



In the Matter of Clifford Common, Clifford,
Hereford and Worcester (No 4)

DECISION

This dispute relates to the registration at Entry No 6 in the Rights section of Register Unit No CL 76 in the Register of Common Land maintained by the Hereford and Worcester County Council and is occasioned by Objection No 35 made by Capt L.N Hope and noted in the Register on 7 June 1971.

I held a hearing for the purpose of inquiring into the dispute at Hereford on 16 February 1978. The hearing was attended by Mr R C Smallwood, solicitor, on behalf of the Objector. There was no appearance by or on behalf of Mr J A Millardship the applicant for the registration, but in a letter addressed to the Clerk of the Commons Commissioners he asked for his submission in defence of his claim to be accepted in writing. In his letter Mr Millardship stated that he came to live in Clifford in 1964 and had since that time, with other commoners, had fished the River Wye from Clifford Common without let or hindrance. Mr Millardship went on to say that no objection had been made to the villagers exercising this right.

Even if Mr Millardship had appeared at the hearing and his evidence had been unchallenged by Mr Smallwood, such evidence would not have established a right to fish attached to his house, Kimbo (now Goldrill) Cottage. The period which has elapsed since Mr Millardship came to live in Clifford is not long enough for him to have acquired a right by prescription, and his alternative claim as a villager cannot stand, since there can be no right to a profit à prendre in a fluctuating body of persons, such as the inhabitants of a village: see Gateward's Case (1607) 6 Co. Rep. 59b.

For these reasons I refuse to confirm the registration.

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

6th

day of

March

1978

CHIEF COMMONS COMMISSIONER