



In the Matter of Maiden Down, Culmstock

SUPPLEMENTARY DECISION

This dispute relates to the registration at Entry No. 1-4 and 6 in the Rights Section of Register Unit No. CL 88 in the Register of Common Land maintained by the Devon County Council and is occasioned by Objection 527 made by Mr F L Vincent and noted in the Register on 10 November 1970.

I held a hearing for the purpose of inquiring into the dispute at Exeter on 18 July 1984.

The hearing was attended by Mr M R Rose of Clarke, Willmott and Clarke, Solicitors of Wellington who appeared for Mr Roppert and Mr Disney, Mr F J Woodward of Burd, Pearce, Prickman and Brown appeared for Mr Pipe, the successor in title to Mr Vincent. Mr G S James appeared in person. This decision is supplemental to my decision herein dated 27 October 1983 in which I gave Mr Woodward's client liberty to apply to vary my decision on the grounds of levancy and couchancy.

It was accepted that a Common of pasture appendant was confirmedⁿ to horses, oxen, sheep and cattle and their followers and did not include goats, geese or poultry for the reasons set out in Halsbury's Laws of England 4th Ed. Volume VI at paragraph 553.

Mr Woodward wished to vary my decision relating to the registrations at Entry Nos. 1,3,4 and 6. He accepted that in the locality, 6 sheep equalled ~~one~~ horse or 1 beast plus followers.

Mr James whose entitlement had not been challenged gave evidence that the rate of stocking was 1 cow and follower to an acre.

Mr Woodward submitted that Mr Dunford who claimed for 5 units had only $2\frac{1}{2}$ acres, Mr Roppert had only $\frac{1}{15}$ of an acre but had claimed to graze 2 cows, Mrs Cash had 1.85 acres but had claimed to graze 4 goats and poultry and Mr Disney had 1.76 acres and claimed for 1 unit.

Mr Roppert gave evidence and produced his title deeds which showed that in 1961 he had purchased an area of 1.938 acres with the help of a mortgage. The area shown on his application as the dominant tenement was in fact the site of the dwelling house and he had not appreciated, when he made his application in 1968, that he should have included the whole of the acreage which he had purchased.

In my view, I am entitled, if I am satisfied on the evidence, that the plan attached to Mr Roppert's application did not accurately show the size of his dominant tenement, to allow an endowment to show the true position. I am so satisfied.



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For these reasons I propose by way of modification to delete all the particulars shown in the register in column 4 of the registrations at Entry Nos 1-4 and 6 except for the words "over the whole this register unit" and to substitute therefore the following:-

No. 1	2 $\frac{1}{2}$ Units (NFU Scale) 6 sheep = 1 cow or 1 horse with followers in each case
No. 2	10 cows and followers
No. 3	2 Units (NFU Scale)
No. 4	1 $\frac{1}{2}$ Units (NFU Scale)
No. 6	1 $\frac{1}{2}$ Units (NFU Scale).

For these reasons I ~~refuse to~~ confirm the registration at Entry Nos. 1-4 and 6 with the modifications I have mentioned.

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 19th day of July 1984

Henry Herbert
Commons Commissioner