



In the Matter of Parts of Inches Downs and
Retire Common, Roche, Lanivet and Withiel,

Cornwall

DECISION

This reference relates to the question of the ownership of parts of Inches Downs and Retire Common, Roche, Lanivet, Withiel, being the land comprised in the Land Section of Register Unit Co. CL.369 in the Register of Common Land maintained by the Cornwall County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference Tehidy Minerals Ltd claimed to be the freehold owner of the land in question and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Bodmin on 5 February 1985. At the hearing Mr I D Lamond, Solicitor appeared for Tehidy Minerals Ltd.

By an indenture made 19 January 1920 between (1) Thomas Charles, Viscount Clifden (2) Tehidy Minerals Ltd there were conveyed to Tehidy Minerals Ltd Lord Clifden's one-third share in most of the land comprised in the Register Unit and his one-eighth share in a small part of the land in the north-west. Mr Lamond had no evidence as to the ownership of the other shares in either part of the land on 1 January 1926. The only other material (to use a neutral expression) which Mr Lamond produced was a letter dated 23 July 1973 addressed to the Clerk of the former Cornwall County Council by Mr G Holdsworth, the former Secretary of Tehidy Minerals Ltd. In this letter Mr Holdsworth stated that details of the ownership of the western portion of Retire Common, as obtained from the Lanhydrock Estate Company, which managed Lord Clifden's estate, showed that there were eight owners, whose names he set out, and that there were three named owners of the eastern portion.

While this letter would not be evidence in a court, I have to bear in mind that these proceedings are not a lis inter partes, my duty under Section 8 (3) of the Act of 1965 being to "inquire into the matter". I have therefore come to the conclusion that in the absence of any further information I can regard the information in Mr Holdsworth's letter as showing that Tehidy Minerals Ltd had seven co-owners of the small north-western part of the land and two co-owners of the much larger eastern part. In these circumstances the part of the land with



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eight co-owners has been vested in the Public Trustees by virtue of para.1 (4) of part IV of the First Schedule to the Law of Property Act 1925 and the part of the land with three co-owners is vested in Tehidy Minerals Ltd and the other two co-owners as Joint tenants upon the statutory trusts by virtue of para 1 (2) of Part IV of the same Schedule.

On this evidence I am satisfied that the Public Trustees and Tehidy Minerals are the owners of parts of the land, and I shall accordingly direct the Cornwall County Council, as registration authority, to register them as the owners of their respective parts of the land under section 8 (2) of the Act of 1965.

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

1st

day of

March

1985

Chief Commons Commissio