



COMMONS REGISTRATION ACT 1965

Reference No. 209/U/134

In the Matter of 7 pieces of land at Peter Tavy Common, Peter Tavy,
West Devon

FURTHER DECISION

This reference relates to the question of the ownership of 7 pieces of land being parts of the land comprised in the Land Section of Register Unit No. CL.194 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.

I held hearings for the purpose of inquiring into the ownership of the land at Plymouth on 19 April and 28 July 1994 and gave a Decision on 2 August 1994. Unfortunately the Ministry of Defence did not receive notice of those hearings. The Ministry claims ownership of the pieces of land marked D and E on Plan II annexed to my said Decision and I accordingly held a further hearing at Golden Cross House on 14 February 1995. At the hearing the Ministry of Defence was represented by Mr D W Richards, Land Agent, who called Mr R R Kelly to give evidence.

By a Conveyance dated 22 November 1905 made between Susan Emily Calmady Hamlyn and her Settled Land Act Trustees (1) and (2) and the Secretary of State for War (3) the War Department acquired, inter alia, the manor or reputed manor of Willsworthy otherwise Willsworthy Hamlet. By a Contract dated 25 June 1907 made between the Committee of Willsworthy Commoners and the Secretary of State for War the Commoners for consideration gave up all their rights of common over the commons and manorial wastes of the manor of Willsworthy, and the land became a firing range, which it still is. The bulk of the range was originally registered as common land, but was removed from the Register at or about 1982, though the Decision of Mr Commissioner Baden Fuller of 30th June 1983 in reference to the Forest of Dartmoor (209/D/287-288) does not mention this removal. However the removal of the range left still registered these tiny pieces of land.

Area E is a small piece of verge at the side of a track leading from Watervale onto the firing range. It is clearly shown as included within the plan on the above mentioned contract and I cannot understand why it was not removed from the Register along with the rest of the firing range. I have no doubt about the Minister of Defence's title to the land and I therefore cancel my previous Decision as regards Area E and propose to direct the Devon County Council as Registration Authority to register the Minister of Defence as the owner of the land under Section 8(2) of the Act of 1965.

Area D presents more of a problem. It is a section of the ancient Lichway, a funeral route by which corpses were brought for burial from Princetown and its surrounds to the Church at Lydford. The Lichway diverges from the A384 at Higher Beadon and is a maintained highway as far as a gate which formerly gave entry to the moorland beyond. The gate has since been moved nearer to the moor. Area D runs from the former site of the gate to the point at which the Lichway debouches onto the moor at the 900 foot contour line. The area is clearly not included within the plan on the above mentioned contract, and it was not (and indeed cannot be) suggested that the War Department or Ministry of Defence has acquired title by adverse possession, particularly as the Lichway is registered



as a public bridleway. Since the way was in all probability in existence before the fields which now border Area D were fenced in, there is in my view no room for the application of any presumption as to ownership by the owners of the land on either side, and I therefore cannot attribute ownership to any person. My former Decision, to the effect that the land would remain subject to protection under Section 9 of the Act of 1965 must therefore stand.

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

15th

day of

February

1995

A handwritten signature in cursive script, appearing to read "John Gutter".

Commons Commissioner