



COMMONS REGISTRATION ACT 1965

Reference Nos. 206/D/831-832

In the Matter of Treskilling Downs,
LuxCulvan, Cornwall (No.1)

DECISION

These disputes relate to the registration at Entry No 1 in the Land Section of Register Unit No.CL.626 in the Register of Common Land maintained by the Cornwall County Council and are occasioned by Objection No. X436 made by Mr D.S.Rashleigh and noted in the Register on 4 December 1972 and Objection No.X1151 made by Tehidy Minerals Ltd and also noted in the Register on 4 December 1972.

I held a hearing for the purpose of inquiring into the dispute at Bodmin on 25 June 1980. The hearing was attended by Mr E G Church, the applicant for the registration at Entry No. 1 in the Rights Section of the Register Unit.

There was no appearance on behalf of the Ramblers Association, the applicants for the registration, or on behalf of the Objectors, but I gave leave to Mr P L Milln, Chartered Surveyor, to address me on behalf of English Clays Lovering Pochin and Co., Ltd, the successor in title of Tehidy Minerals Ltd.

Mr Church's registration is of a right to graze 10 head of cattle over the whole of the land comprised in the Register Unit, excluding the pieces north of the red line A-B and west of the red line C-D on the Register Map. There being no evidence relating to these pieces of land, they must be excluded from the Register Unit.

Mr Church's farm, known as Lestoon, adjoining the land comprised in the Register Unit. Mr Church has owned Lestoon Farm since 1961. Before then it was tenanted by members of the Chapman family for 80 years.

Mr Church and Mr Chapman, the grandson of the first Chapman at Lestoon, gave evidence that up to 20 head of cattle from Lestoon Farm had grazed on the land the subject of Mr Chapman's registration through the period of their combined memories.

On the other hand, Mr Milln, who has seen the land in question about once a month since 1959 in the course of his employment by English Clays Lovering Pochin and Co., Ltd, said that he had never seen any cattle on the land, and he produced an affidavit by Mr F W Darlington, who has known the land for over 60 years, to the same effect.

The evidence of Mr Milln and Mr Darlington does not necessarily conflict with that of Mr Church and Mr Chapman, for they may never have seen the land with cattle on it or they may have been unobservant. In so far as there may be a conflict of evidence on the balance of probabilities, I prefer that given by Mr Church and Mr Chapman, which supports a prescriptive right to graze at least 10 head of cattle on the land.

This suffices to satisfy the definition of "Common Land" in Section 22 (1) of the Commons Registration Act 1965.