



## COMMONS REGISTRATION ACT 1965

Reference No.34/U/4

In the Matter of The Parish Pit,  
St. Olaves, Herringfleet,  
Lothingland R.D., East Suffolk

DECISION

This reference relates to the question of the ownership of land known as The Parish Pit, St. Olaves, Herringfleet, Lothingland Rural District being the land comprised in the Land Section of Register Unit No.CL.2 in the Register of Common Land maintained by the East Suffolk 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 Halesworth on 4 October 1973. The hearing was attended by Mr. N. Cannell who is chairman of Herringfleet Parish Meeting and by the Lothingland Rural District Council who were represented by Mr. R. H. Allen their clerk.

Oral evidence was given by Mr. Cannell who has lived at St. Olaves for 15 years and been chairman of the Parish Meeting for 12 years, and by Mr. Allen who has been clerk of the Council since 1 January 1965. Mr. J. Gibbs who is Records Assistant to the County Archivist of East Suffolk County Council produced from the County Record Office the Burgh Castle and Herringfleet Inclosure Award dated 3 November 1819.

The land ("the Unit Land") comprised in this Register Unit contains (as I estimate from the Register map) a little less than 2 acres. On its east side it fronts on a public road leading southwards off the main Yarmouth-Beccles road (A.143).

Mr. Cannell said:- The Unit Land is a very attractive hollow. On it there are a number of fine pine trees. In summer, it is used extensively by visitors to the Village who wish to picnic; some coming by the nearby river Waveney, but mostly coming by road. It is also locally used as a run for dogs. The Parish Meeting would like the Unit Land to be vested in some local authority.

The 1819 Award (made under 52 Geo. 3. cap. xcix) contains an allotment as follows:-  
"... We ... do hereby Award unto the Surveyors of the Highways of the said parish of Herringfleet for the time being and their successors for ever the piece of land next hereinafter described (being part of the common heaths marshes doles and waste lands in the said parish of Herringfleet) as and for public clay gravel and sand pits to be used in common by the proprietors of lands and estates in the said parish and their respective tenants as well for their own necessary uses within the said parish only as and for the repair of the Public and Private Roads in the said parish



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(that is to say) One piece of land marked No.6 on the map or plan of the said parish hereunto annexed containing two acres bounded by the public road secondly hereinbefore described towards the east, by the private road secondly hereinbefore described towards the south and by land herein awarded to Elizabeth Merry towards the north and west!

For the most part, the Unit Land is the same as the piece of land numbered 6 on the Award map; the private road mentioned in the above quoted allotment is now a bridle path. The differences are:- part (the north west corner of the piece) is now a house and garden; another part (the west side of the piece) was taken for the railway (now disused; there are now houses on the railway strip where it adjoins the Unit Land). On the description of the land given to me by Mr. Cannell, I am satisfied that the whole of the Unit Land is included in the allotment.

Mr. Allen said:- The Council in 1965 erected a notice on the Unit Land forbidding fires and forbidding the deposit of litter; the notice (which is still there) may have been erected in place of an earlier notice. He had always understood that the Unit Land was vested in the Council for the benefit of the parish, it being "parish property" within the definition in the Local Government Act 1933.

By sections 25 and 67 of the Local Government Act 1894 (stating their effect shortly) land formerly vested in a highway authority was by the Act vested in the appropriate rural district council for the same purposes as the land would have been held if the Act had not been passed. In my opinion these sections applied to the Unit Land (being as above stated allotted to the Surveyors of Highways) and it accordingly in 1894 passed to and still is vested in the Lothingland Rural District Council and is now held by such Council for the purposes set out in the above quoted allotment or subject to such other obligations or trusts as may be applicable by reason of such purposes having become impracticable.

For these reasons I am satisfied that the Council is the owner of the land, and I shall accordingly direct the East Suffolk County Council, as registration authority, to register Lothingland Rural District Council as the owner of the land under section 8(2) 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 11<sup>th</sup> day of October 1973.  
A. A. Baden Fuller.

Commons Commissioner