



COMMONS REGISTRATION ACT 1965

Reference No.12/U/14

In the Matter of The Common,
Saffron Walden, Essex.

DECISION

This reference relates to the question of the ownership of part of the land known as The Common, Saffron Walden, being part of the land comprised in the Land Section of Register Unit No.V.G.2 in the Register of Town or Village Greens maintained by the Essex 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 Saffron Walden Borough Council claimed to be the freehold owner of the land in question and Mr. H.C. Stacey claimed 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 Saffron Walden on 4th December 1973.

At the hearing the Saffron Walden Borough Council was represented by Mr. J.H. Macklin, the Town Clerk, and Mr. Stacey, a former Town Clerk of Saffron Walden, appeared in person.

The land comprised in the Register Unit consists of two areas divided by a road, known as Common Hill, running north and south. The larger area lying to the east of Common Hill was entered in the Ownership Section of the Register Unit in pursuance of an application, dated 21st April 1967, made by the Hon. Robin Henry Charles Neville (hereafter referred to as "Mr.Neville"). Mr. Neville's registration, being undisputed, became final on 1st October 1970. The smaller area lying to the west of Common Hill is the subject of this reference.

In inquiring into this matter I have been greatly assisted by the researches made by Mr. Stacey into the history of the Common.

For the purposes of this decision it is not necessary to go further back into history than the Saffron Walden Inclosure Act of 1812 (52 Geo.III, c.67 (private)). By this Act the waste land within the parish of Saffron Walden was to be inclosed, but the Common, the bounds of which are set out in the Act in such a way as to identify it with the whole of the land comprised in the Register Unit, was excluded from the inclosure and was to "remain subject to such and the same rights, privileges and customs as the same hath been heretofore subject". It appears from the Act that it was uncertain whether the then lord of the manors of Chipping Walden and Brooke Walden, Richard Aldworth, Lord Braybrooke, was entitled to the freehold of all the waste land in the parish, for the allotment to the lord of the manors was to be in lieu of and full satisfaction for any right and interest which Lord Braybrooke, "as lord of the said manors may have in the soil thereof".

This uncertainty as to the ownership of the soil of the waste land,