



COMMONS REGISTRATION ACT 1965

Reference No.34/D/9

In the Matter of The Common,  
Tunstall, East Suffolk.

DECISION

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No.C.L.108 in the Register of Common Land maintained by the East Suffolk County Council and is occasioned by Objection No.7 made by Viscount Ullswater and noted in the Register on 2nd December 1969.

I held a hearing for the purpose of inquiring into the dispute at Ipswich on 4th May 1973. The hearing was attended by Mr. C.D. Reynolds, the Clerk of the Tunstall Parish Council, which applied for the registration; and by Mr. C.G. Terry, Lord Ullswater's land agent. Mr. F. Mallows, of the Legal Department of the Forestry Commission, appeared as amicus curiae.

The dispute is confined to a very small area on the eastern boundary of the land comprised in the Register Unit - indeed it is really a boundary dispute. Tunstall Common is bounded on the east by land belonging to Lord Ullswater. The plan referred to in the application for registration shows the northern part of the eastern boundary as having a slight bulge towards the east. The land to the east was let by Lord Ullswater's great-grandfather to the Forestry Commissioners for 999 years by a lease dated 9th May 1921. On the plan referred to in the lease the northern part of the western boundary of the land demised is shown by a more or less straight line.

The land to the east has been in the occupation of the Forestry Commissioners since 1921 and has been planted with trees. There are no trees on the area of land the subject of the dispute, and this land is divided from the trees by a rabbit fence. Mr. Harry Searle, the District Officer of the Forestry Commission, stated in evidence that the usual practice is to site a rabbit fence so that it can be inspected on both sides from Forestry Commission land. The rabbit fence was erected for the protection of the young trees, and Mr. Searle stated that it will be pulled up and not renewed when it has further deteriorated. To the west of the rabbit fence there was a bank which has been removed in order to facilitate the maintenance as a fire break of the land on which it stood.

The line shown on the plan referred to in the lease is supported by the tithe apportionment of 1840. This shows the land on the west as "Common Land" with the owners stated as "The Poor" and the land on the east as "Heath" in the ownership of Lord Rendlesham. The map referred to in the apportionment shows the relevant part of the boundary between these areas as a straight line with no perceptible bulge.

On this evidence I have come to the conclusion that the Objection is well-founded and I therefore confirm the registration with the following modification :- namely the exclusion of the land shown coloured pink on the plan attached to the Objection.



-2-

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 18<sup>th</sup> day of May 1973

A handwritten signature in cursive script, appearing to read 'G. B. Aquino'.

Chief Commons Commissioner