



In the Matter of Trewey Common,
Zennor, Penwith District, Cornwall

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos 1 and 2 in the Rights Section of Register Unit No. CL 644 in the Register of Common Land maintained by the Cornwall County Council and are occasioned by Objection Nos X.986 and X.987 made by Mr T J D Lawry and noted in the Register on 10 May 1972 and by Objection No. X.1447 made by Mr James Arthur Mann and noted in the Register on 1 December 1972.

I held a hearing for the purpose of inquiring into the disputes at Camborne on 16 May 1979. At the hearing (1) Mr David Osborne on whose application the Rights Section Entry No. 1 was made, (2) Mr Edward Joseph Wigley and Mrs Joyce Doris Wigley both of Old Mill House, Zennor, and (3) Mr James Arthur Mann (the Objector) and his son Mr James Harry Mann were all represented by Mr T C Le Grice, solicitor of Pool Purchas and Le Grice, Solicitors of Penzance.

The land ("the Unit Land") in this Register Unit is (according to the Register map) a tract approximately rectangular about 600 yards long and 350 yards wide, one of the corners of which is on a point on the road from Penzance by way of New Mill on the south to Zennor by way of Trewey Hill on the north. At Rights Section Entry No. 2 has been registered on the application of Mrs C P Hyslop a right attached to Bridge Cottage to graze 5 head of cattle, 2 ponies and 2 geese and to cut and take turf or peat over the Unit Land and over part of the land in Register Unit CL 662. The grounds of Objection are (stating their effect shortly): (a) No. X.986 (Mr Lawry) the land edged blue on the plan attached (the south-west part of the Unit Land, about 1/20th of the whole) was not common land at the date of registration; (b) No. X.987 (Mr Lawry) the rights do not extend over the said part; and (c) No. X.1447 (Mr Mann) the rights claimed at Entry No. 2 (Mrs Hyslop) do not extend over any part of the land in this Register Unit.

Mr W F Lloyd on whose application the Land Section registration was made in a letter dated 27 March 1978 said that Mrs Hyslop, his mother now aged 90, had asked him to write in connection with her registration of rights on CL 644 Trewey Common and that she had sold Bridge Cottage to Mr and Mrs Wigley, who had changed the name to Old Mill House; and in a letter dated 8 May 1979 said of the Unit Land and CL 662 Kerrowe Common (stating the effect of his letter shortly) that when a boy he had seen cattle and horses grazing there and his father had said that before 1917 (when his father first rented Bridge House) the family living there had exercised rights to graze cattle and cut fuel.

In letters of 24 January and 12 February 1979, solicitors for Mr Lawry said that he did not wish to pursue Objections Nos X.986 and X987.

Mr Le Grice produced a release dated 22 February 1978 by which Mr and Mrs Wigley released to Mr James Arthur Mann all rights of common to which they were entitled. He said that Mr D Osborn had sold his land, Mill Downs Farm (being the land to which the rights registered at Rights Section Entry No. 1 are attached) to Mr James Harry Mann and that he (Mr J H Mann) did not wish to claim rights of common to which is father objected. Accordingly Mr Le Grice asked me to refuse to confirm all the registrations.



As regards Rights Section Entry No. 2 to which Mr J A Mann has objected (X.1447), in the absence of any evidence in support on behalf of Mrs Hyslop, and having regard to the March 1978 letter and to the release granted by Mr and Mrs Wigley, my decision is that the Objection succeeds.

As regards the registration in the Land Section and at Entry No. 1 in the Rights Section, nobody at the hearing entitled to be heard in relation to these registrations was represented. However Objection No. X.986 (Mr Lawry) puts in issue the Land Section registration, and by the operation of section 5(7) of the 1965 Act also puts in issue all the Rights Section registrations. So I have jurisdiction to deal with all the registrations. The May 1979 letter shows I think that Mr Lloyd knows of no grounds on which I could in law uphold the registrations. On the day after the hearing, I inspected the Unit Land and the adjoining CL 662 Kerrowe Common; both are high moorland, very similar to the surrounding land, and there was no apparent reason (apart from the possibility of there being a right of common attached to Mill Downs Farm or to some other farm) why these pieces of land, although on the map called "common" should be within the definition of "common land" in the 1965 Act. Accordingly, in the absence of any evidence in support of there being any right of common over the Unit Land, I conclude that these registrations were not properly made.

For these reasons I refuse to confirm the registrations in the Land Section and at Entry Nos 1 and 2 in the Rights Section.

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 5th —

day of June —

1979

a. a. Bardin Fuller

COMMONS COMMISSIONER