

- Copy Order by the Scottish Land Court
in Application R.N. 1230, by His Grace
The Duke of Sutherland, to resume the
Common Pasture of the Townships of
Greenhill, Dalchalm, and East Brora
Muir.

Edinburgh, 31st. December 1915. The Land Court having inspected the subjects and resumed consideration of the Application and the evidence adduced, Find that the Applicant is directed to obtain authority to resume possession of the Common Pasture of the Townships of Greenhill, Dalchalm and East Brora Muir, extending to one hundred and forty-eight acres and five hundred and eighty-six decimal parts of an acre or thereby, outlined in red and indicated by the letters A B C D E F G H I J K A on the Plan, marked A/1230, and docketed and signed by the Chairman as relative to this Order, in so far as possession is required for the purpose of forming and maintaining in proper order and condition one or more golf courses or portions of a golf course or courses thereon, for the exercise of the game of golf by the inhabitants of Brora and the surrounding district and visitors thereto, on such conditions as the Court may fix, and that the Landlord has offered to make compensation for such restriction or impairment of the landholders rights in the said Common Pasture as may be caused by resumption of possession for the said purpose, and that by letting, rent free, other adjoining lands in enlargement of the said Common Pasture and in such other manner and on such conditions as the Court may judge reasonable: Find that the said purpose is reasonable and for the good of the Estate, and is also, compensation being provided by the enlargement of the said Common Pasture from the adjoining lands and otherwise upon reasonable conditions, for the good of the holdings of which the said Common Pasture forms part: therefore Find that the Application is competent, and authorise the Applicant, the Landlord, to resume possession and Require the Respondents, landholders in the said townships specified in the Application to surrender possession of the said Common Pasture extending to one hundred and forty-eight acres and five hundred and eighty-six decimal parts of an acre or thereby, but only so far as possession of the same is, or shall be, required for the said purpose as at and from the date of intimation of this Order, and subject to the following Terms and Conditions, vizt.:-

1. That the two portions of land contiguous to the said Common Pasture which extend respectively to twenty-seven acres and seven hundred and seventy-two decimal parts of an acre or thereby, outlined in green and indicated by the letters A L M N B A on said Plan, and to nineteen acres and two hundred decimal parts of an acre or thereby also outlined in green and indicated by the letters K O P J K on said Plan, shall, as at and from the date of intimation of/

of this Order, be let and assigned to the said Respondents to be held and possessed by them and their successors in their respective holdings rent free, as an enlargement of their said Common Pasture, and as part of their respective holdings, under the Small Landholders (Scotland) Acts 1886 to 1911, except in so far as possession of the said two portions of land is, or shall be, used and required for maintaining, or for forming and maintaining, one or more golf courses, or portions of a golf course or courses thereon, for the exercise of golf as aforesaid, in the same manner and subject to the same conditions and regulations as are hereby, or may be under the said Acts, approved or made by the Court for the said existing Common Pasture of one hundred and forty-eight acres and five hundred and eighty-six decimal parts of an acre or thereby with regard to the exercise of the game of golf and the grazing of stock thereon;

(2) The Landlord shall, as soon as reasonably practicable, erect, and thereafter maintain in good order at his own expense, a stock proof dyke or fence between the said whole lands, possession of which is by this Order either authorised, or excepted from the exercise of the game of golf as aforesaid, and the holdings contiguous thereto, of the Respondents landholders in the said Townships, provided that such dyke or fence may be erected on the said lands within a distance from the march of fifteen feet or thereby so as to leave a common passage for stock and require a less number of gates;

(3) That the four fields or parks, extending respectively to twenty-eight acres and nine hundred and thirteen decimal parts of an acre; seventeen acres and sixty-six decimal or one thousandth parts of an acre; twenty acres and five hundred and sixty-two decimal parts of an acre; and fifteen acres and three hundred and ninety-six decimal parts of an acre or thereby, outlined in blue and indicated by the letters K L M N K, K W P O K, O P Q R S O, and T U V W T respectively on said Plan, but excepting and reserving to the Landlord for the purpose of feuing that portion of the last above mentioned field or park which extends to three acres and seven hundred and ninety-one decimal parts of an acre or thereby and is marked "Land reserved for feuing" and indicated by the letters U X Y V U on said Plan, shall also as at and from the said date be let and assigned to the said landholders to be held and possessed by them and their successors in their respective holdings rent free, and as an ~~an~~ additional enlargement of their said existing Common Pasture, and as part of their respective holdings under the Small Landholders (Scotland) Acts 1886 to 1911, subject to such conditions and regulations as hereby are, or may be, under the said Acts, approved or made by the Court for the said additional enlargement;

(4) That the existing dykes and gates of the said four parks shall be maintained by the Landlord, provided that when and in so far as from time to time the said excepted and reserved area of three acres and seven hundred and ninety-one decimal parts of an acre or thereby is, or shall be, feued, the Landlord shall erect and maintain, or make provision for the erection and maintenance of, a stock proof dyke or fence between such feued ^{and} the remainder of the park contiguous thereto;

(5)/

(5) That, until and except in so far as from time to time ~~to time~~ the said excepted and reserved area is ~~actually~~ actually required for feuing, the said landholders and any other person having right in terms of this Order to graze stock on the remainder of the said park, shall be permitted to graze such stock on the said area without any extra charge or payment for such permission;

(6) That the Landlord shall at Whitsunday, nineteen hundred and sixteen, make payment to the Grazings Committee or Grazings Constable elected or appointed for the said townships of the sum of five pounds and thereafter annually at the term of Whitsunday of the sum of eight pounds, which sum shall form a fund to be used and employed from time to time at the discretion of the said Grazings Committee or Grazings Constable in improving the pasture of the said four parks and maintaining it in good order and condition and for no other purpose; reserving power to the Land Court on cause shown to increase or decrease the amount of the said annual payment on application being made by either party.

(7) After the souming of the said four parks has been fixed or approved by the Land Court in terms of the Grazings Regulations Acts, the said Grazings Committee, or Grazings Constable, shall, in the event of the land being undersoumed, be entitled to let to any landholder or landholders resident in the district, the right of grazing cattle stock in the said four parks to the extent of such undersouming, but that only upon payment by such landholder or landholders to the Grazings Committee or Constable at the rate of fifteen shillings per cow or such other less sum as may from time to time be fixed by the said Grazings Committee or Constable; said sums to be paid over to the landholder or landholders undersoumed in proportion to the deficiency in their souming;

(8) The said Grazings Committee or Grazings Constable shall be entitled to let the grazing of the said four parks or of the Links, ~~or both~~ ^{or} both for the wintering of sheep and any sum received in payment therefor shall be dealt with in the manner prescribed in clause 6 of this Order.

(9) No horses shall be allowed to graze on the Links at any time during the year, but the right of grazing cows and their followers, or sheep, thereon, throughout the whole year, shall be retained by the landholders and tenants concerned, subject to such provisions as are contained in, or may be added to, this Order.

(10) The said landholders or tenants and any other person authorised by the landlord shall possess a right of carting over the links at any time for the purpose of procuring seaweed, sand, or gravel, from the shore, but only along such lines of track as shall be agreed upon between the Landlord on the one hand, and the Grazings Committee, or Constable, on the other, or failing such agreement, then ~~on the lines of track at present existing and in use, and~~ on the lines of track at present existing and in use, and said tracks whether agreed on or as at present existing, as the case may be, shall be adhered to and not deviated from to the detriment of the golf course or courses: Persons so exercising the right of carting shall not be entitled/

:titled to deposit on any part of the Links in use as a Golf Course any sand or gravel: nor to deposit any seaweed thereon, except temporarily, and then only on ground forming no part of, or immediately contiguous to, a putting green.

- (11) Dogs shall not be allowed on the Links except in accordance with rules laid down in any Grazing Regulations sanctioned by the Land Court.

Reserve to parties to apply further with regard to any proposed addition to, or amendment of, the Conditions above set forth: Find no expenses due to or by any of the parties (Signed) For Lord Kennedy, David Anderson; E.E. Morrison; Norman Reid.

NOTE. - Brora is capable of becoming, if it is not already one of the most popular sea-side resorts in the north of Scotland. It has a number of modern villas, an excellent hotel, a delightful summer climate, and a golf course which is both finely situated and naturally good. The Golf Club is prosperous and has done much to improve the Links, but its operations have been hampered by the fact that part of its golfing ground forms part of the Common Grazings of local landholders. The interests of the two parties are necessarily conflicting. The game cannot be played without a serious interference with the pasture; yet for a considerable time prior to the application, by the exercise of mutual good will and forbearance, a fairly satisfactory working arrangement had been found possible.

At the date of the Hearing the Brora Golf Club was paying to the Landholders a sum of twenty pounds annually, and was also allowing them to graze their stock on two additional portions of the Links, free of rent. Negotiations for a continuation of this arrangement, or for a modification of it, had been carried on for a considerable period, but had come to a deadlock. In these circumstances the Landlord, maintaining that he was acting in the interests of the Estate and of the district, as well as of the Landholders themselves, applied to the Land Court for leave to resume that portion of the Links forming part of the Common Pasture. In all the circumstances there can be no doubt but that this application is made for "a reasonable purpose having relation to the good of the holdings or of the Estate." The Estate will benefit by an increase in feuing and by an extension of the Town of Brora which may be expected to follow the acquisition and development of a first class golf course. On the other hand compensation to the landholders under this Order is such that they will be in at least as good a position as before.

A precedent for the granting of an Application for the resumption of land "for the limited purpose of the free exercise of the game of golf" may be found in the Order of the Crofters Commission dated 21st December 1891, in relation to a piece of Links land near Stornoway.

The right to make and maintain one or more Golf Courses, now given to the Landlord, includes the full rights usually exercised by a Golf Club, such as mowing grass, shifting bunkers, and teeing grounds, making putting greens etc: but with certain restrictions of such rights as defined in this Order. At some future time, circumstances, not now foreseen, may arise making it desirable to re-adjust some of the conditions now laid down. With the/

the growth of Erora there may come a demand for extended golfing facilities which would, if granted, cause a deterioration in the value of the Links Grazing. To meet the possibilities of such altered circumstances, leave to make further application at any time has been reserved to both parties.

It was stated by some of the Respondents that, if the Application for Resumption were granted, the total amount of grazing for their stock (including the four fields now added to their Common Pasture, and till now held by them for seasonal grazing only) would be seriously reduced, though already it was too small for their needs. To meet whatever weight there may be in the objection, a scheme has been devised for the gradual improvement of the four fields. By rooting up whins, by manuring, and by draining where required, much could be done. The Fund to be formed for this purpose may be allowed to grow and be made use of at convenient intervals. If wisely employed, as it might be, for example, under the guidance of the local representative of the Aberdeen College of Agriculture, a steady improvement in these pastures may be looked for.

There should now become available to the landholders in these Townships a sum of money - understood to amount to about £80 - which has been lodged for their behoof as rent in a local bank by the Erora Golf Club, but which pending the settlement of the whole matter, could not be taken possession of. How this money is to be allocated is not a question for the Land Court but for a legally constituted Grazings Committee. It may however be suggested that either the whole of it should be equally divided amongst the shareholders interested, or a part of it should be so divided, and the remainder made use of for the improvement of the Common Pasture.

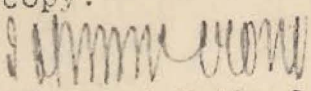
Certain Landholders in the district, other than the Respondents, have hitherto, by arrangement with the Landlord, grazed their cows on the four parks which are now to be added to the Common Grazings. In order that no unnecessary hardship may be inflicted on these tenants by the sudden loss of this privilege, power has been specially reserved to the Grazings Committee to continue such seasonal letting when it can be done without loss to the shareholders in the Common Grazings.

One of the necessary consequences of this Order will be, at the earliest possible date, the election of a Grazings Committee and an Application to the Land Court for the sanction of Grazing Regulations. (Initialled) D. A.; E. E. M.; N. R.

MINUTE by NORMAN REID.

I have considerable difficulty in signing the above Order. While agreeing to the principle of resumption as being for the good of the Estate and of the holdings I am of opinion that the compensation offered by the Landlord by letting other lands in the neighbourhood is sufficient of itself, if not indeed generous, without any compensation in money. But as the majority of the Court take a different view I do not formally dissent from the above finding. (Signed) Norman Reid.

Certified to be a true copy.


Sheriff Clerk of Sutherland

Dornoch, 2nd. February 1916.