



In the Matter of Three pieces of land being part of Brent Moor,
South Brent

DECISION

This reference relates to the question of the ownership of three pieces of land known as part of Brent Moor, South Brent, Devon being the part of the land comprised in the Land Section of Register Unit No. CL.187 in the Register of Common Land maintained by the Devon 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 A S Ferguson and Mrs A J Bomback claimed to be the freehold owners of some parts of the land in question and Mr W J Edmunds claimed to have information as to ownership of another part of the land.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Plymouth on 19 April 1994 which was adjourned and continued on 28 July 1994.

At the hearing Mr A S Ferguson and Mr W J Edmunds appeared in person.

The Devon County Council the registration authority was not represented.

There are two plans annexed to the Notice of Reference dated 2 November 1993. The left-hand plan shows (a) a stretch of the River Avon to the south of Shipley Bridge (b) a strip of land diverging in a south-easterly direction from the south end of (a) above; and (c) a separate piece of land on the west side of the River Avon to the south of (a). I shall deal with these separately. As regards (a), there is no evidence that the bed of the river has become separately owned and I shall apply the presumption that the bed of a river is owned up to the midpoint by the riparian proprietors on either side. Mr Ferguson and his sister Mrs Bomback own the enclosure on the eastern side of this part of the river, O.S.1381 (formerly O.S.322) under a Deed of Gift made in their favour by Mrs V C Ferguson dated 6 October 1981, she having purchased the land under a Conveyance dated 23 October 1944 from one R Evans. The land on the western side is registered under Title No. DN208633, whose owner did not attend and is not known. I therefore find that the eastern half of item (a) above belongs to Mr A S Ferguson and Mrs A J Bomback and I shall direct the Devon County Council as registration authority to register them as the owners of the land under section 8(2) of the Act of 1965. The western half of the land will remain subject to protection under section 9 of the Act.

Parcel (b) is a strip of land forming part of O.S.1381 formerly 322 lying between a stream which runs across that enclosure and the wall which is its southern boundary. On the basis of the findings made above I shall direct the Devon County Council as registration authority to register Mr Ferguson and Mrs Bomback as the owners of the land under section 8(2) of the Act of 1965.

Parcel (c) is a small piece of land along the side of the river. The southern boundary of O.S. 0582 is a wall which takes a right angle turning shortly before it reaches the river and then curves to join the river further south. The land, I was told, is merely a rocky bank of the river and since no



evidence as to its ownership was forthcoming it will remain subject to protection under section 9 of the Act of 1965.

The land identified on the right hand plan on the Notice of Reference is a strip running between enclosed lands which creates a short cut from Diamond Lane onto the common to the west. It is part of public bridleway No. 20 in the Parish of South Brent. Mr Edmunds told me that the owners of the land on either side did not make any claim to ownership, and in the absence of any firm evidence this land also will 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 this

2nd

day of

August

1994

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

Commons Commissioner