



In the Matter of Cleeve Common, Southam and
Winchcombe, Gloucestershire (No. 1)

DECISION

These disputes relate to the registration at Entry No. 1 in the Ownership section of Register Unit No. CL 20 in the Register of Common Land maintained by the former Gloucestershire County Council and are occasioned by Objection No. Ob 4 made by the Cleeve Common Board of Conservators and noted in the Register on 13 February 1969 and the conflicting registration at Entry No. 2 in the same section of the Register Unit.

I held a hearing for the purpose of inquiring into the dispute at Cheltenham on 2 November 1977. The hearing was attended by Mr E A W Jones, solicitor, on behalf of Mrs O S E Robson and Mr J H Dagley-Morris, the respective executors of Mrs D H Gurney and Mr J A Robson, the applicants for the registration at Entry No. 1, and by Mr J E Green, solicitor, Clerk of the Cleeve Common Board of Conservators, the applicant for the registration at Entry No. 2.

With the exception of a comparatively small area at its northern extremity, the whole of the land comprised in the Register Unit was vested in Edward Robinson, first Earl of Ellenborough (who died 22 December 1871) as lord of the manors of Bishops Cleeve and Southam and passed under his will to Edward Richmond as tenant for life.

The Cleeve Common Board of Conservators was constituted by a Provisional Order of Regulation made by the Board of Agriculture in pursuance of the Inclosure Acts 1845 to 1878 and confirmed by the Commons Regulation (Cleeve) Provisional Order Confirmation Act 1890 (53 & 54 Vict., c. Lxxviii), which did not affect the ownership of the land.

Edward Richmond died on 20 June 1891, and his successor in title in 1957 was Mrs K M Coster. By a conveyance made 9 January 1957 between (1) Kathleen Marian Coster (2) Henry E Williams, John Denley, Edward Maisey Eager and Robert William Castle Mrs Coster conveyed to the parties of the second part as trustees for the Chairman and Clerk for the time being of the Conservators firstly, the mines and minerals (other than coal) in or under Cleeve Common and secondly, the exclusive rights of sporting on the Common.

Mrs Coster's interest in the Common became vested in her executor, Mr B T Gurney, and from him passed to his executors, the applicants for the registration at Entry No. 1.

Mr Green argued that the conveyance of 9 January 1957 passed all the beneficial interest in the Common to the trustees for the Chairman and Clerk of the Conservators, leaving Mrs Coster with the bare legal estate, which was worthless, so that the Conservators or their trustees ought to be registered as the owners under the Commons Registration Act 1965. However, worthless or not, it is the legal estate in fee simple whose ownership has to be registered: see section 22(2) of the Act of 1965, and I am not concerned with what may well be the valuable mineral and sporting rights which were the subject of the 1957 conveyance.



For these reasons I confirm the registration at Entry No. 1 with the following modification:- namely the exclusion of the small area of land at the northern extremity of the land comprised in the Register Unit.

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 22nd day of Nov. 1977

Chief Commons Commissioner