



In the Matter of unnamed land at
Portloe, Veryan, Truro R.D., Cornwall

DECISION

This reference relates to the question of the ownership of unnamed land at Portloe, Veryan, Truro Rural District being the land comprised in the Land Section of Register Unit No.CL214 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 the Portloe Harbour Commissioners claimed to be the freehold 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 Truro on 12th July 1972.

At the hearing the Portloe Harbour Commissioners were represented by their Chairman Mr. W. A. Blamey and the Veryan Parish Council were represented by their Chairman Mr. J. K. Julyan.

The land provides access to the harbour at Portloe. At the north west corner it is joined by a short side road, to the main road through the Village. At its east end (at the head of Portloe Cove) there is the sea shore and a sea wall. The land is bounded on the north by a hotel and some dwelling houses and shops and bounded on the west and south by other dwelling houses and shops, by a fence through which there is a path leading steeply up the hill to the high ground above Jacka Point and by the School. Geographically the land is a gap in the cliff, the adjoining land on either side sloping upwards, in places steeply.

The only building on the land is a small winch house for hauling up fishing boats. Approximately half the land (the lower half below the winch house) is surfaced with hard concrete. The remaining half is surfaced with tarmac, except for a small area near the winch house; this small area is well trodden down and except for little grass and some weeds in the less accessible parts, is free of vegetation.

The above description is based on what I saw when I inspected the land at the request of the persons who appeared at the hearing, it having been agreed that I should do so unattended. Holiday makers and sightseers could walk over the land without hindrance, and many of them would much enjoy its attractive appearance, its unusual situation and welcoming surroundings.

Mr. Julyan told me that the land had been used as a car park during the last few years by visitors and inhabitants, and that the Parish Council thought that this use should be regulated, and would welcome the vesting of the land in the Portloe Harbour Commissioners who are a statutory body.

Mr. Blamey on behalf of the Commissioners gave evidence. He is 67 years of age and has lived all his life (except 1939-1945) in the Village. He described how the fishing boats are during the winter months pulled up and stored on the land. The Commissioners administer the Harbour under their Act, collecting fees £10 a year for a doublehanded fishing boat and £5 a year for a singlehanded fishing boat and fees from the occasional visiting yachts. The Commissioners income was



-2-

about £65 a year (Mr. J. Turner told me at the preceeding hearing which related to the adjoining land known as the Jacka, that he thought there were 6 full time and 12 part-time fishing boats using the Harbour). There is a fish store nearby (not on the land the subject of this reference). Lorries can come down from the main road to the land and pick up the crabs, lobsters and fish caught. Cars cannot conveniently park below the winch house because of the blocks and wires there.

The proper regulation of the land, particularly in relation to carparking, has difficulties. It was argued that I should vest the land in the Commissioners who could then as owners overcome these difficulties. I have, I think, no jurisdiction to deal with this case on such a basis; the 1965 Act requires me to consider whether I am "satisfied" as to ownership not to consider who in the public interest ought to be the owner.

No Act or Statutory Order relating to the constitution of the Commissioners was cited to me. Since the hearing I have ascertained that in the Sea Fish Industry Act 1951, Portloe is listed as one of the fishery harbours in England and Wales, see Section 21 and Schedule 4. In favour of the Commissioners I assume that they are regularly constituted and can hold land under some Statutory Order particularly applicable to them (perhaps under the General Pier and Harbour Act 1861 as applied to fishery harbours by the Fishery Harbours Act 1915); but I think I must also assume that there is nothing in any Act or Statutory Order suggesting that the Commissioners are the owners of the land the subject of this reference.

I accept the evidence of Mr. Blamey. But I cannot, I think, from it conclude that the Harbour Commissioners are the owners of the land. In my view the performance and exercise by the Commissioners of their Statutory duties and powers cannot properly be regarded as evidence that they are owners.

For these reasons I am not satisfied that any person is the owner of the land, and accordingly the land falls into protection under Section 9 of the Act.

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 25th day of October 1971

a. a. Baden Fuller

Commons Commissioner