



COMMONS REGISTRATION ACT 1965

Reference Nos. 206/D/735
206/D/736

In the Matter of four additional pieces
of land called Clodgy Moor, Paul,
Penwith District, Cornwall

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos. 1 and 2 in the Rights Section of Register Unit No. CL.248 in the Register of Common Land maintained by the Cornwall County Council and is occasioned by Objection No. X.252 made by Mr Eric Charles Harvey and noted in the Register on 31 March 1971.

I held a hearing for the purpose of inquiring into the dispute at Camborne on 13 May 1980. At the hearing Mr Harvey attended in person, and Cornwall County Council as registration authority were represented by Mr D M Gill their commons registration officer.

Clodgy Moor is an irregularly shaped tract of rough ground on the OS map (1/10,560) so called without any precision as to its exact boundary. Regarded as being or including the lands in Register Unit Nos. CL.199, CL.248, CL.460 and CL.484, it extends for about a mile from Kerris on the northwest to the B3315 road (Penzance to Lands End by the coast) on the southeast. The greater part of the said tract is within the CL.199 and CL.248 lands (each being irregularly shaped and of about equal area). The CL.460 and CL.484 lands comprise a number of pieces all very small when compared with the rest of the tract and their registrations have been avoided pursuant to my decision dated 5 June 1979. (reference 206/D/650, 651 and 674 to 677).

Mr Gill said that the CL.199 registrations have become final.

The CL.248 Land Section registration (with which I am concerned) was made on the application of Mr W B Picard, and there is a note of an application by the Cornish Naturalist Trust Limited. Of the pieces so registered one ("the Disputed Strip") is about $\frac{2}{3}$ of a mile long from northwest to southeast. The 2 registrations in the Rights Section were made on the application of (1) Mr R E Pengelly, and (2) Major S E Bolitho and Barclays Bank Limited as Trustees for the Bolitho Trust. The grounds of Objection are: "That the land marked around with red ink is not common land but is owned by me"; the enclosed plan shows so marked an approximately rectangular area with sides of between about 100 and 250 yards, being part of the Disputed Strip.

I have a copy of a letter dated 25 July 1973 to the County Council by Mr J E G Scobie as managing agent of the Bolitho Trust and a copy of a letter received on 8 June 1976 by the County Council from Cornwall Naturalist Trust Limited ~~for~~ which in effect ~~is~~ ^{is} accept^s Objection No. X.252.

Mr Harvey in the course of his oral evidence at the hearing said (in effect):- The land mentioned in his Objection is a field of rough grazing. This field is part of



his farm (Rose Cot Farm) separated from the rest of Clodgy Moor by a stream. He had spoken to Mr Picard who agreed that this field was not included in the land intended to be registered by him (witness produced a letter dated 19 January 1979 from Mr Picard to this effect).

As I read the Register, the registration made on the application of Mr Pengelly never extended to Mr Harvey's field. But however this may be in the absence of any evidence ~~against~~ the registration of Mr Pengelly ~~of anyone else~~, on the evidence of Mr Harvey and on the agreement above mentioned of the Bolitho Trust, the Naturalist Trust and Mr Picard, my decision is that the Objection succeeds.

Subject to giving effect to the Objection, there is no reason why registrations in all other respects ~~can~~ stand; in the absence of the Objection they would have become final under Section 7 of the 1965 Act. Accordingly I confirm the registration at Land Section No. 1 with the modification that there be removed from the register the land mentioned in the grounds of Objection No. X.252 made by Mr E C Harvey, and I confirm registrations at Rights Section/Nos. 1 and 2 without any modification save such as is consequential on the removal of the said land.

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 6th — day of June 1980

C. A. Brian Fuller

Commons Commissioner