



In the Matter of Kerrowe Common,
Zennor, Penwith District, Cornwall

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and in the Rights Section of Register Unit No. CL 662 in the Register of Common Land maintained by the Cornwall County Council and are occasioned by Objections Nos X.671 and X.672 made by Mr Thomas John Donald Lawry and noted in the Register on 23 February 1972 and by Objections Nos X.1445 and X.1446 made by Mr James Arthur Mann.

I held a hearing for the purpose of inquiring into the dispute at Camborne on 16 May 1979. At the hearing Mr Lawry was represented by Mr J D Jacoby solicitor with Borlase & Venning, Solicitors of Penzance.

The land ("the Unit Land") in this Register Unit is in two pieces which join at a point on the road from Penzance by way of New Mill on the south to Zennor by way of Trewey Hill on the north. The pieces are about 500 yards ("the North Piece") and 300 yards ("the South Piece") long from north to south. At Rights Section Entry No. 1 has been registered on the application of Mrs C P Hyslop a right attached to Bridge Cottage, Zennor to graze 5 head of cattle, 2 ponies and 2 geese and to cut and take turf over the part of the North Piece to the east of the footpath therein mentioned and over the whole of Register Unit CL 664, that is (as I read the Register map) over a small part of the North Piece, shown on such map as part of Trewey Common. The grounds of the Objections are (in effect): (a) No. X.671 (Mr Lawry) that the South Piece was not common land at the date of registration; (b) No. X.445 (Mr Mann) that the part of the North Piece west of the road was not common land at the date of registration; (c) No. X.672 (Mr Lawry) that the right claimed by Mr Hyslop does not extend over the South Piece; and (d) No. X.1446 that the said right does not extend over the said part of the North Piece.

Mr W F Lloyd on whose application the Land Section registration was made, in a letter dated 27 March 1978 said that Mrs Hyslop, his mother now aged 90, had asked him to write in connection with her registration of rights on CL 644 Trewey Common and that she had sold Bridge Cottage to Mr and Mrs Wigley who had changed the name to Old Mill House; and in a letter dated 8 May 1979 said of the Unit Land and the CL 644 Trewey Common (stating the effect of his letter shortly) that when a boy he had seen cattle and horses grazing there, and his father had said that before 1917 (when his father rented Bridge House) the family living there had exercised rights to graze cattle and to cut fuel.

Mr Lawry who is 49 years of age in the course of his evidence produced a conveyance dated 12 June 1968 of Higher Kerrowe Farm by Mr J T Lawry (his father) to himself, and a conveyance dated 11 August 1942 of the Farm by Mrs G M Bennett and another to his father, said that the South Piece was part of the Farm, that his father had lived there since 1936, and that nobody had grazed the South Piece except his father and himself.

On the above evidence of Mr Lawry and there being no evidence to the contrary, my decision is that Objection No. X.671 succeeds.



As regards Objections Nos X.145 and X.146 (Mr Mann) the remainder of the North Piece not mentioned in or subject to any Objection no evidence was offered at the hearing. But having regard to the considerations recorded in my decision of even date relating to the CL 644 Trewey Common (reference 206/D/643-645), I conclude that these registrations should not have been made at all.

For these reasons I refuse to confirm the registrations.

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 5th —

day of June — 1979

a. a. Baden Fuller

COMMONS COMMISSIONER