



## COMMONS REGISTRATION ACT 1965

Reference Nos. 34/U/37  
34/U/38  
34/U/39  
34/U/40  
34/U/41

In the Matters of (i) Blacksmith's Common,  
(ii) Mill Common, (iii) Little Common,  
(iv) Great Common, and (v) Holden's Common,  
all in Ilketshall St. Andrew, Wainford R.D.,  
East Suffolk

DECISION

These references relate to the question of the ownership of lands known as (i) Blacksmith's Common (34/U/37), (ii) Mill Common (34/U/38), (iii) Little Common (34/U/39), (iv) Great Common (34/U/40) and (v) Holden's Common (34/U/41), all in Ilketshall St. Andrew, Wainford Rural District, being the lands comprised in the Land Section of Register Unit Nos. (i) CL.7, (ii) CL.8 (iii) CL.9, (iv) CL.10 and (v) CL.11 respectively 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 these references no person claimed to be the freehold owner of the lands in question and no person claimed to have information as to their ownership.

I held hearings for the purpose of inquiring into the question of the ownership of the lands at Halesworth on 3 October 1973. At the hearings Ilketshall St. Andrew Parish Council were represented by Mr. W. F. White (he is their clerk; he was accompanied by Mr. E. G. Tozer who is the chairman of the Parish Council), Mr. B. E. Peirson was represented by his wife Mrs. I. G. Peirson (he is registered as having a right, attached to Halcot (Top Road), to depasture six cows and young stock over Great Common (CL.10), and Holden's Common (CL.11), and Mr. F. Watkin was represented by his wife Mrs. P. E. Watkin (they are jointly registered as having a right attached to O.S. Nos. 64 (part) and other numbers to depasture one head of cattle over Great Common (CL.10).

Mr. White said as regards all five Commons that the Parish Council have no evidence of ownership; from time to time the Parish Council have had various requests for permission to do on Great Common various things (e.g. erecting telegraph poles, laying water pipes), and these have been referred to the agent of the Duke of Norfolk, because according to the Council minute books, the Duke owns or may own the mineral rights.

Mrs. Peirson said:- Great Common and Holden's Common are a disgrace; the land is all grown up and nobody takes an interest in it. She remembered the Commons years ago when the land was better. Mrs. Watkin agreed with Mrs. Peirson.



-2-

Mr. Tozer said that if the Duke of Norfolk (he was not represented at the hearing) had no ownership, the Parish Council would welcome the ownership of all the Commons being vested in some local authority, preferably the Parish Council.

The hearings were consecutive, first Great Common (about 48 acres), then Holden's Common (about 3 $\frac{1}{2}$  acres), then Blacksmith's Common (about 11 acres), then Mill Common (about 5 acres) and finally Little Common (about 12 acres). At the conclusion there was a general discussion about all of the Commons, as to what if anything could be done to overcome various difficulties which were mentioned.

After the hearing, I walked over all the Commons. They all front on or are crossed by one or more ungated public highways (metalled motor roads), and are attractive and interesting to walk over. Their amenity value to those whose houses front on them or are near by, must be large. All are being or are capable of being grazed (more or less), but it may be difficult to prevent cattle straying; to overcome this difficulty (so I suppose) parts have been inclosed by a single wire fence (not enough to prevent pedestrian access). The quality of the grass is very variable. They included much scrub and apparently useless land. In many places there are access roads or tracks some, of which appear to be old, some newly made. I have no difficulty in understanding why there are many in the Village who consider that there should be some person or authority having power to control manage and improve all these commons, for the benefit of all those interested.

By section 8 of the 1965 Act, I am required if satisfied that any person is the owner of these Commons to direct the registration authority to register that person accordingly. I have no power to direct the registration of the Parish Council or of any other local authority as owner, merely because such a registration may be expedient. In the absence of any evidence of ownership, I am not satisfied that any person is the owner of the lands, and they will therefore be subject to protection under section 9 of the Act.

By subsection (3) of section 1 of the 1965 Act, "Where any land is registered under this Act but no person is registered as the owner thereof under this Act or under the Land Registration Act 1925 and 1936, it shall ... if it is common land, be vested as Parliament may hereafter determine". Having regard to the general discussion above mentioned, I may I think properly record that it would be obviously advantageous to all concerned with these five Commons if Parliament made their determination as envisaged by subsection (3) as soon as possible; until the owner of these Commons is known detailed consideration as to how they could be better managed controlled or improved cannot be started.

But the determination of ownership would not necessarily solve all problems; those who have common rights over these Commons, those who own land adjoining and have rights of access over them, the owner (whoever he may be determined to be) in respect of his ownership rights, and the inhabitants of the Village, concerned with a valuable Village amenity may all have conflicting interests not easily reconcilable.



-3-

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 29<sup>th</sup> day of November 1973.

a. a. Bowen Feller

Commons Commissioner