



COMMONS REGISTRATION ACT 1965

Reference Nos 206/D/827-828

In the Matter of Treskillling Moor,  
Luxulyan, Cornwall (No.1)

DECISION

These disputes relate to the registration at Entry No 1 in the Land section of Register Unit No.CL.627 in the Register of Common Land maintained by the Cornwall County Council and are occasioned by Objection No. X1150 made by Tehidy Minerals Ltd and Objection No.X1437 made by Mr P S Rashleigh and both noted in the Register on 4 December 1972.

I held a hearing for the purpose of inquiring into the dispute at Bodmin on 25 June 1980. The hearing was attended by Mr E G Church, the applicant for the registration at Entry No 1 in the Rights section of the Register Unit, and by Mr J M Trott, Solicitor, on behalf of Tehidy Minerals Ltd. There was no appearance by or on behalf of Mr Rashleigh or on behalf of the Ramblers' Association, the applicant for the registration.

Mr Church is the owner of Lestoon Farm, which includes a small area of land which was originally included in the Register Unit, but which has been removed from it in consequence of an Objection made by Mr Church.

The area of land so excluded can be entered by a gate from other land belonging to Mr Church and there is no fence dividing it from the remainder of the land comprised in the Register Unit. Mr Church's registration does not extend to the land to the South and West of the red line C-D on the Register Map, so that land must be excluded from the Register Unit for want of evidence that it is properly included.

Mr Church has owned Lestoon Farm since 1961. Before then it was tenanted by members of the Chapman family for 80 years. Mr Church and Mr Chapman, the grandson of the first Chapman at Lestoon, gave evidence that cattle from Lestoon can get onto the excluded land through a gate and can then stray onto the land comprised in the Register Unit. This is largely covered with trees, but there is some grazing on it. Mr C L Tonkin of Treskillling Farm has an agreement with the owners of the land for grazing on it and he has objected to Mr Church's cattle straying onto it.

It appears from the evidence that Mr Church has not turned his cattle out onto the land the subject of the dispute. His cattle have strayed onto the land from Lestoon Farm because there is no fence between Mr Church's land and the land the subject of the dispute. This in my view is insufficient to show that there was a right attached to Lestoon Farm to graze cattle on this land when Mr Church bought the farm in 1961.

For these reasons I refuse to confirm the registration.

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

21<sup>st</sup>

day of

July

1980

  
 Chief Commons Commissioner