



In the Matter of Hautbois Common, Coltishall
Broadland District, Norfolk.

DECISION.

This reference relates to the question of the ownership of land known as Hautbois Common, Coltishall, Broadland District being the land comprised in the Land Section of Register Unit No. CL.154 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 no person claimed to be the freehold owner of the land in question and no person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Norwich on 16 July 1975. - At the hearing Coltishall Parish Council were represented by Mrs. O.E. Sinclair their chairman.

The land ("the Unit Land") in this Register Unit comprises a piece ("the West Piece") west of the railway line and containing (according to the O.S. map) about 4 acres (including four ponds together covering a little less than $\frac{3}{4}$ of an acre), and a piece ("the East Piece") east of the railway line and containing about 3 acres (or a little less, including a small pond). Mrs. Sinclair said the Parish Council claim to own all the Unit Land except part of the West Piece, on the Register map being plot no. 92 containing .1 of an acre, and also claim that plot no.90 containing .208 of an acre, which adjoins the Unit Land (as now registered) should have been registered as included in it because it forms the south end of the West Piece.

Mrs. Sinclair said (in effect): - When the railway was put across the common in 1880 the Parish Poor Fund received the compensation. When the Electricity Pylons were put on the Common in 1936, the arrangements were made with the Parish Council. Nobody had ever said it was not Parish property.

Mr. A.R. Spinks who has lived in the Parish ever since he was born, (49 years ago), has been a member of the Parish Council for 4 years, and now lives in a house on the north side of the West Piece, in the course of his evidence said (in effect):-Ever since he could remember the Unit Land has been common (meaning land open to the public); in his boyhood cattle used to feed there. There are 6 electricity posts on the Unit Land, 3 on each side of the railway line. When he first went on the Parish Council he (being the Area Agent of a Landscape Gardener) offered to tidy it up, and with their permission did so. It is the general belief in the village that the Parish Council is the owner.

Mrs. Sinclair explained that the Unit Land had been the subject of a dispute between Mr. Jordan, who lives in the Dell (a dwelling house south of and near to the East Piece) and the Parish Council, that the Chief Commons Commissioner had given his decision (favourable to the Parish Council) on this dispute, and that she had assumed that I would have before me the documents produced at the hearing before him. After



-2-

a short adjournment she produced (all she could obtain in the time available) (1) a copy of the 1936 correspondence with the Norwich Corporation Electricity Department about the poles including a copy of the 1936 consent by which the Corporation agreed to pay a rental for the poles to the "owner of the land" (this was paid to the Parish Council), (2) the history of the common and some proofs of evidence prepared for the hearing of the dispute, and (3) the Bank Passbook showing how the Great Hautbois Poor Fund had received between 1899 and 1932, the income (13s/6p a quarter) of the proceeds of the railway land. This fund she said is now administered by trustees appointed by the Parish Council.

After the hearing I inspected the Unit Land. The West Piece is open to the through^{motor}/road from Coltishall to the Airfield and the Villages north of Hautbois. The grass on the West Piece has been mown around the trees and left around the ponds. When I was there the general appearance of the West Piece was strikingly beautiful; even allowing for it being an unusually fine evening, Mr. Spinks statement at the hearing that he had tidied it up, gave me no idea of the skill and thought which must have been exercised to achieve the remarkable result which I saw.

The tidying up by Mr. Spinks is I think such that I can properly conclude from his evidence that the Parish Council is now in possession of the West Piece (except plot No.92; this is on the other side of the hedge) and that such possession is (because the Parish Council is the reputed owner of the land) unlikely to be disturbed. Possession in such circumstances is equivalent to ownership.

The East Piece except for an open space in front of the dwelling house (Dell Cottage I suppose) and of an agricultural building, is for the most part impenetrable scrub (being rather damp there are many willows). On a consideration of the Register map and the general appearance of the Unit Land I conclude that the West Piece and the whole or at least a large part of the East Piece were before the railway was built all one piece of land known as Hautbois Common, which should be presumed (in the absence of contrary evidence) to have then been and to have continued ever since to be in one ownership. Any doubt which I might otherwise have had as to how much of the East Piece should be considered as being in the same ownership as the West Piece is I think resolved by the decision of the Chief Commissioner, which I have studied since the hearing; he basing himself on the 1839 Tithe Award map, (a certified copy of which is with his decision and on some evidence given by Mr. Spinks, decided that the whole of the East Piece was properly registered along with the West Piece.

 In my opinion his decision is directly to the point on the question I am now considering and accordingly I conclude that all the East Piece is in the same ownership as the West Piece.

Although it is reasonably obvious when I inspected the Unit Land that plot no.90 should, and plot no.92 should not, have been included in this registration, I have on this reference no jurisdiction to rectify the Register in the way suggested by Mrs. Sinclair.

For the reasons outlined above I am satisfied that the Parish Council is the owner of the land (except plot no.92) and I shall accordingly direct the Norfolk County Council, as registration authority, under section 3(2) of the Act of 1965 to register Coltishall Parish Council as the owner of the land comprised in this Register Unit except C.S. plot No. 92 as shown on the Register map.



-3-

In the absence of any evidence I am not satisfied that any person is the owner of the said plot no.92, and it will therefore remain subject to protection under section 1 of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 6th — day of August — 1975.

a. a. Bader

Commons Commissioner.