



In the Matter of Churchill Batch, Churchill,
Avon

DECISION

This reference relates to the question of the ownership of land known as Churchill Batch, Churchill, being the land comprised in the Land Section of Register Unit No. CL 3 in the Register of Common Land maintained by the former Somerset 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 N W Warren claimed to be the freehold owner of the land in question and no other person 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 Weston-Super-Mare on 17 October 1978.

At the hearing Mr Warren was represented by Mr G T Hutchings, solicitor, and the Churchill Parish Council by Mrs E Livingston, its Chairman.

Mr Warren is the son-in-law and successor in title of the late Mr H C Wookey, the applicant for the registration of a right of pasturage which has become final. This registration is by virtue of section 10 of the Commons Registration Act 1965 conclusive evidence of the existence of this right of pasturage at the date of registration, namely 8 May 1967, and therefore equally conclusive evidence that Mr Wookey was not the owner of the land at that date, since a man cannot be entitled to a right of common over his own land. However, Mr Warren now claims to have acquired a possessory title to the land. If he has, it necessarily follows that his right of pasturage has been extinguished by operation of law.

In considering whether Mr Warren has acquired a possessory title the pasturing on the land by him and Mr Wookey must be disregarded, for that is attributable to the right of pasturage. However, in addition to pasturing on the land, Mr Wookey kept some geese and poultry on it and he and Mr Warren have cut the grass and taken the hay. This, in my view, constituted taking possession of the land. While the registration of the right of pasturage is conclusive evidence that Mr Wookey had not acquired a possessory title by 8 May 1967, I have come to the conclusion that I am not debarred from having regard to the fact that he had taken possession of the land some time before that and that his possession whether with that of Mr Warren has resulted in Mr Warren's acquisition of a possessory title to the land. It follows, of course, that the right of pasturage ought to be removed from the Register under Section 13(c) of the Act of 1965.

On this evidence I am satisfied that Mr Warren is the owner of the land, and I shall accordingly direct the Avon County Council, as registration authority, to register Mr Norman William Warren as the owner of the land under section 3(2) of the Act of 1965.



Reference No. 32/U/107

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 30th day of October 1978

A handwritten signature in cursive script, appearing to read 'J. D. R. Quilley', written in dark ink.

CHIEF COMMONS COMMISSIONER