



COMMONS REGISTRATION ACT 1965

Reference No.213/D/8

In the Matter of Parish Pound, Donnington
Cotswold D.

DECISION

This dispute relates to the registration at Entry No. 1 in the Ownership Section of Register Unit No.CL.140 in the Register of Common Land maintained by the Gloucestershire County Council and is occasioned by Objection No. 35 made by Mr A.Phillips and noted in the Register on 9th June 1970.

I held a hearing for the purpose of inquiring into the dispute at Gloucester on 13 February 1976.

The hearing was attended by Mr W G Davies of Messrs. Kendall and Davies on behalf of Mr W J Foster who claimed ownership and by Mr N H K Coleman of Messrs. Cooke and Finch on behalf of the Objector and Donnington Parish Meeting. Mr Davies conceded at the outset that Mr Foster had no "proper title" to the land in question, but he claimed a possessory title by virtue of his maintenance and improvements on the land which adjoins his property Weasel Farm. Mr Foster was the tenant of Weasel Farm from 1948—he moved in in 1949—until he purchased it from his landlords the trustees of R I Arkell deceased in 1969. When Weasel Farm was sold in 1969 the land in question was included in the particulars of sale but withdrawn prior to the sale possibly because the vendors had not got a title. In 1946 the Arkell Trustees permitted the Parish to use the land in question as a children's playground and swings were erected for that purpose, but such user was discontinued in about 1955.

It is clear beyond doubt that the parish has no title to the land and if the Arkell Trustees were the true owners of the land I am doubtful whether Mr Foster could acquire a possessory title as against them while he was their tenant.

For this reason I must refuse to confirm the Entry at No. 1 in the Ownership Section but I do so without prejudice to Mr Foster's right to put forward a claim to ownership when there is a further reference by reason of the land being unclaimed land. It may be that when it is known who has or had a title to the land that Mr.Foster may be able to establish his possessory title.

I should mention that both Mr and Mrs Foster gave evidence but since there will have to be another hearing on another reference it is in my view undesirable to refer to that evidence in detail.



-2-

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

9th

day of March

1976

C.A. Settle

Commons Commissioner