



COMMONS REGISTRATION ACT 1965

Reference Nos 206/D/320
to 324 inclusiveIn the Matter of Greenbarrow Downs,
Blisland, North Cornwall District,
Cornwall.DECISION

These disputes relate to the registrations at Entry Nos 1, 4, 6, 9, 13, 14, 18, 23 (formerly 7), 26 (formerly 19), 30 (formerly 10), 31 (formerly 15), 33 (formerly 2) and 34 (formerly 5) in the Rights Section and at Entry Nos 1 and 2 in the Ownership Section of Register Unit No. CL 144 in the Register of Common Land maintained by the Cornwall County Council and are occasioned as regards the Rights Section registrations by Objection No. X1273 made by Mr Charles Cawrse and Objections Nos X1371 and X1372 made by Blisland Commoners Association and all noted in the Register on 7 December 1972 and as regards the Ownership Section registrations by these registrations being in conflict.

I held a hearing for the purpose of inquiring into the disputes at Bodmin on 2 and 3 December 1980. At the hearing (1) Blisland Commoners Association were represented by Mr V Leese solicitor of Stephens & Scown, Solicitors of St Austell; (2) Mr Cedric Charles Cawrse, Mrs Daphne Elaine Runnalls and Mrs Dorothy Mindy Church as executors of Mr Charles Cawrse the said Objector were represented by Mr C A Key, solicitor of Harvey & Sproull, Solicitors of Bodmin; (3) Mr William Alfred Church who was the applicant for the Rights Section registration at Entry No. 18 and for the Ownership Section registration at Entry No. 1 was also represented by Mr Key; (4) Mr A C Fairman as successor through Mrs M K W Williamson of Miss M E Rayner on whose application Rights Section registration at Entry No. 6 was made, attended in person and as representing his wife Mrs E M Fairman; (5) English Clays Loverings Pochin & Company Limited ("ECLP") on whose application the Ownership Section registration at Entry No. 2 was made, were represented by Mr I Lamond solicitor of Stephens & Scown, Solicitors of St Austell.

The land ("the Unit Land") in this Register Unit is a tract of about 110 acres. The registrations in the Rights Section are summarised in the first and second columns of the Schedule hereto. The Unit Land adjoins the south boundary of a tract of about 360 acres called Manor Common which is the land in Register Unit CL 183. The Ownership Section registration at Entry No. 1 (Mr Church) is of all the Unit Land; that at Entry No. 2 (ECLP) is of the part northwest of the line A-B and C-D as drawn on the Register map, being about $\frac{1}{3}$ of the whole.

On the first day of the hearing Mr Key said that Objection No. X1273 was withdrawn. I then considered the disputed Rights Section registrations; about these oral evidence was given by Mr W M Rowe who is now and has been since 1960 the Secretary of Blisland Commoners Association. His oral evidence and the other information which I have about the rights is summarised in the third column of the schedule hereto. Of this information I mention particularly that on the same day before this hearing in the course of proceedings relating to Shallow Water Common, Register Unit No. CL 187 reference 206/D/395-400, Mr E C Cornelius on whose



application the registration in Rights Section Entry No. 16 relating to this CL 143 land was made, was represented by Mr M C Culver solicitor of Coningsbys, Solicitors of Bodmin; at this CL 187 hearing Mr Leese who then (as now) represented Blisland Commoners Association and Mr Culver agreed that at the date of registration the number of animals then appropriate to be registered would have been 11 units but they differed as the effect of a subsequent disposition by Mr Cornelius of part of the land to which such right was at the date of registration attached; however they were agreed that my decision in relation to this Greenbarrow Downs L 144 land should as regards this difference be the same as my decision whatever it might be in relation to the Shallow Water CL 187 land. My decision in relation to that land is of even date with this decision and is to the effect that the subsequent disposition is irrelevant; such decision so far as it relates to this difference should be treated as repeated herein. As regards such of the other Rights Section registrations summarised in the Schedule which have not as therein stated become final, I consider that in the absence of any other evidence about them, I ought to act on the evidence and information so summarised.

Entry No. 25 (formerly 12) has become final so I can give no decision about it; however I suggest from the consideration of the County Council as registration authority they may be able to correct the error pointed out by Mr Rowe (see the third column of the schedule hereto) which seems to me to be of a clerical character. Entry No. 35 (formerly 25) appears to have been made in extraordinary circumstances, and because it is not the subject of any reference to me I can give no decision about it; however I understood from Mr Rowe that there was some agreement to the effect that it should not have been made and it may be therefore that the County Council as registration authority can continue to treat the circumstances as extraordinary and give effect to this agreement by cancelling it.

For the reasons set out above, I refuse to confirm the registrations at Right Section Entry Nos 4, 23, 26 and 33; I confirm without any modification the registrations at Rights Section Entry Nos 30 and 34; and I confirm with the modifications set out in the fourth column of the Schedule hereto the registrations at Rights Section Entry Nos 1, 6, 13, 14, 18 and 31.

Before the second day of the hearing I heard evidence given on behalf of ECLP and Mr Church in support of the registrations made on their application in the Manor Common CL 183 Ownership Section. After hearing this evidence, I dealt with the Ownership Section registrations in this Register Unit No. CL 144. Mr Key and Mr Lamond were agreed that the evidence so given shall be treated as given in these proceedings. Mr Church in these proceedings gave further oral evidence.

For the reasons given in my decision of even date relating to Manor Common CL 183 (reference Nos 206/D/359 to 370) I consider that the information and documents produced by Mr Church in the said CL 183 proceedings is not evidence of his ownership; in my opinion the evidence he gave in the proceedings adds nothing of significance to that he had said in the CL 183 proceedings. I consider that the documents and information produced on behalf of ECLP are for the reasons given in such even date decision are evidence of their ownership.



Upon the considerations set out in such decision which should be regarded as repeated herein, I refuse to confirm the registration at Ownership Section Entry No. 1 and I confirm the registration at Ownership Section Entry No. 2 without any modification.

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.

SCHEDULE

(Rights Section registrations)

(1) Entry No. (former No.)	(2) Applicant: land to which right is attached: animals, c = cattle or cows, h = horses, p = ponies, s = sheep; t and/or p = right to cut turf and/or peat	(3) Evidence and other information available	(4) Decision
1	Mr Ernest Rowe; Greenbarrow Farm; 25c	R: He had been told that Mr E Rowe is now deceased and that his two sons Mr Hedley Rowe and Mr Leslie Rowe, present earlier in the day, were agreeable to 15 units	Confirm with modification for "25 head of cattle" substitute "15 head of cattle or 8 ponies or 75 sheep
4	Mr Robert John Lloyd Hoskin; Brake Farm; 15c or 7p or 75s; p or t	R: This farm is in St Breward and is now farmed by Mr Guy Old: both he and Mr Hoskin agreed that they would not cross Blisland Parish boundary	Confirmation refused
6	Miss Minnie Eileen Rayner, South Penquite; 18c or 9p or 90s	R: 5 units would be appropriate. Mr Fairman agrees.	Confirmation with modification for "18 head of cattle or 7 ponies or 90 sheep" substitute "5 head of cattle or 3 ponies or 25 sheep".



13	Mr Eric Ronald Cornelius; Moss Farm; 70c and 65h and 200s	Number agreed in the course of hearing on 2 December 1980 re Shallow Water CL 187; as to suggested apportionments see decision about CL 187	Confirm with modification for "70 cows and 65 horses and 200 sheep" substitute "11 head of cattle or 6 ponies or 55 sheep"
14	Mr Archelaus Clifford Thomas Runnals; Treswigg; 50c and 60s and 2p; t or p; take fish	R: present owner is Mr Cooper; he agrees 13 units	Confirm with modification for "50 head of cattle and 60 sheep and 2 ponies" substitute "13 head of cattle or 7 ponies or 65 sheep"
18	Mr William Alfred Church: Cassacawn 7c or 7p or 35s; part	R: Agreed at 5 units. Mr Key agrees	Confirm with modification for "7 head of cattle or 7 ponies or 35 sheep" substitute "5 head of cattle or 3 ponies or 25 sheep"
23 (7)	Mrs Rhoda Irene Rickard: Lease Farm, 4c or 2p or 20s (part of Unit Land)	R: no rights ever exercised: Lease Farm is in a different parish	Confirmation refused
24 (11)	Mr William Thomas George Ford; Bradford (part); 5c or 2p or 12s; p or t; take fish; tree loppings etc FINAL	R: correct	No decision requisite



25 (12)	Mr William Thomas George Ford; Bradford (another part); 2c or 1p or 4s; p or t; take fish; tree loppings etc FINAL	R: not correct because column 5 should be as it was at Entry No. 12	No decision possible as registration is final, but County Council should be asked to make the alterations mentioned in column 3 on the grounds that a clerical error was made when transferring this registration from No. 12 to No. 25
26 (19)	Mr Alfred Robert Walkey and Mrs Florence Ann Walkey; Casehill; 60c and 12h or 300s; t or p	R: No rights exist; the farm is in the parish of St Breward	Confirmation refused
28 (3)	Mrs Monica Pethybridge; Lower Bradford Farm; 11c or 51s (part of Unit Land) FINAL	R: correct	No decision requisite
30 (10)	Mrs Violet Rhoda Raymont; Carbaglet; 8c or 4p or 40s; t or p	R: correct registration in question by reason only of Objection of Mr Cawrse now withdrawn	Confirm without any modification
31 (15)	Mr Michael Sidney Warwick Rich; Durfold Farm; 12c and/or 6h or p and/or 60s	R: "and/or" is incorrect	Confirm with modification that for "and/or 6 horses or ponies and/or 60 sheep" substitute "or 6 ponies or 60 sheep"



33 (2)	Mr Neil Sidney Davidson; South Merrow Farm; 40c or 120s; t or p; tree loppings etc.	R: No rights exist as the common adjoining this farm does not extend to the Unit Land	Confirmation refused
34 (5)	Mr Arthur Leslie Rowe; Lanxon Farm; 15c or 7p or 75s; p or t	R: No objection from Commoners Association; registration in question by reason of objection of Mr Cawrse, now withdrawn	Confirm without any modification
35 (20)	Mr William John Carter; Candra; 45c or 45p or 225s (in the register described as "an omission")	R: Registration should be cancelled	No decision by me on these proceedings is possible, because no reference

Dated the 16th day of March - 1981

a. a. Baden Fuller

Commons Commissioner