

In the Matter of parts of Penn Moor and Stall Moor, CornwallDECISION No. 2

This Decision is supplemental to the Decision of Chief Commons Commissioner Langdon-Davies dated 29th June 1989 and relates to the question of the ownership of the southern of the two areas of unclaimed land referred to in that Decision being the part of the land comprised in the Land Section of Register Unit No. CL.112 in the Register of Common Land 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 the personal representatives of Major F A V Parker claimed to be the freehold owners 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 Plymouth on 23rd January 1990.

The hearing was attended by Mr P J R Michelmore of Michelmore Hughes, Chartered Surveyors of Newton Abbot representing the personal representatives of Major F A V Parker, Mrs M C Burrows and Dr H P Burrows.

The land adjoining this unclaimed triangular parcel immediately to the south is already finally registered in the name of Major F A V Parker: see Entry No. 1 in the Ownership Section. The land adjoining it immediately to the east is finally registered in the name of Wing Commander C W Passy. The third boundary, on the north westerly side of the unclaimed parcel, is marked on the Register map as part of the Ward boundary.

Mr Michelmore produced a certified copy of a Vesting Assent dated 9th October 1946 made by John Tillie Compton and Robert William Parker whereby the lands described in the First and Second Schedules thereto were vested in Major Parker as Tenant for Life under a Resettlement dated 18th January 1937. The First Schedule includes the Manor or Lordship of Cornwall. The Second Schedule comprises the Delamore Estate situate in the Parishes of Cornwall and Plympton St. Mary for the purpose of identification only coloured pink on the two plans thereto and more particularly described therein. The particulars in the Second Schedule conclude with "All those common lands or moor known as Pennmoor Heathfield Down (commonly called Cornwall Common) and Heddon Down".

Although Penn Moor is coloured pink on Plan No. 1 to that Deed, the triangular parcel is not so coloured, and this no doubt is the reason why it was not included in Major Parker's original ownership registration. Looking at the Register map however this parcel would appear to be part either of Stall Moor or Penn Moor, and more probably the latter. ~~English Clays as owners of Stall Moor have not claimed it.~~

*182 Commons Commissioners Regulations, 1971.*

*Deleted pursuant to Regulation 33 of  
Matti Rott, 7<sup>th</sup> January 1992*



The triangular parcel is landlocked, in the sense that access to it can only be obtained over the land of which Major Parker and Wing Commander C W Passy were respectively registered as owners, or over the land to the north-west. Mr Michelmore told me that this land was also registered as common land being part of Register Unit CL.190.

As appears from the Decision of the Chief Commons Commissioner that Mrs M C Burrows is the successor to Wing Commander Passy. She attended the hearing before me but made no claim to this triangular parcel.

It seems therefore that the only possible contest is between the successors of Major Parker and the owners of CL.190, whoever they may be. Mr Michelmore said he would inquire into the matter, and would endeavour to obtain confirmation from such owners that they made no claim.

Major Parker was (as stated above) Tenant for Life under a settlement, and to complete the title of his successors requires the production of a Grant of Representation to his estate and any subsequent conveyancing documents. These were not available at the time of the hearing, but Mr Michelmore undertook to supply them as soon as practicable.

Notwithstanding the considerable lapse of time since the hearing and a series of reminders sent to Messrs. Michelmore Hughes, no further communication has been received from that firm by the Commons Commissioners. In the circumstances I ought not delay any longer in issuing this Decision.

On the evidence at present before me I am not satisfied that any person is the owner of this triangular parcel of land and it will therefore remain subject to protection under section 9 of the Act of 1965.

I shall nevertheless allow the personal representatives of Major Parker a period of six weeks from the date on which this Decision is sent to them to apply to the Commons Commissioners for the matter to be restored for further hearing.

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 30<sup>th</sup> day of September 1991

Mark Rott

Commons Commissioner