



COMMONS REGISTRATION ACT 1965

Reference Nos.206/D/55-56

In the Matter of Trewellard Common  
(or Carne Hill), Pendeen, Cornwall (No.2)

DECISION

These disputes relate to the registration at Entry No.2 in the Rights Section of Register Unit No.CL 493 in the Register of Common Land maintained by the Cornwall County Council and are occasioned by Objection No.X 948 made by Mrs J.E.Calvert and noted in the Register on 1st May 1972 and by Objection No.X 1015 made by Mrs M.Trembath and noted in the Register on 17th July 1972.

I held a hearing for the purpose of inquiring into the disputes at Truro on 11th March 1975. The hearing was attended by Mr D.J.Thurley, the applicant for the registration, Mr D.Pepperell, solicitor, on behalf of Mrs Calvert, and Mr P.Trembath, son of Mrs Trembath.

Mr Thurley informed me that he did not wish to pursue his application in so far as it related to the part of the land comprised in the Register Unit lying to the east of the red line A-B on the Register Map, which was the subject of Mrs Calvert's Objection.

This leaves for consideration Mrs Trembath's Objection. Mr Thurley occupies the smallholding to which the right of grazing is registered as attached as a tenant of Mrs Trembath. He gave evidence, which was not challenged, that during the nine years of his tenancy he had grazed goats, geese, pigs, ducks, chickens, and a pony on the land in question. Mrs Trembath, on the other hand, registered a right to graze 50 cows on this land as attached to a large area within the blue verge lines on the supplemental map bearing the number of her registration. The land shown on the supplemental map includes the smallholding of which Mr Thurley is the tenant. In so far as they relate to cattle the two registrations overlap, but Mrs Trembath has not registered the other rights registered by Mr Thurley.

Since Mr Thurley's evidence relates to a period of only nine years, it is insufficient to support a claim to have acquired the rights claimed by prescription and there is no documentary evidence of any kind.

In these circumstances I refuse to confirm the registration.

Mr Pepperell asked for an order for costs against Mr Thurley: Mr Thurley said that he had instructed his solicitors on Friday, 7th March to inform Mr Pepperell's firm that the application would not be pursued in so far as it was affected by Mrs Calvert's Objection, but that intimation had not reached Mr Pepperell before he left to attend the hearing. In my view Mr Thurley left the announcement of his change of front unreasonably late and I shall



-2-

order him to pay Mrs Calvert's costs to be taxed on County Court Scale 3.

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 **29~~th~~** day of April 1975

A handwritten signature in cursive script, appearing to read "G. D. Lapinskas".

Chief Commons Commissioner