



In the Matter of Brackember Moor, Murton

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DECISION

These disputes relate to a number of registrations in the Rights Section of Register Unit No. CL 28 in the Register of Common Land maintained by the Cumbria County Council and are occasioned by Objections made by the Secretary of State for Defence ("the Minister") and by the Hilton Commoners Committee ("the Committee") and also by conflicting registrations in the Rights Section.

I held a hearing (adjourned from 19 May 1981) for the purpose of inquiring into the disputes (so far as still outstanding) at Keswick on 10 July 1984. At the hearing the Minister was represented by Mr J D Howes, on behalf of the Treasury Solicitor, and the Committee by Mr P Birtles, Solicitor. Before this hearing a number of the disputes had been disposed of by the Interim Decision in this matter dated 28 July 1980 and the disputes so disposed of are not dealt with in this Decision.

The disputes still outstanding concern the Entries listed in the Schedule to this Decision. The Objections to the Entries in Part I of the Schedule have been withdrawn and these Entries I confirm without modification.

At the present hearing the Entries in Part II of the Schedule are identical with similar Entries in the Rights Section of CL 27 (Hilton Fell), and in the Rights Sections of CL 27 and CL 28 are expressed to be exercisable over both areas of common land. The Objections by the Minister were all withdrawn. As regards the Committee's Objections, Mr Birtles asked that these Entries should in the case of CL 28 be dealt with in the same way as in the case of CL 27. No submission was made or evidence given in support of these Entries and it seems to be both logical and realistic that they should be so dealt with, and I understood from Mr Birtles that this would be the general view of the members of the Committee. Accordingly I confirm the Entries listed in Part II of the Schedule with the modifications set out therein. These are the same modifications as those to be made to the corresponding Entries in CL 27 in accordance with the Decision dated 21 November 1984 in that case (Ref: 262/D/95).

Mr Birtles asked that Entries Nos. 39, 40 and 41 be cancelled. (Objection No. 2/229). There was no appearance in support of these Entries, and Nos. 40 and 41 are in conflict with Entry No. 35 (which is to be confirmed). Accordingly I refuse to confirm Entries Nos. 39, 40 and 41.

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

Part I: Rights to be confirmed without modification

<u>Entry No.</u>	<u>Applicant</u>	<u>Objection Nos.</u>
12	A Sill	2/53, 2/243
17	C Dent	2/56, 2/241
18	O Allison	2/57
24	O Allison	2/61
35	E A Rebanks	2/98
27	K Balmer	2/64
28	J Hebson	2/66
31	W C Tarn	2/239

Part II: Rights to be confirmed with modifications

In this Part "stint" is to be construed in accordance with the following table:-

1 sheep (including 1 follower)	equals 1 stint
1 hogg	equals 1 stint
1 head of cattle	equals 5 stints
1 horse	equals 7 stints
4 geese	equals 1 stint:

*and the aggregate number of animals of the kind or kinds referred to in each Entry grazing at any one time shall be within the limit of the stints as so construed.*

<u>Entry No.</u>	<u>Applicant</u>	<u>Objection No.(s)</u>	<u>Modifications</u>
2	J C Harrison	2/44, 2/224	In Column 4 delete all words from and including "To graze" down to and including "cattle with followers". Substitute "To graze 20 stints - sheep, hogs, cattle, horses"
4	G T Thompson	2/46, 2/226	In Column 4 delete "(a) 2 horses and (b) 2 foals up to one year old". Substitute "14 stints - horses"
9	M A W Slack	2/50, 2/230	In Column 4 delete "(a) 20 sheep and (b) 5 head of cattle". Substitute "45 stints - sheep, cattle"
10	G A W Slack	2/51, 2/231	In Column 4 delete all words from and including "To graze" down to and including "ponies with their followers" Substitute "To graze 300 stints - sheep, hogs, horses"
11	G A W Slack	2/52, 2/244	In Column 4 delete all words from and including "To graze" down to and including "geese and their followers". Substitute "To graze 705 stints - sheep, hogs, cattle, horses, geese". Modify Column 5 in accordance with Interim Decision.



- 15 W Patterson 2/106, 2/245 In Column 4 delete all words from and including "To graze" down to and including "cattle with their followers". Substitute "To graze 600 stints - sheep, hogs, cattle, horses"
- 24 J W M Bell 2/32, 2/238 In Column 4 delete all words from and including "To graze" down to and including "Hogs". Substitute "To graze 180 stints - sheep, hogs"
- 30 J C Clark 2/67, 2/235 In Column 4 delete all words from and including "To graze" down to and including "follower". Substitute "To graze 57 stints - ewes, hogs, horses"
- 32 W Idle 2/96, 2/234 In Column 4 delete all words from and including "To graze" down to and including "cattle". Substitute "To graze 190 stints - sheep, cattle, horses"
- 36 S Harker 2/107, 2/233 In Column 4 delete all words from and including "To graze" down to and including "horses with their followers". Substitute "To graze 1360 stints - sheep, hogs, cattle, horses"
- 37 J B Bainbridge 2/100, 2/229 In Column 4 delete all words from and including "To graze" down to and including "cattle with their followers". Substitute "To graze 66 stints - sheep, hogs, cattle"
- 38 J B Bainbridge 2/101, 2/229 In Column 4 delete all words from and including "To graze" down to and including "cattle with their followers". Substitute "To graze 44 stints - sheep, hogs, cattle"
- 44 A B Hogg 2/104, 2/240 In Column 4 delete "To graze (a) 25 sheep and (b) horses". Substitute "To graze 60 stints - sheep, horses"
- 87 M R Knewstubb 2/236 In Column 4 delete all words from and including "To graze" down to and including "7 ewes and their followers". Substitute "To graze 22 stints - sheep, cattle, horses"
- 47 R Currah 2/228 In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 23 stints - sheep, cattle, horses"
- 50 J H Beadle 2/223 In Column 4 delete all words from and including "T o graze" down to and including "7 ewes and followers". Substitute "To graze 75 stints - sheep, cattle, horses"
- 52 H. G. Frith 2/225 In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 90 stints - sheep, cattle, horses"
- 54 L T L Hebson 2/227 In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 20 stints - sheep, cattle, horses"
- 56 N S Daniels 2/232 In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 13 stints - sheep, cattle, horses"
- 58 D Kipling 2/54, 2/242 In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 7 stints - sheep, cattle, horses"



60 W C Tarn 2/239

In Column 4 delete all words from and including "To graze" down to and including "7 ewes and followers". Substitute "To graze 34 stints - sheep, cattle, horses".

Dated 21 November

1984

*H. J. Morris Smith*

Commons Commissioner