



In the Matter of Brendon Common, Brendon

DECISION

This dispute relates to the registration at Entry Nos 2-4, 6, 7, 9-16, 18-26, 28-31 and 33-39 in the Rights section of Register Unit No. CL.168 in the Register of Common Land maintained by the Devon County Council and is occasioned by Objections ~~is~~ made by the Executors of the 5th Earl Fortescue and Badgworthy Land Co. Ltd and noted in the Register and the conflicting registrations at Entry Nos 7 and 14, 12 and 39 and 19 and 38 in the same Rights Section.

I held a hearing for the purpose of inquiring into the dispute at Barnstaple on 8th December 1983. The hearing was attended by Mr N Ayres of Crosse Wyatt and Co, Solicitors of South Molton representing the Brendon Commoners Association. Mr R Humphries, F.R.I.C.S representing Badgworthy Land Company Limited and Mr H Thomas F.R.I.C.S. Land Agent for the Fortescue Estate.

This common adjoins Register Unit No. CL. 175 which is described as 'Cheriton Ridge, Malmsmead Hill, part of Shilstone Hill and Tippacott Ridge Brendon and there is no dividing fence or wall between them. CL.168 is a single area of land but CL.175 is made up of four separate areas each of which adjoins a part of CL.168 on the latter's western, northern and north-eastern boundary.

The two matters were heard together and in each case I agreed to an adjournment to give the parties an opportunity of resolving the differences raised by the objections and conflicting registrations.

Although this process took longer than had been expected, I was able to hold a further hearing to consider the agreed terms ~~again~~ at Barnstaple on 6 November 1985.

Only Mr Ayres and Mr Humphries were present on this occasion but the terms had been considered and approved by Mr Thomas on behalf of his clients.

Most of the applications had been made in N F U units and to comply with the requirements of section 15 of the Act of 1965 it was necessary to express a unit in numerical terms. It was agreed that a single N F U unit of grazing should be evaluated as follows.

- 1 unit = 1 cow or horse or 6 sheep or 12 lambs
- $\frac{3}{4}$  unit = 1 pony or 1 head of cattle 2-4 years
- $\frac{1}{2}$  unit = 1 head of cattle 1-2 years
- $\frac{1}{4}$  unit = 1 head of cattle under 1 year



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For these reasons I confirm the following registrations (with such modifications as are set out below).

<u>Entry No.</u>	
2	Turbary and to graze 4 units
3	Turbary and to graze 4 units
4	Estovers Turbary and to graze 35/70 units
6	Turbary and to graze <del>12/30</del> units <i>h 15/30</i>
7	Turbary Estovers and to graze 17/34 units
9	Turbary sand gravel and stone (but only from Tippercott Quarry) and to graze 21/42 units
10	Turbary sand, gravel and stone (but only from Tippacott Quarry) and to graze 72/44 units
11	Turbary and to graze 4 units
15	Turbary Estovers and to graze 24/48 units
16	Turbary and to graze 27/54 units
18	Turbary and to graze 14/28 units
19	Turbary Estovers and to graze 4 units
20	Turbary and to graze 4 units
21	Turbary and to graze 4 units
22	Turbary and to graze 178/356 units
23	Turbary, and to graze 50/100 units
24	Turbary, Estovers and to graze 51/102 units
25	Turbary and to graze 6/12 units
26	Turbary and to graze 7/14 units
28	To graze 4 units
29	Turbary and to graze 26/52 units
30	Turbary, Estovers and to graze 45/90 units
31	Turbary, Estovers and 7/14 units
33	To graze 4 units
34	Turbary and to graze 4 units
35	To graze 4 units
36	To graze 4 units
37	Turbary and to graze 2 units
43	Turbary Estovers and to graze 8/16 units
44	Turbary Estovers and to graze 3/7 units replacing Entry No. 5
46	To graze 2/5 units )
47	To graze 3/7 units ) replacing Entry No. 39

Where there are alternative numbers for grazing units the larger number only applies during the period 16 May to 15 November in each year.

I refuse to confirm the Registrations at Entry Nos ~~12, 13, 14~~ and 38.

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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 10<sup>th</sup> day of December 1985

*George Horlock*

COMMONS COMMISSIONER

*Amended in red  
insert to para 3<sup>rd</sup>  
of the Commons  
Commissioners Regulations  
1971. George Horlock  
5<sup>th</sup> Dec 86*

*Amended in red*  
*11/12/85*  
*George Horlock*