



In the Matter of Parcels of Land additional to the tract of land known as St Breward Common and Rough Tor Downs, and also part of Hamatethy Commons, St Breward, Cornwall

DECISION

These disputes relate to the registrations at Entries in the Land Section and the Rights Section of Register Unit No. CL 195 in the Register of Common Land maintained by the Cornwall County Council.

The Entries and the Objections which occasion the disputes are as follows:

<u>Land Section</u>	<u>Objections</u>		
	<u>No.</u>	<u>Objector</u>	<u>Date of noting in Register</u>
Entry No. 1	X336	Mr M J Fitzpatrick	4 November 1970
Entry No. 1	X358	Mr R L Piper	4 November 1970
Entry No. 1	X388	Mr A Blackburn	26 November 1970
Entry No. 1	X375	Mr J C Old	11 December 1970

<u>Rights Section</u>	<u>Objections</u>
All subsisting entries by applicants (other than Entry No. 85)	The four Objections specified above

	<u>No.</u>	<u>Objector</u>	<u>Date of noting in Register</u>
Entries No. 25, 32, 33, 42, 56, 57, 62, 63, 64, 66, 68, 81, 82	X289	Hamatethy Commoners Association Captain R H Hall	16 September 1970
Entries No. 18, 38, 78	X294	Hamatethy Commoners Association Captain R H Hall	

2. I held a hearing for the purpose of inquiring into the disputes at Bodmin on 11 July 1979. The hearing was attended by (1) Mr D M Gill, of the Registration Authority (2) Mr H E Prust, Solicitor, on behalf of Mr R L Piper (3) Mr G I Chisholm, Solicitor on behalf of Mr J C Old, Mr A Blackburn and Mr W J Carter (Right No. 66) (4) Mr J Keast Surveyor, on behalf of Mr and Mrs A F Walkey (Right No. 64) (5) Mr W G Leworthy (Right No. 25) Mrs M A Hall (Right No. 61 and successor to Captain R H Hall), Mr C J Greenway (Right No. 85 and Chairman of Hamatethy Commoners Association) (6) Mr R Bailey, Solicitor on behalf of Cornwall Commoners Association (the applicants for registration in the Land Section).

3. The Objections to Entry No. 1 in the Land Section related only to parts of the land in question ("the Unit land"), those parts being shown on the plans attached to the Objections. Objection X336 by Mr Fitzpatrick and X358 by Mr Piper related to the same part: it appears that they owned this part in half shares, that Mr Fitzpatrick is now deceased and the successors to this share are Mr Piper's son and daughter.



The parties present or represented all accepted these Objections, and accordingly I shall refuse to confirm the registration at Entry No. 1 in the Land Section so far as it comprises the three parts to which these Objections relate. The consequential Objections to the entries in the Rights Section equally related only to the three parts and do not call for further consideration.

4. Objection No. X289, was on the grounds that the right should comprise fewer animals, the number of animals acceptable to the Objectors being stated. In two cases - Entries No. 33 and 82 the Objection was withdrawn and accordingly I confirm these registrations. As to the remainder, I confirm the registrations with the modifications set out in the Schedule below: the modifications are either the result of agreement between the applicant and the Objectors or give effect to Objections where there had been no agreement but the applicant did not appear and there was no evidence before me to support the right as claimed.

5. Objection No. X294 was on the grounds that the rights did not exist at all. In none of the three cases did the applicant appear: as regards Entry No. 30 (now 78), the Objectors agreed to withdraw the Objection and accordingly I confirm the registration. In the case of the other two Entries (Nos. 18 and 38), the Objection was maintained and in the absence of evidence to support the rights, I refuse to confirm the registrations.

<u>Rights Entry No.</u>	<u>The Schedule</u> <u>Modification of particulars in column 4</u> <u>of Rights Section</u>	<u>Other Modifications</u>
25	For the figures 28,28 and 140 substitute the figures 25,25 and 125	
32	For the figures 2,2 and 10 substitute the figures 1,1 and 5	
42	For the figures 2 and 10 substitute the figures 1 and 5	
56	For the figures 11,11 and 55 substitute the figures 10,10 and 50	
57	For the figures 14,14 and 70 substitute the figures 12,12 and 60	
62	For the figures 14,70 and 14 substitute the figures 12,60 and 12	
63	For the figure 12 substitute the figure 3	
64	For the figures and words "60 cows and 12 horses or 300 sheep" substitute "31 cattle or 31 Ponies or 155 sheep"	In particulars of land t which right is attached column 5 modify so as to refer to Casehill, St Breward
66	For the figures 45,45 and 225 substitute the figures 11,11 and 55	Bodmin comprising the la within the pink verge lines on the OS Map produced at the hearing
68	For the figures 110,550 and 110 substitute the figures 58,290 and 58	
81	For the figures 140,140 and 700 substitute the figures 129,129 and 645	



707

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

20 August

1979

L J Morris Smith

Commons Commissioner