



In the Matter of The Beach and Sand Dunes, Mawgan Porth, St.
Mawgan-in-Pydar, Cornwall

DECISION

These disputes relate to the registration at Entry No 1 in the Land Section of Register Unit No. CL.680 in the Register of Common Land maintained by the Cornwall County Council and are occasioned by Objection No. X618 made by the former St Austell Rural District Council, Objection No. X649 made by Mr P A Wailes, Objection No. X892 made by Mr J M Moore, and Objection No. X944 made by Mr S D Young-Jamieson and all noted in the Register on 25 February 1972.

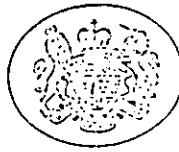
I held a hearing for the purpose of inquiring into the dispute at Bodmin on 24 June 1980. The hearing was attended by Mr W A Phillips, Solicitor, on behalf of Mr Moore, by Mr L M S Follett, Solicitor, on behalf of Mr Young-Jamieson, and by Mr E Pate, Solicitor, on behalf of the Restormel Borough Council, the successor authority of the former Rural District Council and Mr L M Weaver, the applicant for the registration.

Mr Weaver sought to support the registration by proving that farmers and landowners in the parish of St. Mawgan-in-Pydar had the right to take sand, hedging stone, road shingle and seaweed from the land comprised in the Register Unit. There is, however, no entry in the Rights section of the Register Unit, so that if any such right formerly existed, it has been lost by non-registration.

In the alternative, Mr Weaver argued that the land comprised in the Register Unit was Waste Land of a Manor. Mr Weaver said that he believed that the land was the property of four owners, one of whom, Mr Young-Jamieson, he believed to be lord of the Manor. It appears from the plan attached to Objection No. X944 that Mr Young-Jamieson is the owner of only a small part of the land. When I pointed out to Mr Weaver that even if he could prove that Mr Young-Jamieson was the lord of the manor, that would suffice only to secure the confirmation of the registration in so far as it related to the small area in the ownership of Mr Young-Jamieson, Mr Weaver said he did not wish to proceed, if that was all that he could achieve.

In these circumstances I refuse to confirm the registration.

Mr Phillips and Mr Follett applied for orders for costs in favour of their respective clients. Mr Weaver is a local resident with no proprietorial interest in this matter, and he made the registration in order, as he mistakenly thought, to safeguard the interests of others, whom he described in a letter to the Borough Council as "locally of the public". I accept that in so doing Mr Weaver was acting in good faith. It is not the practice of the Commons Commissioners to order such persons to pay costs unless they have behaved in some way unreasonably in the conduct of the proceedings, and I do not consider that Mr Weaver falls into this category. I shall therefore make no order as to costs. In so deciding I am not without sympathy for the Objectors, who have been put to expense in defending their interests, but this is a hazard to which they and other owners of land have been exposed by the provisions of the Commons Registration Act 1965.



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

21st

day of

July

1980

Chief Commons Commissioner