



In the Matter of Brockabarrow Common,  
Blisland, North Cornwall District,  
Cornwall

DECISION

These disputes relate to the registrations at Entry Nos 2, 5, 15, 17, 19, 21, 22, 23, 24, 26, 37 (formerly 1), 38 (formerly 10), 39 (formerly 11), 40 (formerly 12), 41 (formerly 13), 42 (formerly 18), 43 (formerly 25), 44 (formerly 29), 45 (formerly 30), 49 (formerly 28), and 51 (formerly 16) in the Rights Section of Register Unit No. CL165 in the Register of Common Land maintained by the Cornwall County Council and are occasioned by Objections Nos X1378, X1379, X1380 and X1381 made by Blisland Commoners Association and noted in the Register on 4 January 1973.

I held a hearing for the purpose of inquiring into the disputes at Truro on 3, 4 and 5 July 1979. At the hearing (1) Blisland Commoners Association were represented by Mr V K Leese solicitor of Stephens & Scown, Solicitors of St Austell; (2) Mr Wesley Smith (he applied for the registration at Entry No. 5) was represented by Mr M C Culver solicitor of Coningsbys, Solicitors of Bodmin; (3) Mr Ernest Denzil Roose (he applied for the registration at Entry No. 17) attended in person; (4) Mr Eric Ronald Cornelius (he applied for the registration at Entry No. 21) was also represented by Mr Culver; (5) Mr J Cooper of Treswigg as successor in title of Mr A C T Runnalls (he applied for the registration at Entry No. 23) was represented by Mr John G R Romary solicitor of Pethybridges, Solicitors of Bodmin; (6) Mr Cyril Roger John Bate (he applied for the registrations at Entry Nos 38, 39, 40 and 41) was also represented by Mr Culver; (7) Mr William John Carter (he applied for the registration at Entry No. 42) was represented by Mr G I Chisholm solicitors of G & I Chisholm & Co, Solicitors of Bodmin; (8) Mr John Llewellyn Smith (he applied for the registration at Entry No. 44, formerly 29) was also represented by Mr Culver; (9) Mr Alfred Robert Walkey and Mrs Florence Ann Walkey (they applied for the registration at Entry No. 45, formerly No. 30) was represented by Mr M J Keast surveyor of Rowse Jeffery & Watkins, Estate Agents of Lostwithiel; and (10) Mr Percy A'Lee Dingle (his father jointly with Mr Kenneth Turner applied for the registration at Entry No. 16) was also represented by Mr Chisholm.

The land ("the Unit Land") in this Register Unit according to the Register is a tract containing about 574 acres: the Land Section registration being undisputed, has become final. The registrations in the Rights Section are summarised in the second and third columns of the First Schedule hereto; the grounds of the said objections are noted in the fourth column of such Schedule.

On the first day of the hearing after discussion with those present about this and the other cases then listed, it was agreed that this case should be dealt with after others. In the course of this discussion, Mr Chisholm said that Mr Carter wished to cancel his registration against the Unit Land and Mr Dingle wished to withdraw from Register Unit No. CL286 (? on the basis that this was the only Unit with which Mr Dingle might be concerned).

On the second day of the hearing for the convenience of those who could not or might not be able to attend on the second day, I recorded:- (A) Mr Culver on behalf of Mr Cornelius and Mr Leese on behalf of Blisland Commoners Association were agreed that the disputes relating to his registration (Entry No. 21) should be stood over.



to wait the outcome of a general meeting of the Association in the Autumn of this year, so that I would as regards these disputes at least adjourn their consideration to a date and place to be fixed by a Commons Commissioner. (B) Mr Keast on behalf of Mr and Mrs Walkey and Mr Leese on behalf of the Blisland Commoners Association were agreed the right at Entry No. 45 (formerly 30) should (in respect of the Unit Land) be for 13 head of cattle or 7 ponies or 65 sheep and should be attached to that part of Casehill edged black on the plan ("the ARW/1 Plan) then produced by Mr Kest. A copy of such plan forms pages 3 and 4 of this decision.

On the third day of the hearing Mr W M Rowe who is and has been since 1960 Secretary of Blisland Commoners Association gave evidence as summarised in column four of the First Schedule hereto. While such evidence was being given Mr Culver on behalf of Mr J L Smith and Mr Leese on behalf of Blisland Commoners Association were agreed that the disputes relating to the right (Entry No. 44 formerly 29) should be stood over on the same terms as had been agreed (as set out above) between Mr Cornelius and the Association.

I consider that I ought to give effect to the agreements recorded in the Schedule. As regards such of the registration as to which there has been no agreement, I consider the objections made by the Blisland Commoners Association fairly put these registrations in question at least to the extent of the grounds of objection and that accordingly in the absence of any evidence in support of the registrations (there was none) I ought to conclude (quite apart from any evidence given by Mr Rowe against them) that they were not properly made; but additionally this evidence, which I accept, provides in nearly all cases good reason why I should treat the objections as having been properly made. As regards the registration at Entry No. 43 made on the application of the Trustees of Molesworth St Aubyn Settle Estate, I have no note of Mr Rowe saying anything about this in his evidence; although I have a note that in other cases he told me that Colonel Oscar Molesworth St Aubyn told him that his registrations were not being pursued; the trustees as regards the Unit Land are in the Ownership Section registered as owners of the whole, and this registration being undisputed has become final; quite apart from the absence of any evidence in support of the Rights Section registration, its extraordinary nature (the right is not claimed as attached to any land and it is made for the benefit of a person who claims to be the owner of the land) provides good reason for my treating it as irregular.

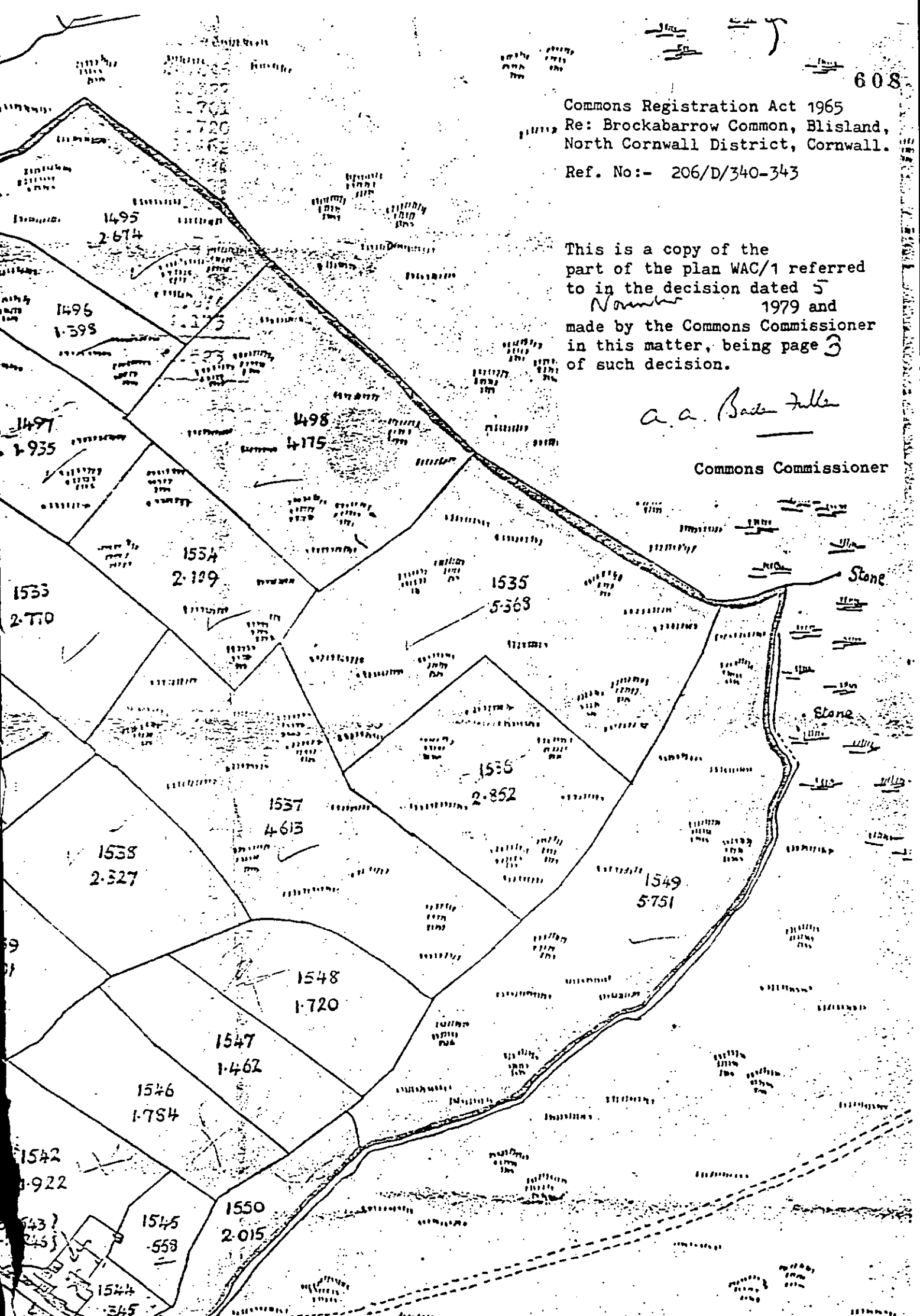
For the reasons set out above and in the First Schedule hereto I refuse to confirm the registrations at Entry Nos 15, 22, 24, 26, 37 (formerly 1), 42 (formerly 18), 43, 49 (formerly 28) and 51 (formerly 34 or 16) I confirm the registration at Entries Nos 2, 5, 17, 19, 23, 38 (formerly 10), 39 (formerly 11), 40 (formerly 12), 41 (formerly 13) and 45 with the modifications set out in the Second Schedule hereto. As regards the registrations at Entry No. 21 (Mr Cornelius) and at Entry No. 44 (Mr J L Smith) both of which are subject to Objection No. X1378 (Reference 206/D/340) I adjourn the proceedings to a date and place to be fixed by a Commons Commissioner. If Mr Cornelius, Mr Smith and the Association reach an agreement they may be able to save themselves and others the trouble and expense of a further hearing by taking advantage of regulation 31 (decision by consent) of the Commons Commissioners Regulations 1971.

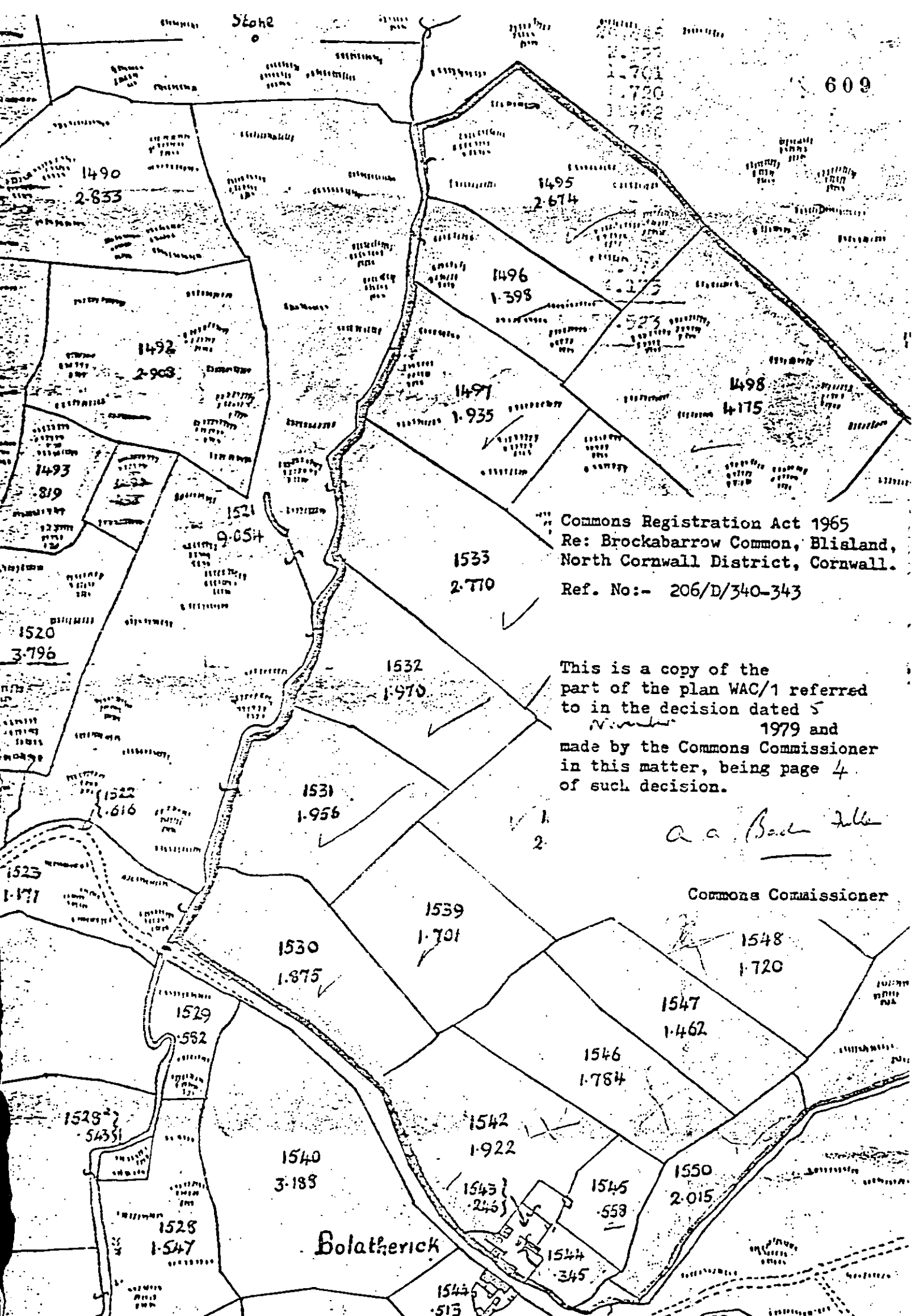
Because much of this decision is complicated and it is possible that I may have misunderstood or mistakenly recorded what was at the hearing said to me, I give any person who attended or was represented at the hearing and who was then entitled to be heard liberty to apply to me within 42 days of this decision being sent to him as to any correction which ought to be made in either of the Schedules hereto.

Commons Registration Act 1965  
Re: Brockabarrow Common, Blisland,  
North Cornwall District, Cornwall.  
Ref. No:- 206/D/340-343

This is a copy of the  
part of the plan WAC/1 referred  
to in the decision dated 5  
*November* 1979 and  
made by the Commons Commissioner  
in this matter, being page 3  
of such decision.

*a. a. Bates Fuller*  
Commons Commissioner





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*A. A. Baden Fuller*

Commons Commissioner

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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.

## FIRST SCHEDULE

(Rights Section)

Entry No. (in brackets no. of any former Entry)	Applicant and land to which registered right is attached	Right: "c" = head of cattle, "p" = ponies, "h" = horses, "s" = sheep, "peat" = a right to take or cut peat and/or turf	Objection particularly applicable. "R" refers to evidence given by Mr W M Rowe. "D" refers to a document signed by an applicant (or his successor in title) produced by Mr Rowe
2	S J Gibson Somerton Temple	30c	X1380, should be 12c. R: 12 units but not 30 because 27 acres good and 87½ acres rough: say, 12c or 6p or 60s.
5	Wesley Smith Colquite	30c	X1380, should be 11c. D: modified to correspond with X1375(?). R: modified to 13c or 6p or 65s. Mr Culver agrees.
15	Barclays Nominees (Branches) Ltd, Meadow Down & Boys House	150c (cows) <u>and</u> 150s (ewes)	X1378, rights do not exist. R: in St Neot: never known any animals grazed from these farms on the Common.
17	E D Roose Carbilly	47c (cows) or 23p or 235s	X1380 should be 15c or 7p or 75s. R: should be 15c or 7p or 75s. Mr Roose (in person) agrees.
19	T L Merritt, Part of Somerton Farm	3c or 3p or 15c	X1380, should be 2c or 1p or 10s. R: I consider 2c or 1p or 10s enough for the acreage of this farm.
21	E R Cornelius Moss Farm	70c (cows) <u>and</u> 65h <u>and</u> 200s	X1378, rights do not exist. Agreed adjournment.
22	F J J Jones Vicarage Farm	4c or 4p	X1378, rights do not exist. R: I cannot recall any stock being grazed from this farm.



## FIRST SCHEDULE (continued)

23	A C T Runnalls Treswigga Farm	30c <u>and</u> 60s <u>and</u> 2p peat fish	X1380 should be 13c or 2p or 60s. Mr Romary and Mr Rowe agree 13c or 6p or 65s.
24	A V Viscount Clifden Kingswood Farm	51c or 51p or 255s	X1378, rights to not exist. R: Coardinham a different parish; never seen cattle from this farm grazing on common.
26	A V Viscount Clifden Pinsla Park Farm	60c or 60p or 300s	X1378, rights to not exist. R: see 24 above.
<del>37</del> (7)	N S Davidson South Kerrow	40c or 120s turf	X1378, rights d. not exist. D: now Larsens, cancel to correspond with X1378. R: cancelled.
<del>38</del> (10)	C R J Bate, Part of Somerton	3c or 3p or 15s	X1380, should be 2c or 1p or 10s. D: modify to correspond with X1380. R: modify accordingly. Mr Culver agrees.
39 (11)	C R J Bate, Part of Somerton	7c or 7p or 35s	X1380 should be 4c or 2p or 20s. D: modify to correspond with X1380. R: modify accordingly. Mr Culver agrees.
40 (12)	C R J Bate, Abbey Farm	33c or 5p or 20s	X1380, should be 20c or 5p or 25 D: modify to correspond with X1380. R: modify accordingly. Mr Culver agrees.
41 (13)	C R J Bate, Hill Gorse and Broad Park	33c or 33p or 165s	X1380 should be 20c or 10p or 10 D: modify to correspond with X1380. R: modify accordingly. Mr Culver agrees.
42 (18)	W J Carter, Candra	45c or 45p or 225s peat	X1378, rights do not exist. Withdrawn on first day by Mr Chisholm.
43	Trustees of Molesworth St Aubyn Settled Estate, (not attached to any land).	200cc <u>and</u> 200p <u>and</u> 500s. peat gorse etc	X1381, rights do not exist or if they do should be reasonable. R:--



## FIRST SCHEDULE (continued)

44 (29)	John Llewellyn Smith, Barton Bolventor	25c or 25p or 125s	X1378, rights do not exist. Adjourned.
45 (30)	A R Walkey Mrs F A Walkey, Casehill	60c <u>and</u> 12h or 300s	X1378, rights do not exist. Agreed between Mr Leese and Mr Kest as recorded in body of this decision.
46	A L Rowe Lanxon	15c or 7p or 75s peat	Being undisputed has become final on 18 April 1974.
49 (28)	DA J Yelland; Little Meadows	21c or 21p or 105s peat	X1378, rights do not exist. R: now owned by Water Authority, never seen any grazing.
51 ( <del>51</del> ) (15)	P A'L Colenso- Dingle and K Tucker, Benorth	8c peat	X1379, persons named not entitled to apply. R: in Cardinham, a long way from the Common; never known any animals grazed (perhaps withdrawn on first day).

## SECOND SCHEDULE

(Decision table: modifications)

Entry No. 2 (S J Gibson): for "30 head of cattle" substitute "12 head of cattle or 6 ponies or 60 sheep".

Entry No. 5 (W Smith): for "30 head of cattle" substitute "13 head of cattle or 6 ponies or 65 sheep".

Entry No. 17 (E D Roose): for "47 cows or 23 ponies or 235 sheep" substitute "15 head of cattle or 7 ponies or 75 sheep".

Entry No. 19 (T L Merritt): for "3 head of cattle or 3 ponies or 15 sheep" substitute "2 head of cattle or one pony or 10 sheep".

Entry No. 23 (A C T Runnalls): for "50 head of cattle and 60 sheep and 2 ponies" substitute "13 head of cattle or 2 ponies or 65 sheep".

Entry No. 38 (formerly 10) (C R J Bate): for "3 head of cattle or 3 ponies or 19 sheep" substitute "2 head of cattle or one pony or 10 sheep".

Entry No. 39 (formerly 11), (C R J Bate): for "7 head of cattle or 7 ponies or 35 sheep" substitute "4 head of cattle or 2 ponies or 20 sheep".



## SECOND SCHEDULE (continued)

Entry No. 40 (formerly 12) (C R J Bate): for "33 head of cattle or 5 ponies or 25 sheep" substitute "20 head of cattle or 5 ponies or 25 sheep".

Entry No. 41 (formerly 13) (C R J Bate): for "33 head of cattle or 33 ponies or 165 sheep" substitute "20 head of cattle or 10 ponies or 100 sheep".

Entry No. 45 (formerly 30) (A R Walkey): in column 4, for "60 cows and 12 horses or 300 sheep" substitute "13 head of cattle or 7 ponies or 65 sheep" and for all the words in column 5 substitute a description of the land edged black on the ARW/1 plan, a copy of which forms pages 2 and 3 of this decision, such description being in such words and with such map if any as the County Council as registration authority may choose.

Dated the 5<sup>th</sup> /c — day of *November* — 1979

*a. a. Bowen Jullie*

Commons Commissioner