



COMMONS REGISTRATION ACT 1965

Reference No. 209/U/26

In the Matter of Dolton Beacon,
Torrridge District, Devon

DECISION

This reference relates to the question of the ownership of land containing about $1\frac{1}{2}$ acres known as Dolton Beacon, Ashreigney, Torrridge District being the land comprised in the Land Section of Register Unit No. VG 96 in the Register of Town or Village Greens maintained by the Devon 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 no person claimed to be the freehold owner of the land in question or to have information as to its ownership.

Mr G D Squibb QC Chief Commons Commissioner held a hearing for the purpose of inquiring into the question of the ownership of the land at Exeter on 4 April 1978. There was no appearance at the hearing, and he gave a decision dated 21 April 1978 saying that in the absence of any evidence he would pursuant to section 8(3) of the 1965 Act direct the registration of Ashreigney Parish Council as owner.

On the application of Mr Richard Dudley Middleton (his solicitor's letter dated 30 April 1979), the Chief Commons Commissioner set aside his said decision and reopened the hearing.

I held the reopened hearing at Barnstaple on 26 March 1981. At this hearing (1) Ashreigney Parish Council were represented by Mr G J Partridge their chairman and Mr F H Harris their vice chairman; and (2) Mr R D Middleton was represented by Mr R G O Hudson solicitor with Chanter Burrington & Foster, Solicitors of Barnstaple.

The land in question is bounded on the north west by the B3217 road and on the north east by the B3320 road and is immediately south of where these roads cross.

Mr Partridge said that he understood that Mr R D Middleton is the owner of the land, that before he bought it a previous owner had given to the local inhabitants a right of recreation over it and that the Parish Council wished to preserve this right. Mr Harris said that in an old minute book of the Parish Council it was recorded in 1933 that the Devon County Council wished to take for the improvement of the crossroads a small piece of land which was north of and then formed part of the land now in question, that such Council were satisfied that Mr Middleton was the owner, and then paid to the Parish Council £2 for the loss of their right of recreation. Mr Harris explained that Mr R A Middleton the 1933 owner was the father of Mr R D Middleton.

Mr Hudson produced: (1) a conveyance and deed of partition dated 24 June 1927 by which there was conveyed to Mr Richard Albert Middleton the lands therein described including OS No. 42: Dolton Beacon: Cottage & Meadow: 1.793 acres; subject "to an obligation to preserve the surface thereof and to permit the same to be at all times used as a place of exercise and recreation for the inhabitants of the said



the said road or lane and which extends from a line southeast of the Church to the said Bypass, and (3) a piece ("the South Piece") which is south of the said lane or road which is almost due south of the Church.

Mr Pitts-Tucker said (in effect):- The Church is at the present redundant (for worship), but is much visited, being architecturally of great interest, perhaps by as many as 4,000 people annually. His clients had been in touch with Redundant Churches Establishment with a view to the Northwest Piece and the Northeast Piece being taken over by them. He identified all the Unit Land (as it now is) as being within the description above quoted from the 1956 conveyance, being a description substantially the same as that contained in the Schedule to the 1941 assent. Although the South Piece was included in the 1956 conveyance and the 1941 assent, his clients did not claim this because they had (as appeared from the endorsement on the July 1956 conveyance) by a conveyance dated 29 September 1956 conveyed it to Miss G W D Rouse (she died 30 November 1972 and letters of administration to her estate were granted to her sister Mrs I Jones).

On the documents produced by Mr Pitts-Tucker, I am satisfied that Mr and Mrs Lindsay are the owners of the Northwest Piece and of the Northeast Piece and I shall accordingly direct the Devon County Council as registration authority to register the Hon James Louis Lindsay and Mrs Bronwen May Lindsay both of Heddon Hall, Parracombe as the owners of these parts of the land under section 8(2) of the Act of 1965.

As to the South Piece:- In the absence of any evidence as to the contents of the 1956 conveyance to Miss Rouse, or as to the devolution of any ownership which she may have acquired under it, I cannot make any finding as to the possible ownership of Mrs Jones or any successor in title of hers. There was no evidence that any other person could be the owner. Accordingly I am not satisfied that any person is the owner of the South Piece and I shall accordingly direct Devon County Council to register Parracombe 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 13th day of January 1978

a. a. S. Fuller

Commons Commissioner

*Corrected on page 1 by substituting
Dobell and Mary for May.
a. a. S. Fuller
4 Apr 1979.*