



In the Matter of Bank Top and
Shothouse Spring, Winster

DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL 66 in the Register of Common Land maintained by the Derbyshire 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 and Mrs Roy Moseley claimed to be the freehold owners of Shothouse Spring ("the Shothouse piece") part of the land in question and no person claimed, or claimed to have information as to the ownership of Bank Top.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Matlock on 7 May 1980.

At the hearing Mr J V Colhoun of the firm of Goodwin, Cockerton and Colhoun, Solicitors, appeared for Mr and Mrs Moseley, and Winster Parish Council on whose application the registration was made was represented by its clerk Mr J A Johnson.

By a Conveyance dated 3 May 1952 between (1) E Heathcote (2) R A Rains there was conveyed to Mr Rains property known as Ivonbrook Grange Farm which included a field No. 506 and "all such interest (if any) as the Vendor has in that portion of Field No. 505 on the plan coloured green". Field No. 505 coloured green on the plan comprises the greater part of the Shothouse piece the remaining small part being part of No. 506. The same property, with a similar reference to the interest of the Vendor in Field No. 505, was conveyed by Mr Rains to W Lea, E A Lea and Mary Moseley by a Conveyance dated 19 September 1962 and then by virtue of two conveyances each dated 25 March 1966 the property became vested in Mr and Mrs Moseley.

Mrs Moseley gave evidence and said that she had lived at Ivonbrook Grange Farm since 1962 when she and her parents (Mr and Mrs Lea) purchased it and that they had used Field 505 so far as it was usable and had kept it tidy. They recognised the right of people to take water from the spring but no claim had been made to ownership of the Shothouse piece by any other person.

Mr Johnson informed me that the Parish Council did not claim ownership of the Shothouse piece or of Bank Top, which it maintains and is used for a picnic area.

On this evidence I am satisfied that Mr and Mrs Roy Moseley are the owners of the Shothouse piece and I shall accordingly direct the Derbyshire County Council, as registration authority, to register them as the owners under section 8(2) of the Act of 1965. I am not satisfied that any person is the owner of Bank Top and it will therefore remain subject to protection under section 9 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

25 June

1980

L. J. Morris Smith

Commons Commissioner