



COMMONS REGISTRATION ACT 1965

Reference No 225/D/16 and 17

In the Matter of Sheeps Wash,  
Ringland, Broadland D

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DECISION

These disputes relate to the registrations at Entry Nos 1 and 2 in the Ownership Section of Register Unit No CL. 232 in the Register of Common Land maintained by the Norfolk County Council and are occasioned by the said two conflicting registrations.

I held a hearing for the purpose of inquiring into the dispute at Norwich on 13 January 1977. The hearing was attended by Mr G W Dalton of Messrs Hill & Perks agents for Messrs Day & Yewdall on behalf of Sir W R Prince-Smith who by Entry No 2 claimed ownership of the land in question and Mr Sparks appeared on behalf of the Ringland Parish Council which by Entry No 1 claimed ownership of the land in question.

Mr Dalton produced a conveyance dated 11 October 1963 made between J V Berney and W R Prince-Smith whereby the land in question was conveyed to Sir W R Prince-Smith.

Mr Sparks claimed a possessory title on behalf of the Parish Council and it is relevant to mention at the outset that in the said conveyance Mr Berney conveyed only the estate right title and interest (if any) which he had in the land in question and gave no covenant for title in respect thereof. There is a final registration of the land as common land in the Land Section of the Register. The land is a small parcel of approximately one acre situate between a road and the river Vensum (No 11) on the plan attached to the said conveyance and is bounded on its northwest and southeast sides by land comprised in the Morton Estate. It was in the past used as an access to the river for watering stock, not only that of the local inhabitants but also stock being driven along the road to Norwich market.

Mr Sparks gave evidence and produced the minute books of the Parish Council and referred me to the following minutes:

21 April 1927. Against the background that the river adjoining the land was in need of clearing it was stated that the commons had been used from time immemorial free of cost by the parishioners. Advice was sought from the Board of Agriculture and Fisheries.

7 July 1927. The Board of Agriculture and Fisheries advised that the matter be referred to the District Council but the Parish Council which did not wish to part with control of the land decided not to take this course without the authority of a Parish Meeting.

I have not been able to find in the Minutes any record as to what, if any, action was taken. The evidence is not in any way conclusive, it is no more than an indication that the Parish Council considered that it was liable as the riparian owner and there is no suggestion that the Morton Estate was liable.



26 August 1943. Objection was taken to a bridge being built on the land and as a result of this objection made to the builder H Pontin Ltd and the Morton Estate the land was cleared of building material and the bridge was built 100 yards away. Mr Petre the agent for the estate asked for a map "showing the Parish Properties rights of way etc".

Mr Sparks produced this map but it referred to commons and rights of way and did not refer to Parish properties. The map is no evidence as to the ownership of the commons.

12 April 1962. A notice was affixed to a tree on the land stating fishing private and during tree planting a wire fence was erected on the land. These matters were brought to the attention of Mr Berney the owner of the Morton Estate. The matters complained of were rectified on the instruction of Mr Berney.

1 December 1964. The Clerk reported that the tree on the land was not to be taken down with the Estate trees.

(Notwithstanding this the tree was taken down)

23 April 1965. Cooper the agent of the Morton Estate was asked to remove the tree wrongly felled and to replant an oak in its place.

Mr Sparks said in evidence that Mr Cooper had agreed to this request but that no action had been taken. He further said that parishioners had habitually fished from the land but that the Parish Council did not object to others fishing provided they did not interfere with the parishioners. Recently the Anglia Water Authority had the Morton Estate fishing rights but as far as he knew no one fished from the land by virtue of an authority given by the Anglia Water Authority. Mr V W Kidd confirmed the evidence of Mr Sparks but said that the parishioners not only fished but also shot on the land. He himself had shot and fished on the land and he felt that if the land was owned by the Morton Estate objection would have been taken to shooting on the land. In cross examination he said that there was a private fishing notice near the land and only Ringland parishioners were allowed to shoot.

The conclusion I have reached on this evidence is that neither the Parish Council nor the Morton Estate ever had clear in their minds the distinction between rights of common over the land and ownership of the land. However whenever any question arose the Parish Council considered it was the owner and acted as if it was the owner. The Morton Estate when complaints were made to it never took the point that the Parish Council only had rights of common and a right of way and it did by its conduct when complaints were made to it accept that the Parish Council was the owner of the land. I shall accordingly confirm the Entry at No 1 and refuse to confirm the Entry at No 2.

Mr Dalton was at the hearing at a disadvantage in that he had no previous knowledge of the case put forward by the Parish Council and no instructions which enabled him to meet that case, and I therefore indicated that if he applied to have the case adjourned in order to enable him to lead further material evidence within the six week period which must elapse before I give a direction I would withdraw this decision and grant him an adjournment.



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 28<sup>th</sup> day of April

1977

*G. B. Little*

Commons Commissioner