



COMMONS REGISTRATION ACT 1965

Reference No 209/U/31

In the Matter of land near Plyms,
Landkey, North Devon District,
Devon

DECISION

This reference relates to the question of the ownership of land near Plyms, Landkey, North Devon District being the land comprised in the Land Section of Register Unit No CL 273 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 solicitors for the below mentioned Mr Down and Mr and Mrs Hall-Tomkin sent (with a letter of 19 April 1979) a copy of an examined abstract of a conveyance dated 27 November 1888 by which Sir George S Stucley and Sir Massey Lopes at the request of the Hon M G K Rolle conveyed to Mr W T Buckingham properties which includes those now known as Plyms Farm and The Old Manor, but did not (according to the plan therein referred to) include the land now in question. No person claimed to be the freehold owner of the land 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 ownership of the land at Barnstaple on 10 May 1979. At the hearing (1) Landkey Parish Council were represented by Mr R H Joy their chairman; (2) Mr Cyril William Down on whose application a right to graze 30 bullocks 200 sheep over the land whilst crossing it to gain access to other fields, was registered at Rights Section Entry No 1, was represented by Mr L E Long solicitor with Seldon Ward & Nuttall, Solicitors of Bideford; (3) Mr Brian David Hall-Tomkin and Mrs Dorothy Mary Hall-Tomkin of Manor House, Landkey were also represented by Mr Long; and (4) St Pauls Landkey Parochial Church Council were represented by the Reverend Michael Selman, curate in charge of St Pauls.

The land ("the Unit Land") in this Register Unit is bounded on the south by the road which runs east-west through the Village, and on the east by the churchyard of St Pauls. The Unit Land slopes upwards from the road and is apart from a vehicular track providing access to Manor House and a footpath providing access to the churchyard, grassland. It was registered in the Land Section in consequence of Mr Down's application for registration of rights.

Mr Selman produced a record dated 26 September 1888 signed by the Bishop of Exeter declaring that the ground therein mentioned had been added to the churchyard and been consecrated; the land mentioned is not part of the Unit Land, but is the adjoining part of the churchyard; the 1882 record suggests that before it was made the land mentioned and the Unit Land were one piece of land open to the road.



Mr Joy said that when at their meeting of 28 April 1970 the Parish Council discussed the registration of the Unit Land Mr Buckingham, a councillor and the (? former) owner of Plyms Farm (about 185 acres) said he had no knowledge of the Unit Land (meaning of its ownership and the rights over it). Mr Joy also said the Tithe Map showed the Unit Land coloured in the same way as the public roads and the stream, with no apparent boundary between the Unit Land and the adjoining road.

Mr Long produced a conveyance dated 15 May 1960 by which Mr W T Buckingham was expressed to convey Old Manor House with an appurtenant right of way over the Unit Land.

On this reference I am concerned only with the ownership of the Unit Land, meaning the ownership of the legal estate in fee simple, see Section 22 of the 1965 Act. I cannot therefore give any decision or direction about any right of way across the Unit Land; however provision is made for a note of any claims to any such right being made on the Register by the Commons Registration (General) Regulation 1966, see paragraph 21. As to the ownership with which I am concerned, in the absence of any evidence I am not satisfied that any persons is the owner of the Unit 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 9th — day of June — 1979

A. A. Baden Fuller

Commons Commissioner