



In the Matter of Hellescott Green, North-Petherwin,
Cornwall

DECISION

This reference relates to the question of the ownership of land known as Hellescott Green, North Petherwin, being the land comprised in the Land Section of Register Unit No. CL 227 in the Register of Common Land maintained by the Cornwall 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 G B Smale claimed to be the freshhold owner 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 Fodmin on 5 October 1982.

At the hearing Mr Smale was represented by Mr J Parnall, solicitor.

Mr Smale is a farmer and the owner and occupier of a farm adjoining the land in question. The farm was purchased by Mr Smale's late father in 1954. At that time the land in question was covered with bramble and scrub and was used as a village refuse dump. The late Mr Smale cleared away the bramble, scrub, and rubbish from most of the land, and the part which he cleared has been kept tidy and the grass cut at least once a year by the late Mr Smale and by Mr G B Smale, who in addition to keeping the land tidy, have used the land almost continually for the storage of agricultural machinery without their right to do so being disputed by anyone.

It may be that the late Mr Smale acquired a possessory title to the land, but when he conveyed the farm to Mr G B Smale by a conveyance made 25 March 1965 between (1) Frederick Smale (2) Gordon Bennett Smale he did not include any of the land the subject of the reference. However, Mr G B Smale has remained in possession and has thereby acquired a new possessory title.

On this evidence I am satisfied that Mr G B Smale is the owner of most of the land, and I shall accordingly direct the Cornwall County Council, as registration authority, to register him as the owner of that part under section 8(2) of the Act of 1965.

In the absence of any evidence I am not satisfied that any person is the owner of the remainder of the land, and it will therefore remain subject to protection under section 9 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

20th

day of October 1982


 Chief Commons Commissioner