



COMMONS REGISTRATION ACT 1965

Reference Nos.206/D/53-54

In the Matter of Trewellard Common,  
St. Just, Cornwall (No.1)

DECISION

These disputes relate to the registration at Entry No.1 in the Rights Section of Register Unit No.CL 699 in the Register of Common Land maintained by the Cornwall County Council and are occasioned by Objection No.X 996 made by Mrs M.Cuddy and noted in the Register on 24th May 1972 and by Objection No.X 1012 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, and by Mr P.Trembath, son of Mrs Trembath. Mrs Cuddy did not appear and was not represented.

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 has not, however, registered any rights over the land comprised in this Register Unit, and Mr Trembath said that he did not wish to pursue the Objection in respect of this land.

This non-prosecution of the Objections by Mrs Cuddy and Mrs Trembath gives rise to a position of some difficulty. My normal practice is to treat an objection which is not prosecuted against an applicant who has appeared as not having been made and to confirm the registration without modification, but to do that in this case would be to attach to the smallholding a right of common which the owner has not claimed. On the other hand, to delete the smallholding from the registration would leave Mr Thurley with a right of common in gross, which he has not claimed and which is not supported by the evidence. In these somewhat unusual circumstances I have come to the conclusion that my proper course is to 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 15<sup>th</sup> day of April 1975

Chief Commons Commissioner