



COMMONS REGISTRATION ACT 1965

Reference Nos 206/D/344-356

In the Matter of twelve parcels of land containing about 36 acres, part of St Breward Common and Roughtor Downs, St Breward, North Cornwall District, Cornwall

DECISION

These 13 disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos 1, 3, 4, 9, 10, 11, 13, 18, 22, 23, 25, 32 (formerly 20), 34 (formerly 24), 36 (formerly 26), 39 (formerly 5), 40 (formerly 7), 41 (formerly 14) and 43 (formerly 15) in the Rights Section of Register Unit No. CL181 in the Register of Common Land maintained by the Cornwall County Council and are occasioned by the objections specified in the Schedule hereto.

I held a hearing for the purpose of inquiring into the disputes at Truro on 3 July 1979. At the hearing (1) Blisland Commoners Association (they made Objections Nos X1332, X1333 and X1334) were represented by Mr V K Leese, solicitor of Stephens & Scown, Solicitors of St Austell being instructed on behalf of the Association by Mr W M Rowe their secretary; (2) Mr V L Masters and Mr F C Masters (they made Objection No. X378) and Mr Thomas Charles Masters (he applied for the registration at Rights Section Entry No. 41, formerly 14) were represented by GR Mr J Romary solicitor of Pethybridges, Solicitors of Bodmin; (3) Mr Ernest Denzil Roose (he applied for the registration at Rights Section Entry No. 18) was also represented by Mr Romary; (4) Mr Eric Ronald Cornelius (he applied for the registration at Rights Section Entry No. 22) was represented by Mr M C Culver solicitor of Coningsbys, Solicitors of Bodmin; (5) Mr A R Walkey and Mrs F A Walkey (they or one of them made Objections Nos X22, X615, X1169 and X1170, and applied for the registrations at Rights Section Entry Nos 25 and 36) were represented by Mr M J Keast surveyor of Rowse Jeffery & Watkins, Estate Agents of Lostwithiel; (6) Mr William John Carter (he applied for registration at Rights Section Entry No. 41) was represented by Mr G I Chisholm solicitor of G & I Chisholm, Solicitors of Bodmin; and (7) Mr Cyril John Greenaway (he applied for the registration at Rights Section Entry No. 43 formerly 15) attended in person.

The remainder of St Breward Common ("the CL124 Land") mentioned in the Land Section description of the land ("the Unit Land") in this Register Unit contains about 2,500 acres and the rights over such remainder were dealt with in my decision dated 20 January 1977 reference 206/D/211-217 given after a hearing on 8 December 1976.

Mr Leese, when opening the proceedings, said (in effect) that of the 12 parcels together making up the Unit Land the only parts of substance were the pieces in the Schedule hereto called the X22/X1169 part and the X378 part and the others were very small and of little importance. that



Mr Romary said that Mr. Roose agreed that I should refuse to confirm the registration at Rights Section Entry No. 18.

All represented or attending in person as recorded above were agreed that the parts of the Unit Land ~~to~~ the Schedule hereto called the X22/X1169 part, the X378 part and the X615 part should be removed from the Register.

On the application of Mr Culver I adjourned the proceedings to the following day so far as they related to the registration at Rights Section Entry No. 22. On the following day, Mr Culver said (in effect) that Mr Cornelius agreed that I should refuse to confirm the registration at Entry No. 22.

Mr Keast was prepared to support Objection No. 1170. In the absence of any evidence that the rights registered extended to the X1170 part in the Schedule mentioned, my decision is that this Objection succeeds. This part is very small, and if no rights of common exist over it, no useful purpose would be served by it being included in the Land Section. Notwithstanding that none of the Objections to the Land Section registration particularly refer to the X1170 part, I have ~~the~~ jurisdiction to exclude it under Objection No. X520 which is general, and I consider that notwithstanding that such objection was not supported by the successors in title of Mrs Parnall that I ought to make this exclusion.

As regards the other matters in dispute, I understood that those present or represented at the hearing were not greatly concerned because all the Rights Section registrations in which they were interested contemplate that the Unit Land shall be grazed with the CL124 Land and because the Unit Land is comparatively so very small. So (not unreasonably I think) no evidence or argument was presented, it being considered (so I understood) not worth the trouble or expense. In these circumstances I shall give effect to the agreement and concession above recorded, and give my decision on the other matters so as to make the Unit Land registrations correspond as near as ~~may be~~ with the CL124 registrations resulting from my 1976 decision. Under such decision the registrations at Unit Land Entry Nos 10, 11, 13, 39 (formerly 5), 40, 41 and 43 (formerly 15) correspond to CL124 Entry Nos 46, 47, 49, 33, 42, 53 and 57 respectively, should be treated as proper; the registrations at Unit Land Entry Nos 3, 4, 9 and 32 corresponding to CL124 Entry Nos 33, 37, 44, 68, and 61 respectively should be treated as void, and the registrations at Unit Land Entry Nos 1 and 36 corresponding to CL124 Entry Nos 9 and 78 respectively should be modified as set out in my 1976 decision.

This leaves the ~~registrations~~ Unit Land registrations at Entry Nos 23, 25 and 34 which do not correspond with any of the CL124 registrations. Having regard to the small size of the Unit Land (after the said parts of it have been removed from the register as aforesaid) I conclude that it cannot sensibly be ~~grazed~~ apart from the CL124 land to which it adjoins, so in the absence of any evidence in support of these registrations my decision is that they were not properly made.

For the above reasons I confirm the registration at Land Section Entry No. 1 with the modification that there be removed from the register the land edged green on the plans attached to Objections Nos X22 and X1169, the land edged red on the plan attached to Objection No. X378, ~~and~~ the land edged black on the plan attached to Objection No. X615 and the land coloured blue on the plan attached to Objection No. X1170. I refuse to confirm the registrations at Rights Section Entry Nos 3, 4, 9, 18, 22, 23, 25, 32, and 34. I confirm without any modifications (other than that ~~less~~ those consequential on the removal of the Register of the said X22/X1169, X371, X61 and X1170 parts) registrations at Rights Section Entry Nos 10, 11, 13, 39 (formerly 5), 40, 41 and 43 (formerly 15). I confirm the registrations at Rights Section Entry No. 1 with



the modification that in column 4 for "30 head of cattle, 30 ponies and 150 sheep" there be substituted "20 head of cattle, or 20 ponies or 100 sheep" and at Rights Section Entry No. 36 with the modification that for the description, land therein set out shall be substituted a description (the words to be chosen by the County Council as registration authority) of the land which is specified at "New Entry B" against "73(120)" in the Decision Table at page 8 of my said 1976 decision and in column 4 by for "60 cows or 12 horses or 300 sheep", substituting "15 head of cattle or 15 ponies or 45 sheep".

Because my decision as set out above is complicated and it is possible that I may have misunderstood what was said at the hearing to me, I give any person who attended or was represented at the hearing and who was then entitled to be heard liberty to apply to me within 21 days of this decision being sent to him as to any correction which ought to be made. Any such application should in the first instance be made in writing to the Clerk of the Commons Commissioners.

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.

SCHEDULE

D/344 and D/348. Objection No. X378 noted in the Register on 24 November 1970 and made by Mr Vivian Roy Masters and Frederick Charles Masters, on the grounds (in effect) that the part ("the X378 part") of the Unit Land being OS No. 1643 containing 2.281 acres belongs to the Objectors.

D/345 and D/349. Objection No. X520 noted in the Register on 24 November 1970 and made by Mrs Muriel Elsie Manning Parnall, on the grounds (in effect) that the Unit Land is private property and no right exists over it.

D/346 and D/350. Objection No. X22 noted in the Register on 19 December 1969 and made by Mr Alfred Robert Walkey and Mrs Florence Ann Walkey, on the grounds (in effect) that the part ("the X22/X1169 part" being an approximately triangular piece of land containing (according to my rough estimate) about 50 acres or a little more), has been occupied by the Objectors as tenants for many years.

D/347 and D/351. Objection No. X615 noted in the Register on 24 November 1970 and made by Mr A R Walkey on the ground that the part ("the X615 part") being a piece of land near the south-west corner of OS 1454 (3.700) containing (according to my rough estimate) about $\frac{1}{2}$ of an acre, was not common land at the date of registration.

D/352. Objection No. X1169 noted in the Register on 18 December 1971 and made by Mr Albert Robert Walkey and Mrs Florence Ann Walkey, on the grounds that the rights registered in Rights Section Entry Nos 3, 4, 9, 10, 11, 13, 18, 20, 22, 23, 25, 36 (formerly 26), 39 (formerly 5), 40 (formerly 7) and 41 (formerly 14) did not exist over the X22/X1169 part.

D/353. Objection No. X1170 noted in the Register on 18 December 1971 and made by Mr Alfred Robert Walkey, on the grounds (in effect) that the last-mentioned (D/352) Rights Section Entries did not extend to the part ("the X1170 part") of the Unit Land being a very small piece of land near the south-east corner of OS 1537 (4.613).



D/354. Objection No. X1384 noted in the Register on 18 December 1972 and made by Blisland Commoners Association on the grounds that the rights registered at Rights Section Entry Nos 3, 4, 9, 18, 22, 23, 32 (formerly 20), 34 (formerly 24) and 36 (formerly 26) do not exist.

D/355. Objection No. X1382 noted in the Register on 18 December 1972 and made by Blisland Commoners Association on the grounds (in effect) that the registration of Rights Section Entry No. 25 was incorrect because the "attached land" was part of the Unit Land.

D/356. Objection No. X1383 noted in the Register on 18 December 1972 and made by Blisland Commoners Association on the grounds that the registration at Rights Section Entry No. 40 (formerly No. 7) should be for fewer animals (ie 7 cattle or 27 sheep).

Dated this 23rd day of October 1979

a. a. Baden Fuller

Commons Commissioner