



In the Matter of Mill Avon and
River Swilgate, Tewkesbury,
Gloucestershire.

DECISION

This reference relates to the question of the ownership of land known as Mill Avon and River Swilgate, Tewkesbury, being the land comprised in the Land Section of Register Unit No. CL 379 in the Register of Common Land maintained by the former Gloucestershire 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 the former Tewkesbury Borough Council 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 Cheltenham on 1 November 1977.

At the hearing Mr J C Daniels, solicitor, appeared for the present Tewkesbury Borough Council and Mr N H K Coleman, solicitor, appeared for the Tewkesbury Town Council.

The land the subject of the reference consists of two watercourses, the beds of which ad medium filum are to be presumed in the absence of evidence to the contrary to be vested in the riparian owners. The ownership of the riparian land was formerly divided into a large number of strips, each with a narrow water front. The former Tewkesbury Borough Council acquired this riparian land by a series of conveyances from 1896 onwards. Some of the land so acquired was subsequently sold to several purchasers. None of these purchasers nor anyone claiming under them appeared at the hearing. Part of the land is known as Severn Ham and was transferred from the present Borough Council to the Town Council by the Local Authorities etc. (Miscellaneous Provisions) Order 1977 (S.I. 1977, No. 293), made under the Local Government Act 1972.

On this evidence I am satisfied that the Borough Council and the Town Council are the owners of parts of the land, and I shall accordingly direct the Gloucestershire County Council, as registration authority, to register the two Councils as the owners of their respective parts of the land under section 8(2) of the Act of 1965.

In the absence of any evidence as to the ownership of the remainder of the land comprised in the Register Unit it 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 22nd day of Nov. 1977


Chief Commons Commissioner