?
A. On 8 February I saw him again falling about violently could not walk. 13 February he seemed to have improved on treatment.
Q. Entries in isolation?
A. There is another entry on 25 February, he continued the therapy as prescribed. Another on 13 March. Another on 21 March; he appears to have improved.
Q. Two years ago could have been able to conduct proceedings: apart from January and February 1984 would be at the time able to cope with the concentration?
A. You are asking me to recall matters of health, I can't do that, I can't say presently at what point he initially deteriorated.

ReXd Mr T P Smith.

- Q. I asked Mr Bunting if he had hopes of presenting his case and you say he has come to terms that he will never be able to present his case?
A. I would say fairly recently.

*Note: I suppose that leading to the 1983 High Court decision.





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Q. Finally reference ... hall in Thorne: he has been virtually housebound; as ... to him giving evidence in hall in Thorne ... a hall in Doncaster?

A. Oh yes.

Note Mr Smith made a statement to this effect: The application for legal aid was submitted on 16 October 1985 and it was to be represented at the hearing; the notice of the refusal of the application is dated 22 November 1985, the written reasons being PJS/1 (as set out in Part IV of this Schedule). He was instructed at the end of September 1985 but did not recall the date.

1156 Mr Perrett said he opposed the application and made submissions against it, as also did Mr Levy, Mr Duckett, Mr Pennington and Miss Darley; Mr Smith replied.

1300 (Commissioner said) APPLICATION REFUSED: would give his reasons in his final decision:

Part II: Letter of 7 August 1984
from Dr Owen to Commons Commissioners (WB/1)

I am sorry to inform you that Mr Bunting's health remains much the same in that he has severely disabling arthritis affecting his neck, spine, elbows, left hip and ankle. At the moment he feels he cannot offer the concentration required to conduct his cases, nor can he remain on his feet for any length of time. I cannot predict whether he will be fit enough to conduct his cases; I do not imagine he will be well enough in the near future.

Part III: Letter dated 29 March 1985
from Dr Owen to Commons Commissioners (WB/2)

In reply to your letter about Mr P W Bunting's fitness to give evidence. I regret to inform you that I do not think it likely he will be able to conduct his case this summer. The main problem being arthritis which requires high doses of analgesics.

Part IV: Legal Aid Committee Reason

Summary of Reason for Refusal:

The Committee considered the documents supplied with your application but considered that they had insufficient information to justify granting legal aid in view of the obvious complexity of the issues involved. The Committee further noted that you had been informed by letter of 22 July this year as to when the proceedings were to be listed yet had delayed making any application for legal aid until recently. This latter aspect ie delay precluded the Committee from considering the possibility of granting your application limited to Counsel's opinion on the merits.



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FOURTH SCHEDULE
(Decision table)

The application of Mr William Bunting and Mrs Joyce Bunting made on 4 December 1985 that these proceedings (relating to all the Register Units in Groups A, B, C and D) be adjourned, having by me been REFUSED, my decisions (shortly stated) are:-

(1) Group A of which Register Unit CL401 is the only member:- (a) I REFUSE to confirm the Land Section registration at Entry No. 3 which on 2 June 1971 replaced that at Entry No. 1, (b) I REFUSE to confirm the Rights Section registrations at Entry Nos. 1 and 2; and (c) I REFUSE to confirm the Rights Section registrations which by regulation 14 of the Commons Registration (General) Regulations 1966 are deemed to have been made in the said Rights Section by reason of the registrations (if any) in the Rights Section of the following Register Unit relating to Part of the CL401 land, that is to say Nos. VG68, VG110, VG111, VG112, VG113, VG114, VG115, VG116, VG117, VG119, VG120, VG127, VG138, VG154, VG162, VG177, and VG182.

(2) Group ^B comprising Register Unit Nos. VG113 and VG117.- (a) I REFUSE to confirm the Rights Section registrations in Register Unit No. VG113 which by the said regulation 14 are deemed to have been made therein by reason of the CL401 Rights Section registrations at Entry Nos. 1 and 2; (b) I REFUSE to confirm the Rights Section registrations in Register Unit No. VG117 which by the said regulation 14 are deemed to have been made therein by reason of the CL401 Rights Section registrations at Entry Nos. 1 and 2.

(3) Group C comprising Register Unit Nos. VG110, VG111, VG112, VG114, VG115, VG116, VG119 and VG120.

The applications made by Mr William Bunting in all or some of his letters dated 14, 20, 27 February, 5, 6 and 7 March and 11 and 18 April 1984 that the decisions dated 29 February and 30 March 1984 made by the former Chief Commons Commissioner about the Register Units in this Group be set aside and that the hearings he held about them in February 1984 be reopened, are DISMISSED.

(4) Group D of which Register Unit No. CL333 is the only member:- (a) I REFUSE to confirm the Land Section registration at Entry No. 1; (b) I REFUSE to confirm the Rights Section registrations which by the said regulation 14 are deemed to have been made therein by reason of the VG119 and VG177 Rights Section registrations.

Note: The decisions in paragraphs (2) and (3) above are subject as stated under the heading "Final" above.

Dated this 20th — day of June — 1986

a a. Baden Fuller

Commons Commissioner