



COMMONS REGISTRATION ACT 1965

Reference No. 234/U/68

In the Matter of The Common,  
Witnesham, Suffolk Coastal District,  
Suffolk

DECISION

This reference relates to the question of the ownership of land known as The Common, Witnesham, Suffolk Coastal District being the land comprised in the Land Section of Register Unit No. CL 129 in the Register of Common Land maintained by the 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 Mr J W E Fabb claimed (letter of 2 June 1979) to be owner of part of the land adjoining his farm (Red House) having purchased it in February 1968 from Messrs Digby Bros and as having cultivated it as farmland ever since. 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 Ipswich on 4 October 1979. At the hearing (1) Mr John William Edwards Fabb was represented by Mr D G Young solicitor of Lucas & Willys, Solicitors of Great Yarmouth; (2) Mr John Wilson Digby and Mr David Ward Digby were represented by Mr J Ellis, chartered surveyor of C M Stamford & Son, Chartered Surveyors of Colchester; and (3) Witnesham Parish Council were represented by Mr J Leggett their chairman.

The land ("the Unit Land") in this Register Unit comprises (according to the Register) OS Nos 24 and 28. The Register map shows these as containing 1.323 and 1.569 acres, and as being narrow pieces of land together about 500 yards long from east to west; from one end to the other there is a footpath.

Mr Young in the course of his evidence produced: (1) a deed of exchange dated 25 April 1969 by which Messrs J W Digby and D W Digby with the concurrence of their mortgagees conveyed to Mr J W E Fabb part of OS No. 24 containing 1.700 acres and forming part of Sycamore Farm and for the purpose of identification edged red on the plan annexed; (2) an abstract dated 1968 of the title of Messrs J W and D W Digby to the said pieces of land commencing with a conveyance on sale dated 10 October 1936; and (3) a release dated 10 December 1968 by which the Agricultural Mortgage Corporation as mortgagees of Messrs J W and D W Digby released to them the said piece of land. Mr Young explained that on behalf of Mr Fabb he only claimed the part of the Unit Land by the 1969 deed expressed to be conveyed to him and delineated on the plan annexed, although in support of such claim he relied on the evidence to be given by Mr Ellis. Page 2 of this decision is an uncoloured copy of the said plan save that in place of the red edging I have substituted a thick black line.

Mr Ellis in the course of his evidence said (in effect):- His firm had acted for the Digby family for over 40 years. Mr Harold Wilson Digby at an auction held on 21 July 1960 purchased Sycamore Farm (the abstract includes a conveyance to him dated 1 October 1960). In 1963 he sold the farm to his sons Messrs J W and D W Digby; in the conveyance (produced) dated 5 September 1963, the farm is describe



as containing 99.105 acres and as including OS Nos 24, 27 and 28, arable, 7.111 acres. The Unit Land is arable land.

Mr Leggett said that the Unit Land was locally considered as a place for black-berrying and picnicking; the Parish Council did not oppose the ownership claims made on behalf of Mr Fabb and Messrs Digby.

On the evidence summarised above, I am satisfied that Mr Fabb and Messrs Digby are the owners of the land as they claim, and I shall accordingly pursuant to section 8(2) of the 1965 Act direct Suffolk County Council as registration authority to register Mr John William Edwards Fabb of Red House Farm, Witlesham as the owner of the part of the land delineated on the plan which is annexed to the deed of exchange dated 25 April 1969 and a copy of which is page 2 of this decision (the red edging on the original deed being shown on the copy by a thick black line) and to register Mr John Wilson Digby and Mr David Ward Digby both of Sycamore Farm, Swilland as the owners of the remainder of the land.

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 23<sup>rd</sup> — day of October — 1979

*a. a. Baden Fuller*

Commons Commissioner

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Re: The Common, Witnesham,  
Suffolk Coastal District, Suffolk

This is a copy of the plan  
annexed to a deed of exchange  
dated 25 April 1969 and is  
page 2 of the decision dated 23  
October 1979 and given by the  
Commons Commissioner in this matter.

*a. a. Baden Fuller*

Commons Commissioner

