



COMMONS REGISTRATION ACT 1965

Reference No. 6/U/15

In the Matter of the Wastrels, Constantine Bay,
St. Merryn, Wadebridge & Padstow R.D., Cornwall.

DECISION

This reference relates to the question of the ownership of land known as the Wastrels, Constantine Bay, St. Merryn, Wadebridge & Padstow Rural District, being the land comprised in the Land Section of Register Unit No.C.L.217 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 no person claimed to be the freehold owner of the land in question and no 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.

The hearing was attended by Mr. R. Pitman whose application to register this land as common land was noted in the Register on the 19th November 1968 (the land had been previously registered on another application). His claim before me was that the land belonged to the owners of the land known as Towan Common.

The land ("the Wastrels") which is the subject of this reference consists of two pieces of land divided by the road leading down to Constantine Bay. The larger piece has an area (as I scale one of the maps I have) of about 11 acres and is roughly rectangular with one side next the foreshore of the Bay. The other piece is a long narrow strip parallel with the larger piece and on the other side of the road. The Wastrels is for the most part sand dunes covered with marram grass; there are some blackberry bushes.

Mr. Pitman in his evidence produced a copy of a report dated the 14th August 1933 and made by Sir Lawrence Chubb (secretary of the Commons Open Spaces and Footpaths Preservation Society) in which he recorded that he had inspected the Wastrels in order to see for himself the use to which it is put during the holiday months and to advise upon the best step to take to preserve the rights of the commoners without unduly restricting the public enjoyment of the site as an Open Space; after discussing the position at some length he recommended a deed such as is mentioned below.

Mr. Pitman also produced a copy of a deed poll dated the 3rd December 1934 made by thirty persons, by which after reciting "the Wastrels forming part of Towan Common is land subject to rights of common to which section 193 of the Law of Property Act 1925 may be applied" and reciting



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reciting that the thirty named persons "are persons entitled to the soil of the Common", it was witnessed that the said section should apply to the Common.

Mr. Pitman who is 65 years of age first came to the Village in 1933. His father Lieutenant R.G. Pitman R.N. was one of the thirty persons who made the deed poll. At that time these persons appointed three wardens and thereafter these wardens patrolled the land to preserve it by turning off campers, ordering vehicles off, stopping the lighting of fires by campers, stopping lorries taking away the sand and so forth. If any person challenged the authority of a warden he was shown the Act and if that was not enough, police help was asked. The original three wardens have died. Lieutenant R.G. Pitman was the last warden.

In about 1950 a meeting of "commoners" was held. About twenty-seven persons attended and five wardens were appointed of which Mr. Pitman is one. They are not all equally active but those who are, have patrolled the Wastrels ever since to preserve it as did their predecessors appointed in 1933.

I asked Mr. Pitman if he could tell me anything about Towan Common and its owners; he described a considerable area of land in the neighbourhood of the Wastrels as being known as Towan Common; he understood that it was divided up about 200 years ago and the Wastrels was left out probably because there was then no grass on it. In his view "commoner" meant anybody who owned a piece of land which was formerly Towan Common; any commoner could have attended the 1950 meeting.

On the evidence, I am unable to reach any conclusion as to the ownership of the Wastrels. The extent of the land known as Towan Common is, I think, too uncertain for the expression "the owners of land" so known to have any certain meaning. The title of the persons who are now owners of such land has not been traced back to the persons who made the 1934 deed. The recitals in the deed do not show the legal estate which each of such persons then had in the Wastrels.

For these reasons, I am not satisfied that any person is the owner of the Wastrels. I reach this decision with some regret and with the hope that it will not be taken as casting any doubt on the 1934 deed or on the support given to the wardens' activities as above described by section 193 of the 1925 Act. As a consequence of this decision the Wastrels will fall into protection under section 9 of the 1965 Act; it may be that the wardens will under this section get some help.

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 26th day of September 1972

a. a. Baden Fuller.

Commons Commissioner