



In the Matter of Selsley Common,
Kings Stanley, Stroud D.

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.2 in the Register of Common Land maintained by the 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 a claim to ownership (in the course of acquisition) was made by A E Smith & Son, solicitors, on behalf of clients described as the Savage family of Selsley.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Cheltenham on 3 December 1986, an earlier hearing on 13 November 1985 having been adjourned. At the present adjourned hearing there was no appearance by or on behalf of the Savage family, but Mr Mark Lowe, of Counsel, appeared on behalf of Stroud District Council; and a number of local residents also attended. The District Council claimed ownership of the land in question ("the Common") and no other claimant appeared.

The Common is the subject of a Scheme made under the Commons Act 1899 and approved by the Minister of Agriculture and Fisheries on 26 February 1942. By the terms of the Scheme the management of the Common was vested in the then Stroud Rural District Council. The Scheme conferred a number of specific powers on the Council and a power to make by laws for the prevention of nuisances and the preservation of order on the Common; and it contained the usual provision to the effect that nothing in the Scheme was to prejudice the rights of the owner of the Common.

Mr Lowe said that the claim of the District Council, as successor authority to the Rural District Council, was to have acquired ownership by virtue of a prescriptive title, based on activities since the year 1957. Mr David C Parker, Legal Executive on the staff of the District Council and Secretary to the Commons Management Sub Committee, gave evidence. He produced minutes of the Sub Committee's meetings indicating the activities undertaken in respect of the Common. Mr Lowe submitted that some of these activities went beyond the powers conferred by the scheme and could therefore form the basis of a claim to ownership, but after a short adjournment the claim to ownership by the District Council was withdrawn.

In the result, I am not satisfied that any person is the owner of the Common, and it will therefore remain subject to protection under section 9 of the Act of 1965 (as well as to the provisions of the Scheme).



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 11 March 1987

L. J. Morris Smith

Commons Commissioner