



COMMONS REGISTRATION ACT 1965

Reference No. 225/U/255

In the Matter of Flordon Common, Flordon

DECISION

This reference relates to the question of the ownership of land known as Flordon Common, Flordon being the land comprised in the Land Section of Register Unit No. CL.36 in the Register of Common Land maintained by the Norfolk County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference Arthur James Lincoln and Janet Gladys Lincoln claimed to be the freehold owners of part of the land in question and no other person claimed to have information as to the ownership of the remainder.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Norwich on 8th November 1989.

The hearing was attended by Mr J E Richardson (a Principal Administrative Officer of Norfolk County Council, the registration authority), Mrs M J Barnes and Mr G H Fincham (Secretary and Chairman respectively of Flordon Parish Council), Mrs I E Holmes (Rights Entry No. 2), Mr M J Read (Rights Entry No. 3), Mr R M Howes (Rights Entry No. 11) and Mrs Howes, Dr Stephen Rothera (Assistant Regional Officer of the Nature Conservancy), Mr Martin Marshall of Lawrence Wood, Solicitors of Wroxham on behalf of Mr & Mrs A J Lincoln (the claimants), Mr A J Lincoln (in person), Mrs C Day, Mrs R M Tilbrook, Mrs A E Battley, Mrs P Ellis, Mr & Mrs P W Cook, Mr R Broughton, Mr T J Webster, Mr R Webster, Mr D Harrison, Mr H Harris and Mr & Mrs J L Manners.

The land was registered as common land in 1967 in consequence of a Rights application. The registration, being undisputed, became final on 1st October 1970. There are 5 subsisting Entries in the Rights Section of the Register relating to the grazing of animals of various descriptions over the whole of the land in this register unit, all of which have become final.

Flordon Parish Council was provisionally registered as owner of the greater part of the land, but this entry has been deleted. There was a previous ownership inquiry before a Commons Commissioner held at Norwich on 3rd April 1979. Mrs I E Holmes then put forward a claim to a possessory title, but this claim was rejected by the Commissioner in his Decision dated 18th May 1979, and the land remained subject to protection under section 9 of the Act of 1965.

In his Decision of 18th May 1979 Mr Commissioner Baden Fuller considered in some detail the general features and historical background of the Common, but no-one other than Mrs Holmes put forward any claim to ownership at that stage.



Mr Marshall told me that Mr & Mrs Lincoln purchased by auction on the 30th September 1988 for the sum of £18,750 approximately 9 acres of land described as secluded water meadows and cattle lairage with vacant possession on completion. The Vendor was Mr B K Harvey, and neither he, his Solicitors nor the Auctioneer disclosed that the greater part of the property was registered under the 1965 Act as common land.

Mr Marshall's initial application was that I de-register this part of the register unit, but I think he appreciated before the hearing opened that de-registration was beyond my powers as a Commons Commissioner. In any event I made it clear that my jurisdiction at that hearing was limited to considering claims to ownership of the land comprised in the register unit. Any application for de-registration would have to be made to the registration authority pursuant to Section 13 of the 1965 Act and Regulation 27 of the Commons Registration (General) Regulations 1966. I should not be taken as expressing any opinion on the prospects of such an application succeeding.

Mr Marshall produced the following documents:-

1. Auction Particulars for Sale on 30th September 1988
2. Certified copy Conveyance dated 10th November 1948 between (1) Eva Constance Versturme-Bunbury Violet Mary Kemp and Ida Dorothy Gillam (2) V M Kemp, Charles Maurice Jickling and John Clifford Wilson Gillbert and (3) Geoffrey Francis Harvey.
3. Original Conveyance dated 13th July 1951 between (1) Henry Norton Dunthorne (2) Lillian Maria Everatt (3) Upper Yare and Tas Internal Drainage Board (4) Geoffrey Francis Harvey and (5) Barclays Bank Limited.
4. Original Conveyance dated 12th November 1980 between (1) Geoffrey Francis Harvey and (2) Brian Kenneth Harvey.
5. Original Conveyance dated 21st October 1988 between (1) Brian Kenneth Harvey and (2) Arthur James Lincoln and Janet Gladys Lincoln.

The land conveyed to Mr & Mrs Lincoln by the 1988 Conveyance was the same as that conveyed to Brian Kenneth Harvey by the 1980 Conveyance. This consisted of Ordnance Survey Numbers 130 and part 133 on the Map for the Parish of Flordon and Part Ordnance Survey Number 34 on the Map for the Parish of Hopton as the same was shown for the purpose of identification only on the plan annexed thereto. The Conveyance of 1948 was of a total of 33.884 acres of land including the whole of O S 130 comprising 0.291 acres and of O S 133 comprising 8.887 acres. The part of O S 34 included in the Conveyances of 1980 and 1988 was acquired separately by Geoffrey Francis Harvey by the Conveyance of 1951.

In the Land Section of the Register the Common is stated to have an area of 17.170 hectares or thereabouts. From a study of the Register Map it appears that this is made up as follows:-

| | | | |
|-------|-----|---------------|-------|
| O. S. | 132 | 4.010 | acres |
| | 133 | 8.887 | acres |
| | 134 | 1.550 | acres |
| | 135 | <u>27.995</u> | acres |
| Total | | 42.442 | acres |

This figure almost exactly corresponds with 17.170 hectares.



I am not therefore concerned in this Inquiry with O S 130 nor any part of O S 34. These are not included in the Register Unit. It follows that the Conveyance of 1951 is not directly relevant to the Inquiry. That Conveyance however contains a recital that by a Conveyance of even date therewith the piece of land forming the south-westernmost part of O S 133 which was for the purpose of identification only shown edged blue on the plan thereto was conveyed to Stephen Robert Jacob, Cecil Frederick Jacob and George Ernest Jacob in fee simple.

I am annexing to this Decision an extract from the large scale Ordnance Survey Map on which I have drawn a line marked A-B across the south-west corner of O S 133. I am satisfied that the whole of O S 133 with the exception of the corner parcel lying to the south-west of this line is now vested in Mr & Mrs Lincoln under and by virtue of the deeds referred to above.

As regards the small parcel of O S 133 which is stated to have been conveyed in 1951 to the three Messrs. Jacob, Mr R Webster said that he knew the Jacobs. They had sold their land. The present owner was a Mr Steadman of Stone Cottage, Hopton.

No claims were put forward to ownership of the remainder of the common. Mr Rothera said that the common was scheduled as a site of Special Scientific Interest. Mr Fincham said that all the Parish Council wanted to do was to make sure that the common was preserved for the benefit of the Village for ever.

In response to a question by Mr Marshall, Mrs Holmes said that the piece of land comprising O S 133 was not part of the Common. Although final registration of this area as part of the Register Unit precludes me from re-opening the matter, I note that in his Decision of 1979 Mr Commissioner Baden Fuller quoted the learned paper by Burrell and Clarke of 27th September 1910 as giving the area of the Common in 1910 as 33 acres 1 rod and 17 perches. This figure co-incides very closely with the 33.555 acres one gets by adding together the areas of O S Nos. 132, 134 and 135 (that is to say, omitting O S 133).

On this evidence I am satisfied that Mr & Mrs Lincoln are the owners of the land which they claim. I shall accordingly direct Norfolk County Council as registration authority to register Mr & Mrs Lincoln as owners of that part of the register unit comprising O S No. 133 with the exception of the corner parcel lying to the south-west of the line A-B on the plan annexed hereto under section 8(2) of the Act of 1965.

As to this corner parcel of O S 133 I have caused the Clerk to the Commons Commissioners to write to Mr Steadman asking whether he wishes to claim ownership of this parcel. If he does so wish, I shall deal with the matter in a Supplementary Decision.

All the remainder of the Register Unit (including the corner parcel of O S 133 until further Decision) will remain subject to protection under section 9 of the Act of 1965.

I am required by regulation 30(10) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this

23rd

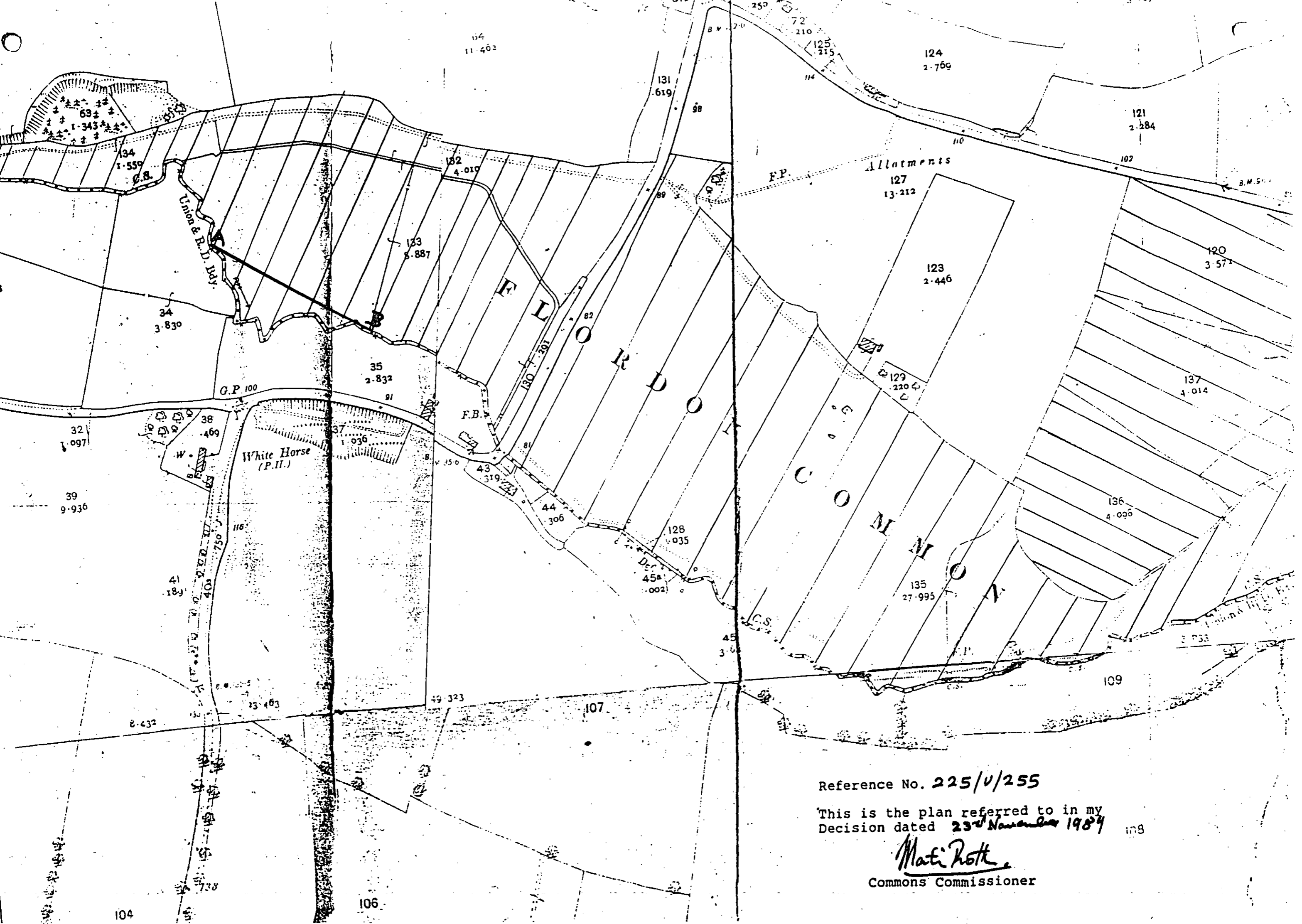
day of

November

1989

Matthias Rott

Commons Commissioner



Reference No. 225/V/255

This is the plan referred to in my
Decision dated 23rd November 1984

Mati Roth
Commons Commissioner