

In the Matter of Parts of the River Avon, TwynningDECISIONS

This reference relates to the question of the ownership of the land comprised in the Land Section of Register Unit No. CL 378 in the Register of Common Land maintained by the Gloucestershire County Council of which no person is registered under Section 4 of the Common Registration Act 1965 as the owner.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Tewkesbury on 4 October 1988.

At the hearing Mr B C Ball (Claimant) was represented by Mr Charles Aulde of counsel instructed by Thompson and Badham of Tewkesbury, Mr W E Roberts was represented by Mr D Bloxham, solicitor of Thompson and Badham of Tewkesbury, Mr S R R Williams and Mrs C Williams and Mr J P H McDougal were represented by Mr G Otter, solicitor of Moore, Brown and Dixon of Tewkesbury, Mr H J West and Mr J West were represented by Mr P C Davis, solicitor, of Davis, Foster and Finley of Malvern, Mr John Pitcher, Mr James L Pitcher and Mr Leighton N Pitcher were represented by Mr Frank Hinks of counsel, instructed by Moore, Brown and Dixon of Tewkesbury and Mr G B Limbrick, solicitor, represented the Registration Authority.

The unit land is in two parts, one of which consists of the River Avon adjacent to the unit land in CL 46 (Cowham) and the other of the River Avon adjacent to the land in CL 323 (Upham Meadow) in each case up to the middle of the river.

In my Decisions Reference No 213/U/127 (Cowham) and Reference No 213/U/128 (Upham Meadow) I have dealt with the ownership of all the unclaimed land in these two units. As a result (with one exception) the ownership of all the riparian land adjacent to the River Avon will be finally registered.

I have seen a good many conveyances relating to the riparian land, none of which contain anything to rebut the presumption that ownership of riparian land carries with it the ownership of the river up to the middle line. No one other than the riparian owner makes any claim to the unit land. That being so I am satisfied that the ownership of each part of the unit land is vested in the person finally registered as the owner of the riparian land adjacent to that part in CL 46 or CL 323 respectively. I shall accordingly direct the Gloucestershire County Council as Registration Authority to register those persons as owners under Section 8(2) of the Act of 1965.

There is one exception to this. On the register map there is an area marked "c" which lies between the river bed and a leet which forms the boundary of the CL 323 land at that point. Since this area has not been registered as common land there is no registration of its ownership and it is not possible to deduce the ownership of that portion of the river which lies adjacent to it. Accordingly as far as that part of the unit land which lies adjacent to the area marked "c" is concerned I am not satisfied that any person is the owner and it will therefore remain subject to protection under Section 9 of the Act of 1965.



I understand that an application may be made to the Registration Authority to register the area marked "c" under the Commons Registration (New Land) Regulations 1969. If such an application is successful the ownership of the land will be ascertained as provided for in those Regulations. If this occurs it may be appropriate for the Registration Authority to refer to a Commissioner the question of the ownership of of the river which lies adjacent to it.

I am required by Regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this as being erroneous in point of law may, within 6 weeks from 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.....<sup>19<sup>th</sup></sup>..... day of .....<sup>July</sup>..... 1989

*Peter Landon-Davis*

Chief Commons Commissioner