



COMMONS REGISTRATION ACT 1965

Reference Nos: 209/D/306

209/D/307

In the Matter of Peter Tavy Great Common,
part Smeardon Down, Cudlipptown Down,
Cudlipptown Green, Smith Hill, Wapsworthy Common,
Standon Down, Nattor Down, Willsworthy,
part Blackdown, Willsworthy Pound, the Combe
and Little Common, all in Peter Tavy,
West Devon District, Devon

THIRD DECISION

This third decision is supplemental (1) to my decision dated 7 October 1983 and made by me after a hearing at Plymouth in June and October 1982 about the registrations in the Land Section and the Rights Section of Register Unit No. CL194 in the Register of Common Land maintained by Devon County Council; and (2) to my second decision dated 23 January 1986 occasioned by my having been told that my said 1983 decision decided nothing about the Rights Section registrations at Entry Nos. 166, 232, 233 and 234.

My said 1986 second decision dealt, and this my third decision deals, with and only with the following Rights Section registrations:- No. 166 made on the application of Ewart Sydney Rice of rights attached to part Hilltown Farm, Peter Tavy, of turbarry, take stones, cut bracken and rushes, and graze 10 cattle 40 sheep; No. 232 made on the application of Michael Rhys Hardy Allen and Rosemary Carol Glynne Allen of rights attached to Shortlands, Whitchurch of turbarry, estovers and graze 40 cattle 20 ponies 100 sheep; No. 233 made on the application of Robert Douglas Sweet of rights attached to Downwell Pastures, whitchurch of turbarry, estovers and graze 50 cattle 30 ponies 150 sheep; and No. 234 made on the application of George Villett Rolleston of rights attached to Heckwood Whitchurch of turbarry, estovers, and graze 80 cattle 50 ponies 200 sheep.

The basis of my said 1986 second decision was (as I stated in it) that the said four registrations were mentioned in the first paragraph of my said 1983 decision and not at all elsewhere in it, that they were not within the Rights Section Objections Nos. 396 and 397 made by HRH Charles Prince of Wales, Duke of Cornwall and were not within Objections Nos. 439 and 440 made by the Peter Tavy Commoners Association, and were only in question because by section 5(7) of the 1965 Act they were in question consequentially on the Land Section Objections Nos. 55 made by the Secretary of State for Defence, No. 189 made by Mr A J Alford, No. 436 made by Mr Frank W Collins and Nos. 479 and 480 made by Mr Cyril George Abel. On this basis, for the reasons set out at page 17 of my 1983 decision I CONFIRMED the said four registrations modified as in my said 1986 second decision specified. But because such decision was made more than 3 years after my 1982 hearing, I gave liberty to apply to set it aside.

I have received letters dated 29 January 1986 from Ward & Chowen, Surveyors, Valuers, Auctioneers and Estate Agents of Tavistock written on behalf of the Peter Tavy Commoners and Messrs F W Collins and A J Knapman (in effect) objecting to my confirmation of the said four registrations.



I have therefore once again looked at my said 1983 decision, and I now see that the basis on which I wrote my 1986 second decision was wholly mistaken, in that in my said 1983 decision the said four registrations are not only mentioned in the first paragraph but are also mentioned in Part II of the Second Schedule being therein stated to be within Peter Tavy Commoners' Association Objection No. 439; further I have looked at my copy of such Objection and Nos. 166, 232, 233 and 234 are specified in the list marked A attached to it.

Accordingly I wholly set aside and cancel my said 1986 second decision and for it substitute the following.

I can find nothing in my notes and have no recollection of anything being said at the hearing about any of these four registrations particularly. In my opinion they are all within the reasoning set out in the last two paragraphs of page 16 and the first paragraph of page 17 of my said 1983 decision, and accordingly my decision now is: I REFUSE TO CONFIRM the Rights Section registrations at Entry Nos. 166, 232, 233 and 234 subject to the liberty to apply as set out on pages 16 and 17 of, and in paragraph 8 of the Fourth Schedule to my said 1983 decision, that is to say: any person who applied for any of the said four registrations and his or her successors in title are at liberty to apply to set aside this my third decision, such application to be made within THREE MONTHS of the date of on which notice of this third decision is given to the persons entitled thereto, and so that application may be made to a Commons Commissioner to enlarge this three months period. Any application under this liberty should be made in writing (it may be by letter) and should be sent to the Clerk of the Commons Commissioners in London. Any would be applicant should attend to the other directions and observations in the said paragraph 8 of the Fourth Schedule.

I regret any trouble or expense which any person may have by reason of the omission of the said four registrations from the list in paragraph 4 of the said Fourth Schedule (Decision table) to my 1983 decision or by reason of the mistaken basis of my said 1986 decision, such omission and mistake being an accidental slip on my part.

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 13th day of February 1986

A. A. Baden Fuller

Commons Commissioner