



COMMONS REGISTRATION ACT 1965

Reference No.25/D/9

In the Matter of the Sawing Pit,
Geldeston, Norfolk (No.1).

DECISION

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No.C.L.93 in the Register of Common Land maintained by the Norfolk County Council and is occasioned by the conflicting registration at Entry No.1 in the Land Section of Register Unit No.V.G.22 in the Register of Town or Village Greens maintained by the Council of the land known as The Sawing Pit, Geldeston.

I held a hearing for the purpose of inquiring into the dispute at Norwich on 22nd June 1972. The hearing was attended by Mr. Gerald Draycott, Counsel for Mrs. Majorie Ashfield, the applicant for the registration, and by Mr. J.F. Spink, the Clerk to the Geldeston Parish Council, who made the conflicting registration.

Mrs. Ashfield is the lady of the manor of Stockton with the Soke, a fact which was proved to my satisfaction by title deeds going back to 1901. Stockton is a parish to the north of Geldeston, and there was produced at the hearing a conveyance of copyhold land dated 12th March 1823 which showed that the manor of Stockton with the Soke included some land in the parish of Geldeston.

Mr. Draycott argued that in the absence of evidence to the contrary any waste land in Geldeston should be regarded as manorial waste of the manor of Stockton with the Soke. Mr. Spink, on the other hand, contended that there was no satisfactory evidence that the land in question was in the ownership of Mrs. Ashfield, as lady of the manor, and that it was properly registered as a village green because villagers had indulged in lawful sports and pastimes on it as of right for not less than 20 years.

In order to show that the land in question had not been allotted to anyone, Mr. Spink produced a certified copy of the relevant part of the map with the inclosure award dated 23rd April 1806 made under the Ellingham, Broome, Kirby Cane and Geldeston Inclosure Act of 1802 (42 Geo.III, c.28 (private)). Mr. Spink did not produce the award, but I have since referred to the Act. The provisions of this Act are similar to those generally to be found in Inclosure Acts of this period. In particular, it imposed on the Commissioners the duty of dividing and allotting all the commons and waste lands within the several parishes which it covered, the manor of Stockton with the Soke being mentioned as one of the manors in those parishes, and provided that the Commissioners should make allotments to the lords of the manors as compensation for their rights in the soil of the commons and wastes. Although I have not seen the award, I must apply the principle commonly expressed in the maxim omnia praesumuntur rite esse acta, and in the absence of evidence to the contrary assume that the Commissioners did what the Act instructed them to do.



This does nothing to help or hinder the Parish Council's case, but it seems to me that it is fatal to Mrs. Ashfield's case. The fact that the land in question was not allotted to anyone shows that, if the Inclosure Commissioners did their work properly, it was not waste land of any of the manors within the parishes the subject of the inclosure. In other words, there is now no waste land of any of these manors, for any that existed in 1806 was then divided and allotted, while any land which was not so divided and allotted would not have been waste land of a manor.

For these reasons I refuse to confirm the registration.

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 ~~14th~~ day of July 1972

A handwritten signature in black ink, appearing to read 'C. J. Smith', written over a horizontal line.

Chief Commons Commissioner