



COMMONS REGISTRATION ACT 1965

Reference No. 2/U/46

In the Matter of The Square, Brightwell,
Brightwell-cum-Sotwell,
Oxfordshire.

DECISION

This reference relates to the question of the ownership of land known as The Square, Brightwell, Brightwell-cum-Sotwell, being the land comprised in the Land Section of Register Unit No. VG 56 in the Register of Town or Village Greens maintained by the former Berkshire 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 K. Owen and Mrs E. G. M. Palmer claimed to be the freehold owners 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 Oxford on 21st May 1976.

Neither Mr Owen nor Mrs Palmer appeared or was represented at the hearing, but I heard evidence from Miss D. M. Palmer, a daughter of Mrs Palmer. Mr C. Collett stated that he attended on behalf of Messrs Lenerex and Sons, but he took no part in the proceedings.

The land the subject of the reference is an open space lying to the south of the garden of Mrs Palmer's property known now as Swan Cottage and formerly as the Swan Inn. Mrs Palmer has lived for 44 years at the Swan, of which her late husband was first the tenant and afterwards the owner. The land in question is divided from Mrs Palmer's garden by a fence. When the grass in the garden has been cut the grass on the northern part of the land in question has also been cut for a distance of 15 to 20 ft south of the hedge. The grass further south has been cut two or three times a year by men employed by "the Council".

The facts of this case appear to me to be indistinguishable from those of In the Matter of Sedgeford Village Pound, Sedgeford, Norfolk (1972), Ref. No. 25/U/7, and I can do no better than adopt the language which I used in that decision. Although the state of affairs which Miss Palmer described has now subsisted for more than twelve years, I do not regard what has been done by or on behalf of Mrs Palmer as amounting to a dispossession of the owner of this land, whoever he may be. The land in question is a village amenity, and I regard Mrs Palmer's action as being that of a public-spirited resident who wishes to see her village looking tidy, rather than that of an encroacher taking adverse possession of the land so as to bar the true owner. Indeed, it is difficult to see how the mere cutting of grass can be regarded as adverse to the owner, since it is to his advantage to have his land kept in order.

On this evidence I am not satisfied that any person is the owner of the land, and I shall accordingly direct the Oxfordshire County Council, as registration authority, to register the Brightwell-cum-Sotwell Parish Council as the owner of the land under section 8(3) 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 *8th* day of *June* 1976.

Chief Commons Commissioner