



In the Matter of Land at Walkhampton Common, Walkhampton

DECISION

This reference relates to the question of the ownership of four parcels of land forming part of Walkhampton Common, Walkhampton comprised in the Land Section of Register Unit No. CL.192 in the Register of Common Land maintained by the Devon County Council of which no person is registered as the owner under section 4 of the Commons Registration Act 1965. The question was referred to a Commons Commissioner by Devon County Council on 2 November 1993.

I annex hereto a copy of the plans annexed to the reference which I have marked Plan I and II, and on which I have marked each piece of land by a distinguishing letter.

I held a hearing at Plymouth on 19 April 1994 to inquire into this question. At the hearing Lord Roborough was represented by Miss Marion Hayward MRAC, ARICS Land Agent for the Maristow Estate, and Mr E F Palmer appeared on behalf of the Commoners and did not object to Lord Roborough's claim.

The first piece of land with which I am concerned is that marked A on Plan I. This is part of a disused railway line and was conveyed by a conveyance dated 16 May 1963 by British Railways Board to the 2nd Baron Roborough. The latter conveyed it on sale by a conveyance dated 9th April 1974 to the Trustees of a Settlement made by the Hon Henry Massey Lopes on trust for sale, and (following two Deeds of Appointment of New Trustees dated 10 April 1974 and 1 December 1977) by a conveyance dated 20th January 1983 the then Trustees conveyed the land to the Hon H M Lopes who had become entitled thereto under the trusts of the settlement of the proceeds of sale.

The other three pieces of land - Plan I B and C and Plan II D are included in a conveyance by way of exchange dated 29 September 1964 made between the 2nd Baron Roborough and the Hon H M Lopes.

By a conveyance dated 17 March 1965 the Hon H M Lopes conveyed the land to Trustees on trust for sale and (following three Deeds of Appointment of New Trustees dated respectively 29 September 1966, 10 April 1974 and 1 December 1979) by a conveyance dated 20th January 1983 the then Trustees conveyed the land back to the Hon H M Lopes who had become entitled thereto under the trusts of the Settlement of the proceeds of sale.

On 30 June 1992 the Hon H M Lopes succeeded to the title and became the 3rd Baron Roborough. On this evidence I am satisfied that the 3rd Baron Roborough is the owner of all the land comprised in this reference and I shall accordingly direct the Devon County Council to register the 3rd Baron Roborough as the owner of all the land comprised in this reference under Section 8(2) 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

28th

day of

Commons Commissioner

1994