



## COMMONS REGISTRATION ACT 1965

Reference No. 209/U/69

In the Matter of Heale Moor,  
Parracombe, North Devon District,  
Devon

DECISION

This reference relates to the question of the ownership of land containing about 17 acres known as Heale Moor, Parracombe, North Devon District being the land comprised in the Land Section of Register Unit No. CL 63 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 Mr Horace James Petherick of Court Farm Cottage claimed (his Solicitors' letter of 21 March 1979) ownership of an undivided fourth share of the land in question and Messrs John Charles Beard Tucker and John Edward Tucker the owners of Heale Farm claimed (their Solicitor's letter of 3 April 1979) ownership of the said land. No other person claimed to be the freehold owner of the land or 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 Barnstaple on 10 May 1979. At the hearing Mr H.J Petherick and Messrs J C B and J E Tucker were represented by Mr T Cox associate legal executive with Pitts Tuckers, Solicitors of Barnstaple.

At the hearing oral evidence given by Mr Petherick in the course of which he said that in 1963 he bought Court Farm (about 40 acres) from his uncle Mr Robert Petherick and that he had since sold off part. He produced the 1963 conveyance by which the Farm was expressed to be conveyed "together with an undivided fourth part and right of common upon Heale Moor, described in the second part of the said Schedule", and the Schedule included "904 undivided one fourth part of Heale Moor containing in the whole 17.512 acres".

Mr J E Tucker also gave oral evidence in the course of which he said that in 1974 he bought Heale Farm (about 150 acres) from Mrs Lilian Clara Berney and that with this farm he bought a quarter share of the Moor like Mr Petherick above.

1925/ I am on this reference only concerned with ownership, which in the 1965 Act is defined as meaning "ownership of a legal estate in fee simple", see Section 22. Since the Law of Property Act/ 1925, an undivided fourth or other share in land cannot be granted or continue as a legal estate; however, the Act provides who is to hold the legal estate in the entirety of any land which before 1925 was held in undivided shares or which but for the Act would now be held in undivided shares. I have no information about the documents of title by which Mr Tucker supported his claim to own a fourth share.

After some discussion I adjourned the proceedings so that the persons concerned could examine the possibility of appointing trustees of the land.



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In a letter dated 25 September 1979 from their solicitors, Messrs J C B and J E Tucker withdraw any possible claim as to the ownership of the land.

I held the adjourned hearing at Barnstaple on 24 March 1981. There was no attendance at this hearing.

On the evidence above summarised I am not satisfied that any person is the owner of the land, and it will therefore remain subject to protection under section 9 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 8<sup>th</sup> — day of April — 1981

a. a. Bacon Fuller

Commons Commissioner