



In the Matter of Pickmere Lake, Wincham,
Cheshire

DECISION

This reference relates to the question of the ownership of land known as Pickmere Lake, Wincham being the land comprised in the Land Section of Register Unit No. CL 112 in the Register of Common Land maintained by the Cheshire 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 Lawrence Hewitt claimed to be the freehold owner of the land in question ("the Unit land") 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 Unit land at Chester on 25 July 1979.

At the hearing Mr T J Lowe, Solicitor, appeared on behalf of Mr L Hewitt.

The Unit land is a triangular shaped section of Pickmere lake, the southern boundary of which forms the northern boundary of two fields, part of Shoresgreen Farm. Shoresgreen Farm has been in the ownership of the Hewitt family for many years and after the death in 1955 of John Thomas Hewitt, was conveyed to Lawrence Hewitt by a Conveyance and Release dated 24 December 1958. This Conveyance included the two fields but not the Unit land.

Mr L Hewitt in evidence said that he and his forbears owned the Unit land and that he had always assumed that this section of the lake belongs to the farm. He produced letters from the Freshwater Fish Preservation League written in 1911 and 1925-7 to his grandfather and father with reference to a co-operation in securing a close season for fishing and it appears that from 1925 onwards the league paid his father a yearly rent of 1^s/- for the fishery rights in Pickmere which he owned. Two other witnesses, Mr R J Wallworth and Mr D A Platt, owners of adjoining farms fronting the lake, also stated that they had always understood that Mr Hewitt owned the Unit land. But it appeared from the evidence that boats passed and people fished all over the lake including the Unit land, without payment to adjoining landowners except for bank fishing or the hire of their boats.

The Unit land is not included in the title deeds, nor was there evidence of such possession as to result in a title by prescription. There is however the question whether his claim could be based on a presumption of ownership in favour of a riparian owner. I considered this question in my decision in regard to another section of Pickmere Lake (CL 38 Ref 205/U/44) where I held such a presumption to be applicable; this is a similar case and for the reasons there given, the presumption is in my opinion equally applicable here and my decision is that Mr Hewitt is the owner of the Unit land. I shall accordingly direct the Cheshire County Council, as registration authority, to register Lawrence Hewitt as the owner of the Unit land under section 8(2) of the Act of 1965.



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

12 November

1979

L. J. Morris Smith

Commons Commissioner