



COMMONS REGISTRATION ACT 1965

Reference No. 225/U/267

In the matter of The three pieces of
land adjoining Holme Common in the
Parish of Holme-next-the-Sea, Norfolk.

DECISION

This reference relates to the question of the ownership of land known as three pieces of land adjoining Holme Common, Holme-next-the-Sea, Norfolk being the land comprised in the Land Section of Register Unit No. CL.132 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 the Le Strange Estate, The Norfolk Wildlife Trust, the National Trust and the Norfolk Ornithologists Association claimed to be the freehold owners of parts of the land in question and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the ownership of the land at Hunstanton on 8 July 1997.

At the hearing the Le Strange Estate was represented by Messrs Charles Russell and Co. Solicitors (Miss Wort and Mr Pearce), the National Trust by Mr R Hill and Mr A Dawson, The Norfolk Wildlife Trust by Mr G Hibberd and Mr B Joyce and the Norfolk Ornithologists Association by Hawkins and Co. Solicitors (Miss S Gowing). Mr Richardson represented Norfolk County Council the Registration Authority and a number of members of the public attended.

CL.132 consists of three relatively small separate pieces of land adjacent to Holme Common which is CL 32.

The Western piece of land (except for a strip hereinafter referred to) is, I find, part of the land settled by the Will dated 13 March 1918 of Hamon Le Strange who died on 25 March 1918: the title is a normal Settled Land Act title culminating in the death of Hamon Le Strange (who became tenant for life in 1960) and probate granted on 11 July 1994 to Michael George Le Strange Meakin and Judith Anne Thursby. After the hearing I requested Messrs Charles Russell Solicitors to confirm that a Settled Land Act grant was not required, which they have duly done.

The strip of land referred to above, which I have marked A-B on the plan attached to the Notice of Reference is vested in Norfolk Naturalists Trust (an incorporated Charitable body) (" NWT") under a conveyance dated 18 March 1966 made between (1) The



Minister of land and Natural Resources (2) Frederick Hiam Limited and (3)NWT.

The middle piece of land is partly provisionally registered under the ownership of Mr Francis Jermyn-Smith (area marked H I J-K) and that land was conveyed by Deed of Gift dated 8 August 1991 made between (1) Janet Sheila Whitteridge and (2) the National Trust. The remainder of the middle piece of land - from a point just to the east of "The Firs" as far as the line H-K does not appear in the said Deed of Gift, but is claimed by the National Trust. The Norfolk Ornithologists trust ("NOT") claim the whole of the middle piece of land, and also the western piece of CL.132, by adverse possession. I will refer in more detail to the claim of the NOT below.

The western strip of land is not easy to discern on the various maps put before me, but it seems to be included in the above Conveyance dated 18 March 1966, except for a strip between the bank shown on the OS map, and the drain which runs parallel. According to the 1966 Conveyance this strip belongs to one A W Ellison, but he or she did not appear and made no claim to such part of the strip as is included in CL.132.

The claim to adverse possession made by NOT is supported only by a brief Statutory Declaration dated 3 July 1997 made by Karen Leroux Ellis. This is not based on her own personal knowledge of the land, but from the "deeds documents files papers and records" of the NOT. She does not state her age or how long she has been Secretary and Trustee of the NOT, but claims in paragraph 3 that the NOT has been in "full and undisturbed" possession of both pieces of land for its own benefit and without any adverse claim. She does not give any particulars in support: nothing about how the NOT dispossessed the owners with paper Title (including the National Trust and the NWT) or how the latter abandoned their possession of the land: nothing about how the NOT entered upon the land - and took adverse possession of it. She says the NOT has "fenced and maintained the boundaries" of the land (which if it has done would have been an unlawful act under section 194 (1) of the Law of Property Act 1925), but gives no other particulars of adverse possession. In fact although there are fences on the land, they appear to be for the purpose of restricting pedestrians to defined tracks, rather than to enclose the land and keep out the general public and the landowners. In these circumstances I cannot regard this Declaration as proving or even laying a foundation for proving a case of adverse possession. No oral evidence was called, and no other written evidence was tendered, in support of the claim of the NOT and I therefore reject it.

On this evidence I am satisfied that the Le Strange Estate, The National Trust and the Norfolk Wildlife Trust are the owners of parts of the land, and I am not satisfied as to title to the remainder. I shall accordingly direct the Norfolk County Council



as registration authority, to register them as the owners of parts of the land under section 8(2) of the Act of 1965 and the remainder will therefore remain subject to protection under section 9 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

9th

day of

September

1997

A handwritten signature in cursive script, appearing to read 'John Gorton', written in black ink.

Chief Commons Commissioner