



COMMONS REGISTRATION ACT 1965

Reference Nos 206/D/308 to 319
inclusiveIn the Matter of Newton Downs,
Blisland, North Cornwall District,
CornwallDECISION

These disputes relate to the registrations at Entry Nos 3, 5, 7, 8, 10, 11, 16, 17, 20, 25 (formerly 6) 26 (formerly 15), 28 (formerly 12), 26 (formerly 15), 31 (formerly 1) and 32 (formerly 4) in the Rights Section and at Entry Nos 1, 2 and 3 in the Ownership Section of Register Unit No. CL143 in the Register of Common Land maintained by the Cornwall County Council and are occasioned: as regards the Rights Section registrations by Objection No. 1272 made by Mr Charles Cawrse by Objection No. X1285 made by Mr William Alfred Church and by Objections Nos X1358, X1359, X1360 and X1361 made by Blisland Commoners Association and all noted in the register on 14 December 1972; and as regards the Ownership Section registrations by these registrations being in conflict.

I held a hearing for the purpose of inquiring into the disputes at Bodmin on 3 December 1980. At the hearing (1) Blisland Commoners Association were represented by Mr V Leese solicitor of Stephens & Scown, Solicitors of St Austell; (2) Mr Cedric Charles Cawrse, Mrs Daphne Elaine Runnalls and Mrs Dorothy Mindy Church as executors of Mr Charles Cawrse who in addition to being an objector was the applicant for the Rights Section registration at Entry No. 8 were represented by Mr C A Key, solicitor of Harvey & Sproull, Solicitors of Bodmin; (3) Mr William Alfred Church who in addition to being an objector was the applicant for the Rights Section registration at Entry No. 20 and for the Ownership Section registration at Entry No. 1 was also represented by Mr Key; (4) Mr Charles James Rush on whose application the Rights Section registration at Entry No. 5 and the Ownership Section registration at Entry No. 3 was made, was also represented by Mr Leese; (5) Mr Ernest Denzil Roose on whose application the registration at Rights Section Entry No. 10 was made attended in person; (6) Mr A C Fairman as successor through Mrs M K W Williamson of Miss M E Rayner on whose application Rights Section registration at Entry No. 11 was made, attended in person and as representing his wife Mrs E M Fairman; (7) English Clays Loverings Pochin & Company Limited ("ECLP") on whose application the Ownership Section registration at Entry No. 2 was made, were represented by Mr I Lamond solicitor of Stephens & Scown, Solicitors of St Austell.

The land ("the Unit Land") in this Register Unit is a tract of about 36 acres. The registrations in the Rights Section are summarised in the first and second columns of the Schedule hereto. The Unit Land adjoins the south part of the west boundary of a tract of about 360 acres called Manor Common which is the land in Register Unit CL183. The Ownership Section registration at Entry No. 1 (Mr Church) is of all the Unit Land; that at Entry No. 2 (ECLP) is of the part



north of the line E-D being the part of the Unit Land at its north end and containing about $1\frac{1}{2}$ acres; that at Entry No. 3 (Mr Rush) is of all the Unit Land except the part south of the line A-B, being all except a small piece at the south end about $1\frac{1}{2}$ acres.

Mr Key said that Objection No. X127 (Mr Cawrse) was withdrawn. Following after the below mentioned concessions about ownership, Mr Key said that Objection No. X1285 (Mr Church) was withdrawn. The grounds of Objection Nos X1358, (X1359, X1360 and X1361) the Commoners Association (are in effect) that the rights either do not exist or the registration should be for fewer animals.

The course of the proceedings was that I first considered the disputed Rights Section registrations, about these oral evidence was given by Mr W N Rowe who is now and has been since 1960 the Secretary of Blisland Commoners Association. His oral evidence and the other information which I have about the rights is summarised in the third column of the schedule hereto. Of this information I mention particularly that on the day before this hearing in the course of proceedings relating to Shallow Water Common, Register Unit No. CL 187 reference 206/D/395-400, Mr E C Cornelius on whose application the registration in Rights Section Entry No. 16 relating to this CL 143 land was made, was represented by Mr M C Culver solicitor of Coningsbys, Solicitors of Bodmin; at this CL 187 hearing Mr Leese who then (as now) represented Blisland Commoners Association and Mr Culver agreed that at the date of registration the number of animals then appropriate to be registered would have been 11 units but they differed as the effect of a subsequent disposition by Mr Cornelius of part of the land to which such right was at the date of registration attached; however they were agreed that my decision in relation to this Newton Downs CL 143 land should as regards this difference be the same as my decision whatever it might be in relation to the Shallow Water CL 187 land. My decision in relation to that land is of even date with this decision and is to the effect that the subsequent disposition is irrelevant; such decision so far as it relates to this difference should be treated as repeated herein. As regards such of the other Rights Section registrations summarised in the Schedule which have not as therein stated become final, I consider that in the absence of any other evidence about them, I ought to act on the evidence and information so summarised.

For the above reasons, I refuse to confirm the registrations at Rights Section Entry Nos 3, 25, 26 and 31; I confirm without any modification the registrations at Rights Section Entry Nos 28 and 32; and I confirm with the modifications set out in the fourth column of the Schedule hereto the registrations at Rights Section Entry Nos 5, 7, 8, 10, 11, 16, 17, 20 and 29.

At the hearing after an adjournment during which I heard evidence given on behalf of ECLP and Mr Church in support of the registrations made on their application in the Manor Common CL 183 Ownership Section, I dealt with the Ownership Section registrations in this Register Unit CL 143. Mr Key and Mr Lamond were agreed that the evidence so given should be treated as given in these proceedings. Mr Leese said that Mr Rush did not now claim to be the owner of part of the Unit Land north of the line E-D, so there was now no conflict between him and ECLP.



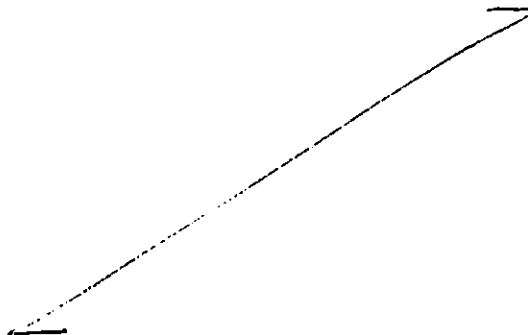
In support of the Ownership Section registration made on the application of Mr Rush, oral evidence on his behalf was given by his mother Mrs M A Rush. In the course of her evidence she produced a conveyance dated 31 May 1956 by which Newton Farm was conveyed by Mr William Joseph Rawlins to Mr Rush. She said that her grandfather bought Newton Farm, and it had been in the family ever since; Mr W J Rawlins was her brother. As appeared from the said conveyance all the Unit Land except the parts north of the line E-D and south of the line A-B was included in Newton Farm.

For the reasons given in my decision of even date relating to Manor Common CL 183 under reference Nos 206/D/359 to 370, I consider that the documents and information produced on behalf of Mr Church ~~was~~ not evidence of his ownership of any of the Unit Land. The documents and information supplied by Mrs Rush is in my opinion evidence of her son's ownership of the part of the Unit Land which she now claims; as also the reasons given in my said decision of even date are the documents and information given on behalf of ECLP evidence of their ownership of a part of the Unit Land claimed by them; there being no conflict between them I conclude that these registrations were (to the extent of their respective claims) properly made. As regards the remainder of the Unit Land being the part south of the line A-B, notwithstanding that there is in relation in respect of this part no claim contrary to that made by Mr Church, I consider the reasons given in my said decision of even date that his registration to this extent was not properly made. My said decision of even date as far as it relates to ownership should be treated as repeated in this decision.

For the above reasons I refuse to confirm the registration at Ownership Section Entry No. 1; confirm the registration at Ownership Section Entry No. 2 without any modification; and I confirm the registration at Ownership Section Entry No. 3 with the modification that there be removed from the registration the land north of the line E-D.

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 this decision is sent to him, require me to state a case for the decision of the High Court.

TULN WER



SCHEDULE
(Rights Section registrations)

(1) Entry No (former No.)	(2) Applicant: land to which right attached: animals c = cattle, or cows, h = horses, p = ponies, s = sheep: t and/or p = right to cut turf and/or peat.	(3) Evidence and other information available: R = per evidence of Mr W M Rowe.	(4) Decision.
3	Mr Robert John Lloyd Hoskin: Brake Farm: 15c or 7p or 75s: p or t.	R: produces request for cancellation signed by G Old as successor of L Hoskin.	Confirmation refused.
5	Mr Charles James Rush: Newton Farm: 11c or 5p or 55s; t or p.	R: modification (see next column agreed): Mr Leese for Mr Rush agrees.	Confirm with modification that for "11 head of cattle or 5 ponie or 55 sheep" substitute "10 he. of cattle or 5 ponies or 50 shee
7	Mr Charles Cawrse: Durfold Farm: 23c or 140s or 14p.	R: agreed at 4 units. Mr Key for exors of Mr C Cawrse agreed.	Confirm with modification that for "28 head of cattle or 140 she or 14 ponies" substitute "4 hea of cattle or 2 ponies or 20 sheep".
8.	Mr Charles Cawrse: Carwen: 4c or 2p or 20s.	R: agreed at 3 units. Mr Key for exors of Mr C Cawrse agrees.	Confirm with modification that for "4 cows or 2 ponies or 20 shee substitute "3 hea of cattle or 2 ponies or 15 shee
10	Mr Ernest Denzil Roose, Carbilly, 47c or 23p or 235s.	R: agreed at 15 units. Mr Roose confirms agreement.	Confirm with modification that for "47 cows or 23 ponies or 235 sheep" substitute "15 head of cattl or 8 ponies or 75 sheep".

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| 11 | Mrs Minnie Eileen
Raynor: South Penquite:
18c or 9p or 50s. | R: agreed at 5
units. Mr Fairman
for himself and his
wife agrees. | Confirm with
modification that
for "18 head of
cattle or 9 ponies
or 90 sheep"
substitute "5 head
of cattle or
3 ponies or 25
sheep". |
| 16. | Mr Eric Ronald
Cornelius: Moss Farm:
70c and 65h and
200s. | Number agreed
in the course of
hearing on 2 December
1980 re Shallow Water
CL187: as to
apportionment,
see my decision
about CL187. | Confirm with
modification that
for "70 cows and
65 horses and
200 sheep"
substitute "11 head
of cattle or
6 ponies or 55
sheep". |
| 17 | Mr Archelans Clifford
Thomas Runnalls:
Treswigga: 50c and
60 and 2p: t or p:
take fish | R: Farm now owned
by Mr John Cooper
who has agreed
13 units. | Confirm with
modification that
for "50 head of
cattle and 60 sheep
and 2 ponies",
substitute "13 head
of cattle or 7
ponies or 65 sheep". |
| 20 | Mr William Alfred
Church: Cassacawn:
7c or 7p or 35s;
p or t. | R: 5 units agreed.
Mr Key for Mr Church
agreed. | Confirm with
modification that
for "7 head of
cattle or 7 ponies
or 35 sheep",
substitute "5 head
of cattle or 3
ponies or 25 sheep". |
| 23
(2) | Mrs Monica
Pethybridge:
Lower Bradford Farm:
11c or 51s (excluding
part of the Unit Land):
FINAL | | No decision
requisite. |
| 25
(6) | Mrs Rhoda Irene
Rickard: Lease Farm:
4c or 2p or 20s
(excluding part of
the Unit Land). | R: never known any
cattle or stock from
Lease Farm. | Confirmation refused. |

26 (15)	Mr William John Carter: (North) Candra: 45c or 45p or 225s: t or p (part of the Unit Land).	R: the Farm is (or was) Hamatethy Manor, so no rights exist over this Blisland Manor Common. *	Confirmation refused.
23 (12)	Mrs Violet Rhoda Raymont: Carbaglet: 8c or 4p or 40s: t or p.	R: correct.	Confirm without any modification.
29 (13)	Mr Michael Sidney Warwick Rich; Durfold Farm: 12c and/or 6p and/or 60s: t or p: take tree loppings, gorse, furze, bushes or underwood; turn out pigs to eat acorns and beachmast.	R: numbers alright, but "and/or" incorrect; produces modification request signed by M Rich.	Confirm with modification that for "and/or 6 ponies and/or 60 sheep" substitute "or 6 ponies or 60 sheep".
31 (1)	Mr Neil Sidney Davidson: South Kerrow: 40c or 120s: t or p: take tree loppings, gorse, furze, bushes or underwood.	R: seen little deeds which show rights "adjoining the Farm".	Confirmation refused.
32 (4)	Mr Arthur Leslie Rowe: Lanxon Farm: 15c or 7p or 75s: t or p.	R: is alright.	Confirm without any modification.
35 (13)	Mr William Thomas George Ford; Bradford (part): 3c or 2p or 12s: part: take fish: take tree loppings or gorse, furze, bushes or underwood (part of Unit Land). FINAL	-	No decision requisite.

* Note on No 26 :- I have a letter dated 27 November 1976 from G & I Christobel Schickel of Bodmin saying that Mr Carter wishes to cancel this registration (file reference 206/2/303: Trebuddell Deans)

36
(14)

Mr William Thomas
George Ford:
Bradford (another
part): 2c or 1p or
Es: p or t: take
fish: take tree
loppings or gorse,
furze, bushes or
underwood (part of
Unit Land).
FINAL

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No decision
requisite.

Dated the 16th — day of March — 1981.

a. a. Baine Fuller

Commons Commissioner