



COMMONS REGISTRATION ACT 1965

Reference No. 209/U/119

In the Matter of West Cleave part of Belstone Commons,  
Belstone

## DECISION

This reference relates to the question of the ownership of land known as West Cleave part of Belstone Commons, Belstone being the part of the land comprised in the Land Section of Register Unit No. CL.73 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 the Misses Dorothy Ellis Brendon Newcombe and Edith Joan Ellis Brendon Newcombe claimed to be the freehold owners of the land in question 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 the ownership of the land at Plymouth on 23rd January 1990.

The hearing was attended by Mr F J Woodward a retired Solicitor (representing the Misses Newcombe and also the Belstone Commoners Association) and the Misses Newcombe in person.

The land was registered as common land by the Registration Authority without application. There are numerous entries in the Rights Section of the Register which have become final.

There are two entries in the Ownership Section of the Register. The first of these is in the names of the Misses Newcombe in respect of all the land in the Register Unit except West Cleave and except that hatched red and marked A on the Register Map. The second entry is in the name of H R H Charles Prince of Wales, Duke of Cornwall, in respect of the land marked A. These entries became final in this form following a Decision of Mr Commissioner Baden Fuller dated 2nd November 1983.

Mr Woodward produced to me an Epitome of Title to the Manor of Belstone which he had prepared. This commences with a Conveyance of 20th October 1594, followed by another of 20th June 1600, the latter in favour of a member of the Rolle family who died in 1638. There is then a gap of 200 years, but the epitome continues in 1837 with the Will and in 1840 with the death of John Lord Rolle. From that point on it proceeds down to an Assent in 1967 in favour of the Misses Newcombe.

Mr Woodward also produced the originals or certified copies of the following documents:-

15th October 1889 Auction Particulars and Conditions of Sale

11th November 1889 Conveyance between (1) John Cook (2) Charles Belfield Woolcombe and (3) Simon Peter Brendon Newcombe



3rd October 1905 Will of S P B Newcombe leaving Mary Ann Newcombe sole devisee

5th July 1910 Probate of S P B Newcombe

Extract from Will of Mary Anne Newcombe devising the Manor of Belstone to Brendon Ball Newcombe

5th July 1943 Probate of B B Newcombe in favour of Nellie Gertrude Newcombe and John Jehu Newcombe

13th March 1958 Death Certificate N G Newcombe

1st August 1987 Assent by J J Newcombe in favour of the Misses Newcombe

None of the title deeds contains any plan showing the extent of the commons or waste lands comprised in the Manor of Belstone nor any verbal description of those lands. The Auction Particulars of the Sale of 15th October 1889 do however include a Plan entitled "Lands in the Parish of Belstone the property of C B Woolcombe Esq", which shows (in addition the eleven specific Lots) virtually the whole of the land originally comprised in this Register Unit surrounded by a brown verge line.

This gives rise to two questions. The first is why, if the Misses Newcombe now wish to rely on this Plan as showing their title to West Cleave (which is within the brown verge line) they were prepared at the time of the hearings before Mr Commissioner Baden Fuller in 1983 to concede ownership of the greater part of the Register Unit (the part hatched red and marked A on the Register Map) to H R H the Prince of Wales, notwithstanding that this was also within the brown verge line. The second question which arises is why West Cleave was expressly excepted from the original application for registration made by the Misses Newcombe.

Mr Woodward explained that originally there had been two Register Units, CL.73 and CL.74, which were later consolidated, as a result of which an error had been made in registering ownership. Mr Woodward produced a copy of the document dated 4th July 1983 signed by the Misses Newcombe conceding the ownership of the land hatched red and marked A on the Register Map in favour of H R H the Prince of Wales, and claiming ownership of West Cleave. This document was produced to Mr Commissioner Baden Fuller in 1983, and is referred to at page 4 and in Part IV of the First Schedule to his Decision dated 2nd November 1983. Mr Woodward also produced to me a letter dated 29th December 1989 from the Office of the Acting Land Steward of the Duchy of Cornwall addressed to Mr Woodward confirming that the Duchy of Cornwall do not claim ownership of West Cleave.

Miss Dorothy Newcombe was sworn and gave evidence that she was 81 years of age and had inherited the Lordship of the Manor of Belstone jointly with her sister. They had always taken an active interest in the commons. She walked the commons quite often, and had done so since she was 7 or 8. They especially walked over West Cleave, which was the nearest part from home. They walked from Cleave House (which is shown on the Register Map towards the north-east corner of West Cleave). There was no boundary between West Cleave and the part of the common of which the Duchy was now registered as owner. There had never been any claim by the Duchy to West Cleave.



The hearing before me was advertised in the usual way, and no other claimants to ownership of West Cleave came forward. Whilst I do not fully understand the answers to the two questions raised above, the claim of the Misses Newcombe to West Cleave is uncontested.

On this evidence I am satisfied that the Misses Newcombe are the owners of the land, and I shall accordingly direct the Devon County Council as registration authority, to register them as the owners of the land under section 8(2) of the Act of 1965.

I am required by regulations 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 2<sup>nd</sup> day of February 1990

Mati Rott.

Commons Commissioner