



In the Matter of Three Pieces of Land off Pennsylvania Lane,
Tiptree, Essex.

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. CL 388 in the Register of Common Land maintained by the Essex County Council and is occasioned by Objection No. 73 made by the late Mr J Martin and noted in the Register on 26 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Colchester on 16 March 1981. The hearing was attended by Mr E A Peal, solicitor, on behalf of the Executors of the Objector. In the absence of any representative of the Tiptree Parish Council, the applicant for the registration, I gave leave to Mr B L Harrington, a resident in the parish, to address me in support of the registration.

The land comprised in the Register Unit, consists of three areas, one to the south being a wide lane and the other two being filled-in gravel pits. Mr Peal informed me that he was not instructed to pursue the Objection in so far as it relates to the lane, and I shall treat the registration as being unopposed to this extent.

There is no entry in the Rights section of the Register Unit, so the two areas to the north could only fall within the definition of "common land" in s.22(1) of the Commons Registration Act 1965 by being waste land of a manor. One of these areas was conveyed to the Objector by a conveyance made 4 October 1960 between (1) William Edward Wilks, ^{(2) James M Brevin} which conveyance did not include the lordship of any manor. It seems likely that the Objector acquired a possessory title to the other northern area, but it is not necessary for me to determine this, for there was no evidence that this land was ever waste land of a manor.

For these reasons I confirm the registration with the following modification: namely, the exclusion of the two areas to the north.

Mr Peal applied for an order for costs. He said that he had explained the position orally to the Clerk of the Parish Council. Mr Harrington said that he could not resist this application. It is not usual to make orders for costs in respect of unsuccessful applications for registrations in the Land sections of register units, but it appears to me that the inclusion of the two northern areas in the application was so entirely without foundation as to warrant the epithet of "frivolous". I therefore order the Parish Council to pay the Executors' costs of the hearing on County Court Scale 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

6th

day of

April

1981

Chief Commons Commissioner