



## COMMONS REGISTRATION ACT 1965

Reference No 209/U/56

In the Matter of Tredown Common,  
Welcombe, Torridge District, Devon

DECISION

This reference relates to the question of the ownership of land known as Tredown Common, Welcombe, Torridge District being the land comprised in the Land Section of Register Unit No CL 181 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 Sir Dennis Stucley Bt. said (letter of 10 March 1979) that he is Lord of the Manor of Welcombe his grandfather having purchased it from Lord Clinton in about 1850, and that presumably the Common is the property of the Lord of the Manor; and Mr J E Burrow claimed (his solicitor's letter of 29 March 1979) to be the owner of the Common. No other person claimed to be the freehold owner of the land in question 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 11 May 1979. At the hearing (1) Mr J E Burrow (the registrant at Rights Section Entry No 1 was made on his application) was represented by Mr J Rowland solicitor of Peter Peter & Sons, Solicitors of Holsworthy; and (2) Mr Ronald Frederick Henry Duncan of Mead Farm, Welcombe was represented by Mr J Ferguson solicitor of Jeremy Ferguson & Co, Solicitors of Bideford.

Mr Burrow in the course of his evidence produced the following documents relating to Higher Tredown and Lower Tredown Farm containing 156.741 acres; (a) a conveyance dated 25 March 1944 by Mrs E A Burrow (the witness's mother) to Miss F A Headden (a cousin or distant relation); (b) an assent dated 27 September 1963 by Mr S J Rowland as personal representative of Mrs F A Ashton (formerly Miss F A Headden) in favour of Miss A Moody; and (c) a conveyance dated 28 September 1963 by Miss Moody to Mr J E Burrow (the witness). Mr Burrow said (in effect):- He was born in the farm 64 years ago and it was farmed by his father until he died on 10 August 1934; when his mother sold he became the tenant of the farm. The land in this register unit had always been considered to be part of the farm.

In the conveyances and assent of 1944 and 1963, land in this Register Unit is expressly included in the land thereby conveyed as part of the farm without any difference or distinction.

Mr Ferguson produced an affidavit sworn by Mr Duncan on 9 May 1979 in which he for the reasons therein stated claimed the Lordship of the Manor of Welcombe and as such all rights appurtenant thereto in respect of Tredown Common and mentioned particularly that since he purchased Mead Farm in 1942 he had exercised rights on the said common by cutting and burning peat. Mr Ferguson while conceding (in my view rightly) having regard to the documents produced by Mr Burrow he could not on behalf of Mr Duncan claim ownership, *claimed I should direct a registration which would show that Mr Duncan was entitled to custody.*



<sup>In</sup> Section 22 of the 1965 Act "ownership" is defined as referring to "a legal estate in fee simple", accordingly on this reference under section 8 of the Act I am concerned only with such an estate and have no jurisdiction to make any direction as to or even consider the valadity of any right of common such as ~~fur~~barry which Mr Duncan might have registered in the Rights Section (no entry has been there made on his application). As regards the ownership, in my opinion the title of Mr Burrow to the land is by the documents produced by him regularly deduced, and I ought therefore to give full effect to them. I am therefore satisfied that Mr Burrow is the owner of the land, and I shall accordingly direct the Devon County Council, as registration authority, to register Mr John Elijah Burrow of Tredown, Welcombe, Devon as the owner of the land 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 8<sup>th</sup> — day of June 1979

*a. a. Baden Fuller*

Commons Commissioner