



In the Matter of Higher and Lower Predannack Downs,
Mullion, Cornwall (No 2)

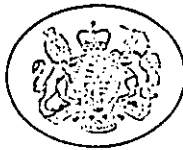
DECISION

These disputes relate to the registrations at Entry Nos 1 (now 7), 3 and 2 (now 9) in the Rights section of Register Unit No CL 472 in the Register of Common Land maintained by the Cornwall County Council and are 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, Objection No. X1244 made by the Ministry of Defence and noted in the Register on 1 November 1972, and Objection No X1178 also made by the Ministry of Defence and noted in the Register on 1 November 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, Mr P F Ryder, solicitor, on behalf of Mr L Mitchell the applicant for the registration at Entry No 9, and Mr N Butterfield, of counsel, on behalf of the Objectors. There was no appearance by or on behalf of Mr B T Newton, the applicant for the registration at Entry No 7, but in a letter dated 30 April 1974 addressed to the Clerk of the County Council Mr Newton stated that he applied for the cancellation of his registration.

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.

For the reasons given in my decision in In the Matter of Higher and Lower Predannack Downs (No 1) (1978), Ref. No 206/D/475 I have come to the conclusion that Mr and Mrs Thomas are entitled to graze cattle on the part of the land comprised in the Register Unit to the north of the line F-G on the Register Map. This was sufficient for the purposes of that case. For the purposes of this case it is necessary to consider the number of cattle to which their right to graze extends. The number specified in the Register is 70. Mr Thomas stated in evidence that this number was based on the way in which his father had exercised the right. Mr Thomas's father had about 30 cows and 35 to 40 young stock. However, when Mr Thomas's father bought his farm in 1925, it had an area of 158 acres. In 1958 part of the farm having an area of 58 acres was sold to the Air Ministry and the area remaining in Mr and Mrs Thomas's ownership at the time when he applied for the registration of the right was 100 acres. Mr Thomas said that he now has 120 head of cattle. It does not, however, appear to me that the number of cattle which Mr Thomas keeps or could keep is relevant in these proceedings. The evidence shows that there was a right to graze 70 cattle attached to the farm of 158 acres. This figure should be apportioned in consequence of the sale of 58 acres, which gives a figure of 45 attributable to the 100 acres owned by Mr and Mrs Thomas at the date of the registration.



For these reasons I confirm the registration at Entry No 3 with the substitution of the figure "45" for the figure "70" and the registration at Entry No 9 with the substitution of the figure "24" for the figure "32", and I refuse to confirm the registration at Entry No 7.

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

20th

day of

January

1978

Chief Commons Commissioner