



COMMONS REGISTRATION ACT 1965

Reference No.25/D/6

In the Matter of Ling Common,
Thornham, Norfolk (No.1)

DECISION

This dispute relates to the registration at Entry No.1 in the Land section of Register Unit No.C.L.55 in the Register of Common Land maintained by the Norfolk County Council and is occasioned by Objection No. 174B made by Henry Bourdillon Imlach Bett and noted in the Register on 15th October 1970.

On 3rd August 1971 the registration was modified by the exclusion, at the request of the Clerk to the Parish Council, of most of the land included in it, leaving as the subject of this reference only a small area of an acre in the north-east corner.

I held a hearing for the purpose of inquiring into the dispute at Norwich on 21st June 1972. The hearing was attended by Wing-Commander C. Dunkerley, the Chairman of the Thornham Parish Council, the applicant for the registration, and by Mr. Matthew Horton, Counsel for the Objector.

The land the subject of this reference was one of the pieces of land allotted by the Inclosure Award made on 8th February 1797 under the Thornham Inclosure Act of 1794 (34 Geo.III, c.50 (private)) as public sand, gravel, stone, clay, ooze, and chalk pits and places to the intent that they might at all times thereafter be made use of by the proprietors of houses and lands in the parish of Thornham and their tenants in such manner and according to such rules and orders as the Vicar, Churchwardens, Overseers of the Poor, and Surveyors of the Highways of the parish for the time being, or the major part of them, should from time to time direct or appoint.

While the name of the land the subject of the reference may indicate that it was at some time subject to rights of common, any such rights can no longer exist. It was provided by an unnumbered section of the Act of 1794 (p.15) that the Inclosure Commissioners should make allotments to persons having rights of shackle and common in full satisfaction of their rights, and it was also provided (p.22) that all rights of shackle and common should be extinguished. While it would be legally possible, there is no evidence that any new rights of common have been created since the land was allotted by the Commissioners. If, on the other hand, this land was formerly manorial waste, it lost that status on being allotted, the lord of the manor receiving an allotment which was to be in lieu of his right to the soil of the waste (p.12).

For these reasons I refuse to confirm the registration.

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 28th day of July 1972


Chief Commons Commissioner