



COMMONS REGISTRATION ACT 1965

Reference No. 209/U/108

In the matter of Part of Throwleigh Common, ThrowleighDECISION

This reference relates to the question of the ownership of land being parts of the land comprised in the Land Section of Register Unit No. CL 19 in the Register of Common Land maintained by 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 the Duchy of Cornwall claimed to be the freehold owner of part 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 Exeter on 5 July 1989. At the hearing Mr C Sturmer F.S.V.A. appeared for the Duchy of Cornwall.

The unclaimed land is in two separate small parts. The part claimed by the Duchy is the northern of the two areas. The Duchy is finally registered as owner of nearly all the unit land. The area now claimed extends to a fraction of an acre and immediately adjoins the area of which the Duchy is already registered as owner. Mr. Sturmer told me that he had been the Dartmoor agent for the Duchy for 18 years and knew the land well. He had visited it 6 or 8 weeks ago and there was nothing on the ground to distinguish it or mark it off from the rest of the unit land. He produced an Estate Record Map of uncertain date but drawn on a copy of the 1931 reprint of the six-inch O.S. map which showed the original boundary of the Duchy land marked in yellow and the areas which had been conveyed away coloured in purple. The land in question together with the rest of the unit land was shown as being Duchy land not conveyed away. He also produced a certified copy of a conveyance on sale dated 13 Nov 1884 whereby the Duchy of Cornwall conveyed to Gustavus Gidley land immediately to the south and west of the land claimed. On the plan attached to that conveyance the land claimed and the rest of the unit land is shown as a continuous stretch of rough pasture and is not included in the land conveyed. No person claimed ownership of the southern of the two areas.

On this evidence I am satisfied that the Duchy of Cornwall is the owner of the northern of the two areas of unclaimed land. I shall accordingly direct the Devon County Council, as registration authority, to register that Duchy, as the owner of that land under section 8(2) of the Act of 1965. The southern of the two areas of unclaimed land will remain subject to protection under section 9 of the 1965 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

19th

day of

July

1989

Peter Landon-Davis
Chief Commons Commissioner