



COMMONS REGISTRATION ACT 1965

Reference No. 234/D/125-126

In the Matter of part of River Waveney
adjoining Stow Fen, Waveney District

DECISION

This dispute relates to the registration at Entry No. 1 in the Rights section of Register Unit No. CL.165 in the Register of Common Land maintained by the Suffolk County Council and is occasioned by two Objections, Nos. 164 and 165 both made by Peter F. Sprake and noted in the Register on 31 July 1972.

I held a hearing for the purpose of inquiring into the dispute at Southwold on 29 July 1987. At the hearing Mr David Sprake, Solicitor, appeared on behalf of the Objector, and the County Council was represented by Mr Ian Rands.

This part of the River Waveney was registered as common land in consequence of an application by Mr Ian Gosling, personally and as trustee of Bungay Cherry Tree Angling Club, to register a right to take fish. This alleged right is registered at Entry No. 1 in the Rights section, and apparently was claimed as a right in gross. There was no appearance at the hearing by or on behalf of Mr Gosling, and no evidence was adduced in support of the claimed right. Of Mr Sprake's two Objections one was made as agent for the Stow Fen Reeves Association and the other personally as entitled to rights of pasturage.

On behalf of the Objector, three affidavits were submitted, made respectively (1) by Mr P F Sprake, Clerk to the Reeves and owners of Stow Fen from 1958 to 1976 (2) by Mr R C Cook, Bailiff for Stow Fen from 1964 to 1968, and (3) by Mr C Cunningham, Clerk of the Stow Fen Reeves since 1976. I need not, I think, detail the contents of the affidavits: in the light of the facts there deposed to and in the absence of any evidence to support the claimed right, its validity has not been established; and I refuse to confirm it.

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 28 October 1987

L. J. Morris Smith

Commons Commissioner