



In the Matter of Porthallow Beach, St Keverne,
Cornwall

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry No. 1 in the Rights section of Register Unit No CL 372 in the Register of Common Land maintained by the Cornwall County Council and ~~also~~ occasioned by Objection No. X 176A made by the County Council and noted in the Register on 25 June 1973.

I held a hearing for the purpose of inquiring into the dispute at Truro on 13 June 1979. The hearing was attended by Mr Gill of the Registration Authority, and Mr R J Stillwell, Solicitor on behalf of Mr J Richards.

The registration in the Land Section was made in consequence of an application by Mr J Richards to register a right of common, stated to be attached to Tregaminion Farm, the particulars of the right being "to collect and take away seaweed over the whole of the land comprised in this register unit". The County Council's objection was on the grounds that the land was not common land at the date of registration.

The evidence adduced by Mr Stillwell consisted of three affidavits, sworn by Mr J Richards, Mr C T Rickard and Mr C Tripp. I am satisfied by this evidence, which was not challenged by Mr Gill, that a prescriptive right to take seaweed is established. This however is subject to the question whether such a right is a registrable right of common.

A right of common is in the nature of a profit à prendre, and has been defined as a right to take or use some portion of that which another man's soil naturally produces. There was no evidence before me as to the quantity of the seaweed which was the product of the beach, but it appeared from Mr Rickard's affidavit that large quantities appeared on the beach when there was an offshore wind, and I think it must be taken that the greater part of the seaweed on the beach was not the natural product of, in the sense of growing on, the beach. I was not referred to, nor have I found, any authority on the question whether seaweed blown or washed in from the sea can be the subject matter of a right of common, or of a profit à prendre: but in *Beckett v Lyons* 1967 Ch. 449, it was held by Harman and Winn L.JJ. that a right to sea-washed coal i.e. coal washed up on to the foreshore, was a profit à prendre: if so, I see no reason why the same should not be so of seaweed or why it should not be the subject-matter of a right of common, and in my opinion the right registered has been made out *and the registrations should be confirmed.*

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

21st August

1979

L. J. Morrison Smith
Commons Commissioner