

COMMONS REGISTRATION ACT 1965



Reference No. 206/D/413

In the Matter of Brockabarrow Common (part),
Blisland, North Cornwall District,
Cornwall

DECISION

This dispute relates to the registration at Entry No. 3 (formerly No. 1) in the Rights Section of Register Unit No. CL507 in the Register of Common Land maintained by the Cornwall County Council and is occasioned by Objection No. X1399 made by Blisland Commoners Association and noted in the Register on 23 November 1972.

I held a hearing for the purpose of inquiring into the dispute at Truro on 5 July 1979. At the hearing Blisland Commoners Association were represented by Mr V K Leese solicitor of Stephens & Scown, Solicitors of St Austell.

The Land ("the Unit Land") in this Register Unit is a strip a little more than 500 yards long from north to south and about 100 yards (at its north and south end much less) wide; it adjoins the west side of a much larger area (about 574 acres) known as Brockabarrow Common (Register Unit No. 165). The now disputed registration was made on the application of Trustees of the Molesworth St Aubyn Settled Estates and is of a right (not attached to any land) to graze 200 cattle and 200 ponies and 500 sheep and to cut and take turf and peat and to take gorse bracken and underwood over the Unit Land and a number of other Register Units. The said Trustees are in the Ownership Section registered as the owner of all the Unit Land and this registration being undisputed has become final.

The grounds of Objection are: "rights to not exist". In my opinion this objection fairly puts on the applicants for the registration the burden of *bringing* evidence in support of it, and accordingly in the absence of any evidence, I conclude that the registration was not properly made. However I record: Mr W M Rowe who is and has ever since 1960 been Secretary of the Blisland Commoners Association, said that Colonel Oscar A Molesworth St Aubyn told him that they had withdrawn all rights of common.

For the above reasons I refuse to confirm the registration.

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 16th

day of October — 1979

a. a. Beck Fuller

Commons Commissioner