



In the Matter of Higher and Lower Predannack Downs,  
Mullion, Cornwall (No 1)

DECISION

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This dispute relates to the registration at Entry No 1 in the Land section of Register Unit No CL 472 in the Register of Common Land maintained by the Cornwall County Council and is occasioned by Objection No X1037 made by the National Trust for Places of Historic Interest or Natural Beauty and noted in the Register on 19 July 1972.

I held a hearing for the purpose of inquiring into the dispute at Truro on 14 December 1977. The hearing was attended by Mr T M Rowse, solicitor, on behalf of Mr and Mrs A B Thomas, the applicants for the registration at Entry No 3 in the Rights section of the Register Unit. Mr P F Ryder, solicitor, on behalf of Mr L Mitchell, the applicant for the registration at Entry No 9 in the Rights section, and Mr N Butterfield, of counsel, on behalf of the Objector.

The land comprised in the Register Unit consists of Higher Predannack Downs to the north and Lower Predannack Downs to the south. There is now no physical boundary between these two areas, though there is a line of stones shown on old large-scale Ordnance Maps. For the purposes of the registration the northern area has been divided from the southern area by a line marked F-G on the Register map. The application of Mr and Mrs Thomas relates to the part of the land comprised in the Register Unit to the north of the line F-G and that of Mr Mitchell to the land to the south of the line.

After the conclusion of the case for Mr Mitchell I was informed that it was agreed that he had proved a right to graze 24 head of cattle instead of the 32 head of cattle specified in his registration.

Mr and Mrs Thomas claim a right to graze 70 head of cattle as attached to Teneriffe Farm. Teneriffe Farm was purchased by Mr Thomas's father on 21 April 1925. There is no express mention of any right of common in the conveyance, but Mr Rowse stated that he was relying on the general words which were deemed to be incorporated in the conveyance by virtue of section 6 of the Conveyancing and Law of Property Act 1881. Such general words do not, however, create any rights, but only operate to transfer rights existing or reputed to exist at the time of the conveyance, so that further evidence as to the rights is requisite.

Teneriffe Farm included six fields O.S. Nos 912 to 917, which were entirely surrounded by the land comprised in the Register Unit and so could only be reached by passing over that land. Mr Thomas said that his father was the tenant of Teneriffe Farm before the 1925 conveyance and that his father and grandfather were born there. Mr C F Roberts, who lived across the road from Teneriffe Farm until 1937, remembered Mr Thomas's grandfather. Mr Roberts's recollection went back to 1915, and he said that the cattle from four or five farms, including Teneriffe Farm, used to graze on the land comprised in the Register Unit. Mr Thomas, who is now aged 56, so that his recollection would go back to the late 1920's, said that his father used to have about 30 cows and 35 to 40 young stock on the land in question. Mr Thomas said that this



continued until the land was requisitioned by the Air Ministry in the early 1940's. Mr Thomas's fields O.S. Nos 912 to 917 were requisitioned about the same time.

On 15 September 1947 Mr Thomas wrote a letter to the Under-Secretary of State for Air, in which he stated:-

"As you will well know O.S. No's 912 to 917 are some distance from the main piece of land at Teneriffe, & in order to get to these fields I had to cross Tehidy Minerals right.

It was my practice to keep cattle in these fields all the year round, and when grazing got short I turned them on the rights of Tehidy. I informed Tehidy of what I was doing and they in turn raised no objections what-ever to grazing my cattle on their rights.

Since Air Ministry has requisitioned Predannack Downs it has been necessary for me to cut my stock by some 20 cattle or more per year.

May I point out that this has been the practice for a great No of years between Tehidy and myself and the loss of which since 1939 and onwards, has made a big reduction in my capital.

Therefore I think I am quite justified in making a claim on the Air Ministry for the loss of these grazing rights, and as I have pointed out, has seriously curtailed my living."

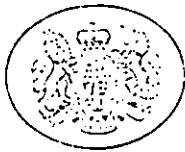
Mr Butterfield argued that this letter showed that Mr Thomas had nothing more than a bare licence from Tehidy Minerals Ltd to go onto the land comprised in the Register Unit. Mr Rowse, on the other hand, argued that the letter did not indicate a licence, but was consistent with the exercise of a right known to Tehidy Minerals Ltd.

In considering the light which Mr Thomas's letter throws on the position before the land was requisitioned one has to bear in mind that he was not writing as a lawyer. It seems to me that Mr Thomas was alleging that the requisition had interfered with his grazing rights and claiming that he was thereby entitled to compensation. I do not construe the sentence "I informed Tehidy of what I was doing and they in turn raised no objections what-ever to grazing my cattle on their rights" as an admission that he had only a licence from Tehidy. Tehidy could equally well have raised an objection because they recognised that Mr Thomas was entitled to graze his cattle on their land.

I have come to the conclusion that Mr Thomas's letter does not negative the inference that there was a right of grazing attached to Teneriffe Farm by prescription at common law which I draw from the rest of the evidence.

I am therefore satisfied that there are rights of common exercisable over the whole of the land comprised in the Register Unit.

For these reasons I 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 20~~th~~ day of January 1978

Chief Commons Commissioner