

STANNARY LAW

R. Pennington

Professor Pennington supplied the following notes on the topics covered in his talk.

1. The original coinage duty charged in the Stannaries was 60 pence per thousandweight in Cornwall and 30 pence in Devon, as brought out in the 1198 enquiry by William de Wrotham. An additional duty of one mark per thousandweight (160 pence) was then imposed making 22d per cwt (Cornwall) and 19d per cwt (Devon). The rate for Cornwall was raised to 48d per cwt by end of the 13th century and remained so until abolition of the duty in 1838.

2. The Charters. 1201 Charter: all men may undertake mining and be free of pleas of villeinage (retracted 1214): may mine for tin according to custom in any lands: only to be subject to jurisdiction of chief warden of stannaries and his bailiffs. 1305 Charter: tanners to have immunity from all jurisdictions except warden of stannaries except for pleas of land, life and limb; where litigation concerned facts not touching stannaries, mixed jury of tanners and non-tanners; tanners to mine for tin in lands, moors and wastes; exemptions from certain taxes. 1508 Charter (Cornwall); Convocation of 24 appointed by borough corporations of Truro, Lostwithiel, Launceston, Helston. Law making power of Parliament of Tanners of Devon and Convocation of Cornwall. Devon 1520, 1532, 1533, 1552, 1574, 1600 and 1688 and 1703 (pre-emption). Cornwall 1588, 1624, 1636, 1686, 1750 and 1752-3.

3. The Stannary Courts. Stewards courts dated from early 14th Century (according to records). Vice Wardens Court exercising appeal jurisdiction, and in the 16th Century, an equitable jurisdiction derived from the Duchy Council.

4. Boscowen v Chaplin (1536). Trover action for coined tin sold by fraudulent person who obtained coinage bills. Glanville v Courtney (1591 to 1593) appeal from Vice Warden on petition for declaration of title to tin bounds fraudulently renewed by one of bounders for benefit of self and third persons. Sir Joseph Tredenham - substansive rules of equity administration. 18th Century developments. Petition for calls against adventurer under 1752 legislation (Purser's suits). Creditor's suit. Stannary Courts Act 1836 abolished Stewards Courts and transferred jurisdiction to Vice Wardens Court, which was itself abolished 1897.

4. Tin Bounds. Customary right of bounding on unfenced wastrel. Corner bounds. Side bounds. Annual renewal. Need for continuous working. Rogers v Brenton (1847). Notice of intention to pitch bounds (Cornwall 1752). Proclamation and recording of bounds. Ordinance of 1494 (Devon) and 1495 (Cornwall). Renewal at anniversary of day following date of original pitching. Bounders rights. Lease of bounds. Toll tin.

5. Mining leases. The Cornish sett. Exclusive license by deed to work for metals. Cornish customary sett by word of mouth which was perpetual while working continued. Standard covenants in setts. Farm tin. Premiums. Provisions for forfeiture.

REFERENCE

Pennington, R. 1973 Stannary Law. David and Charles, Newton Abbot.

DISCUSSION

Q. (Mike Gill) - You appear to be equating the law of the soil with the mineral law?

A. It is a basic and common rule that applies throughout the country. Except in the case of gold and silver, all minerals under the soil are presumed to belong to the landowner.

In most of the mining fields I have seen, the mineral rights have been retained by the original freehold, though there could be two separate ownerships - surface, buildings etc. and the subjacent minerals.

Generally the reason was that a lot of the property in Cornwall belongs to the Duchy of Cornwall, and there was a very strong disinclination to separate ownership of important

revenue by virtue of mining laws.

One of the things that was disputed was the ownership of the area between highwater and low-water under which were tin and other minerals forming mining rights. This was eventually warranted to the Duchy of Cornwall and some of the miners have to go to three people for mining permits:

Freehold owner	-	Lease
Duchy of Cornwall	-	Lease for the ground between highwater and low water mark
Crown	-	Lease - if going out to Sea.