



COMMONS REGISTRATION ACT 1965

Reference No 268/U/216

In the Matter of the Village Green and
Common Land, Great Smeaton, Smeaton-with-
Hornby, Hambleton District, North
Yorkshire

DECISION

This reference relates to the question of the ownership of part of the land (in two pieces) which is known as the Village Green and Common Land, Great Smeaton, Smeaton-with-Hornby, Hambleton District and which is the land comprised in the Land Section of Register Unit No VG. 127 in the Register of Town or Village Greens maintained by the North Yorkshire County Council. The said part ("the Referred Land") is that one of the said two pieces which is west of St Eloy's Church and 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 Smeaton-with-Hornby Parish Council said (letter dated 27 July 1974) that in the absence of any known title to the land in front of Home Farm, Great Smeaton and other common land not claimed under the manorial rights of The East House, Great Smeaton, they (the Council) express an interest and claim such title in accordance with the above Act. No other person claimed to be the freehold owner of the land in question or 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 Northallerton on 22 February 1978. At the hearing (1) Smeaton-with-Hornby Parish Council were represented by Mrs B M Hunt their vicechairman and Mrs W E Mann their clerk, and (2) Mr Andrew Grant Curtis of East House attended in person on his own behalf and as representing his wife Mrs Theresa Lorraine Curtis. I have a letter dated 17 February from Mrs E E Louch (Land Section Entry No 1 relating to the Referred Land was made on her application) saying (among other things) that the Referred Land 35 to 40 years lay in front of the Village blacksmith's shop and that she did not claim ownership.

Mr Curtis produced a land certificate for Title No NYK 577 in respect of land "being the Village Green" as edged red on the file plan (this plan showed all the land comprised in this Register Unit); this certificate shows that the registration thereby certified was made on 6 November 1974, that is after this reference made to the Commons Commissioners (dated 30 January 1974).

Mrs Hunt and Mrs Mann said that the Parish Council did not claim ownership contrary to the land certificate produced; so apart from the provisions of the 1965 Act dealing with the registration of land under the Land Registration Act 1925 and 1936, there would have been no reason why I should not say that I was satisfied that Mr and Mrs Curtis are the owners as stated in the land certificate produced. By section 8 of the Act an ownership reference to a Commons Commissioner can only be made under it if the land is not registered under the 1925 and 1936 Acts, and section 12 provides what is to be done in respect of the registrations under such Acts of any land after the ownership of the land has been registered under the



1965 Act. There appears to be nothing expressly in the Act dealing with what should be done if (as has happened here) an ownership reference is made before registration under the 1925 and 1936 Acts; however it seems to me to follow from sections 8 and 12 that a Commons Commissioner should not consider the ownership of land which has been registered under the 1925 and 1936 Acts; see also Commons Registration (General) Regulations 1966, regulation 21. So although nobody at the hearing doubted the ownership of Mr and Mrs Curtis, I shall make no record as to my opinion about it and shall give no direction to the North Yorkshire County Council as registration authority either under section 8(2) of the 1965 Act or otherwise.

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 24 day of March

1978

a. a. Baden Fuller

Commons Commissioner