



COMMONS REGISTRATION ACT 1965

THE FOREST of DARTMOOR

DEVON

Decision

of

MR A A BADEN FULLER, Commons Commissioner.

Hearings at Plymouth
in April, June and October 1982.

Clerk of the Commons Commission.
Golden Cross House
Duncannon Street
London WC2N 4JF

Reference Nos:-
209/D/287 - 288



COMMONS REGISTRATION ACT 1955

Reference Nos: 209/D/287
209/D/288

In the Matter of the Forest (part)
of Dartmoor, Lydford, West Devon
District, Devon

DECISION

Introduction

This matter relates to 1,009 registrations made under the 1965 Act. My decision as regards each of these registrations is set out in the Fourth (and last) Schedule hereto. The disputes which have occasioned this decision, the circumstances in which they have arisen and my reasons for my decision are as follows.

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos. specified in the first column of Part I of the First Schedule hereto in the Rights Section of Register Unit No. CL164 in the Register of Common Land maintained by Devon County Council and are occasioned by the Objections made by the persons, and noted in the Register on the days, specified in Parts I and II of the Second Schedule hereto and by the registrations specified in Part V of the said First Schedule being in conflict.

I held a hearing for the purpose of enquiring into the disputes at Plymouth on 20, 21, 22 and 23 April, 8, 9 and 10 June and 19, 20 and 21 October 1982.

At the hearing: (1) the Attorney-General for the Duchy of Cornwall, they having made Objections (Land Section) Nos 65, 193, 194, 506 and 649 and Objections (Rights Section) Nos 311 to 321 inclusive, 380, 381, 478, 545, 546, 981, 984 and 1102 were represented by Mr T Etherton of counsel instructed by Farrer & Co, Solicitors of London; (2) South West Water Authority as successors of South West Devon Water Board who made Objections (Land Section) Nos 8 and 506 and Objection (Rights Section) No. 523, were represented by Mrs F G Canning solicitor of their Legal and Estates Department; (3) Mr A E Sturges of Cator Court, Widecombe-in-the-Moor who made Objection (Land Section) No. 299 attended in person; (4) Mrs F Wilkinson of Babeny Farm, Poundsgate who made Objection (Land Section) No. 649 was also represented by Mr T Etherton of counsel (he said that Mrs F Wilkinson is of her land a tenant of the Duchy, and with her consent the Duchy have taken over her Objection); (5) Minister of Agriculture Fisheries and Food who made Objection (Right Section) No. 1030 was represented by Mr R J Turner, solicitor of his Legal Department; (6) Mr W J Edmunds of Gribblesdown, South Brent who made Objections (Right Section) Nos 1084, 1087, 1088 and 1089 attended in person; (7) Mr Ernest Frederick Palmer of Lambs Park, Sheepstor who made Objections (Right Section) Nos 1096 and 1097 attended in person; (8) Mr David Gilbert Henry Cooper of 2 The Lodge, Princetown who claimed that his property should be excluded from the Land Section registration notwithstanding that there had been no Objection relating particularly to it, attended in person; (9) Devon County Council who as registration authority had made the Land Section registration without application, was represented by Mr P A J Browne their



Senior Assistant Solicitor; (10) the following represented professionally the persons who had applied for or were otherwise concerned with the Rights Section registrations mentioned in Part IV of the First Schedule hereto and who are therein said to have been so represented:- (a) Mr F J Woodward solicitor of Burd Pearse Prickman & Brown, Solicitors of Okehampton, (b) Mr P W Harker solicitor (helped in his absence by Mr D M Crocker solicitor) of Bellingham & Crocker, Solicitors of Plympton, (c) Mr R J Keast solicitor of Stephens & Scown, Solicitors of Exeter, (d) Mr Michael Baldwin of Woolcombe and Yonge, Solicitors of Plymouth, (e) Mr H Warmington and Mr J P Hastings chartered surveyor of Stratton & Holborow, Chartered Surveyors and Land Agents of Exeter, (f) Mr P J R Michelmores, chartered surveyor of Michelmores Hughes, Chartered Surveyors of Newton Abbot, (g) Mr R G Woolcocks, chartered surveyor of Ward & Chown, Chartered Surveyors of Tavistock; and (11) the following attended either on their own behalf or as representing not professionally other persons who applied for or were otherwise concerned with Rights Section registrations mentioned in Part IV of the First Schedule hereto and who are therein said to be so represented:- (a) Dr H P Barrow of 60 Compton Avenue, Mannamere, Plymouth, (b) Mr Patrick Wrayford Coaker and Mrs Edith Patrick Coaker of Bittleford Farm, Widcombe-in-the-Moor, and (c) Mr John Gordon Stanley Coaker of Sherberton Farm, Princetown, (d) Admiral Sir James H F Eberle of Village Farm, Holne, (e) the said Mr W J Edmunds, (f) Mr John Trevorthen French of Owley Farm, South Brent, (g) Mr R H Jane of Monksmoor Farm, Bittaford, Ivybridge, (h) Mr H P Legassick of Collytown, Sheepstor, (i) Mrs Felicity E Luscombe of Buxton Barton, Shaugh Prior, (j) the said Mr E F Palmer, (k) Mr S P Rogers of Sortridge House, Horrabridge, (l) Mr J M Rowe of Grimstone, Horrabridge, (m) Mr R Savery of Lincombe, South Brent, (n) Lady S R P Sayer of Cator, Widcombe-in-the-Moor, and (o) Mr S R Sykes of Sunnyside, Princetown.

The land ('the Unit Land') in this Register Unit comprises 15 pieces. The largest piece has an average length from north to south of about 10 miles and an average width from east to west of about 4 miles; its south side adjoins the north side of the B3357 road from Tavistock to Two Bridges; its north side is about $1\frac{1}{2}$ miles south of Okehampton. The next largest piece has an average length and width of about 3 miles; its north boundary is south of and near to Haxworthy and its northwest corner is about $2\frac{1}{2}$ miles southeast of Princetown. Another piece containing about 3 square miles is situated between Postbridge and Warren House Inn. Another piece containing about 2 square miles southeast of and near to Bellever. Another piece (smaller) is about $1\frac{1}{2}$ miles west of Frenchbere. Four other pieces (all smaller and some comparatively very small) are situated near to or south of Princetown. The remaining six pieces (small and all except one very small) are situated north and northeast of Haxworthy. Generally the Unit Land may be described as comprising the unenclosed and open lands (or most of them) within an area which is about 20 miles long from north to south and has a width from east to west varying between 3 and 6 miles and which is locally known as Dartmoor Forest. On the Register map the Unit Land is divided into 4 parts thereon marked as "North Quarter (N)", "East Quarter (E)", "South Quarter (S)" and "West Quarter (W)".

I made inspections of the Unit Land on 24 April (Huntingdon Warren, Huccaby Land and Warren House Land), 11 June (parts near Okehampton Common and Belstone Common), and 8 November (parts near Ugborough Moor and Harford Moor).



Noncontroversial Land Section questions

In the next five paragraphs of this decision I set out the concessions and the contentions relating to the Land Section registration about which there was at the hearing little or no dispute.

Mrs Canning after on behalf of the South West Water Authority withdrawing Objection No. 8 being about the Swincombe WA Land, in support of Objection No. 506 being about one well near Black-a-ven Brook, a tributary of East Okement River and five wells near the River Taw produced the documents specified in Part I of the Third Schedule hereto. As to the one well near the Brook, she said that this was included in the 1934 Lease (FGC/4) and had been fenced ever since that time and that the Okehampton water undertaking was conveyed by a conveyance dated 31 July 1968 to North Devon Water Board. As to the five wells by the River Taw she contended that under the 1969 documents produced (FGC/2, and /3) all rights of common had been regularly extinguished pursuant to the North Devon Water Board Act 1959 in conformity with the Lands Clauses Consolidation Act 1845. Nobody contending otherwise, my decision is that the Swincombe WA Land was properly included in the Land Section registration and that the said wells, more particularly described in sub-paragraphs (a) and (b) of paragraph 1 of the Fourth and last Schedule hereto were not properly so included.

As to the Bellever strip (OS No. 1607 containing 4.307 acres) mentioned in Objection (Right Section) No. 1030 made by the Minister of Agriculture Fisheries and Food, Mr Turner in the course of his evidence produced the documents specified in Part II of the Third Schedule hereto. The Bellever strip is on the north side and next to the road leading eastwards out of Bellever to the East Dart River and thence to Widdecombe-in-the-Moor. By the 1931 conveyance (RJG/1) the lands secondly conveyed containing about 1,090.883 acres were described as known "as Bellever Farm"; but in the more detailed description in the second part of the Schedule Bellever strip is described as "(OS No.) 1607. (Cultivation) 2 Cottages and Rough Pasture (acreage) 4.307". The Objection is expressed to be limited to "Rights" on the grounds "that no common rights exist on this land". As to the Objection and the grounds of it as expressed, nobody at the hearing contending otherwise, my decision is that it succeeds. As a result of the Objection I have information about the Bellever strip which suggests that it should not have been included in the Land Section registration because if for the reason given by Mr Turner there were not in 1968 any rights of common over it then subsisting it cannot be within paragraph (b) of the Section 22 definition of "common land" in the 1965 Act and if it was then rough pasture enjoyed by 2 cottages it cannot then have been "waste land of a manor" within paragraph (b) of the said definition. Under other Objections, the Land Section registration is in question and I have under the 1965 Act jurisdiction to modify such registration as regards any land in it notwithstanding the grounds of the other Objections (Land Section) are expressly limited to particular parts, see re Sutton 1982 1 WLR 647. So pursuant to such jurisdiction arising under such other Objections (Land Section), my further decision, nobody at the hearing suggesting



otherwise, is that the Bellever strip more particularly described in sub-paragraph (c) of paragraph 1 of the Sixth and last Schedule hereto should not have been included in the Land Section registration.

As to the Pizwell Duchy Land edged red on one of the plans attached to Objection (Land Section) No. 193, on 20 April Mr Etherton produced a plan (Duchy/1) showing this as OS map (1905 edition) plot No. 1253 containing 6.594 acres (northeast of Pizwell) and plot No. 1261 containing 2.819 acres (southeast of Pizwell). Mr Browne (for the County Council) said that between Nos 1253 and 1261 there is a wall (from near Pizwell on the west to near the Footbridge over the Walla Brook on the east) marking the boundary and suggested No. 1253 should remain registered and that No. 1261 should be removed from the register. To this Mr Etherton was agreeable subject to provision being made for Objection No. 299 made by Mr A E Sturges, the plan attached to which comprised not only the before mentioned OS Nos 1253 and 1261 but also a strip extending southwards to a line not far from Riddon Brake (near the road from Bellever to Widdecombe-in-the-Moor). About this Objection on 21 April Mr Sturges said he was agreeable to the north part (OS No. 1253) remaining on the Register and (as proposed by Mr Browne) to all the south part coming off; he said that the stream (Walla Brook) which flows southward over this part is wiggly and unfenceable because of bogs, but that the stream is the boundary between Great Cator Farm on the east (his farm) and Pizwell Farm on the west (belonging to the Duchy) and that he and the Duchy's tenant shared the rough grazing. Lady Sayer being agreeable to these suggestions and no other person at the hearing objecting, my decision is that these Objections succeed as regards the above mentioned south part from the said wall mentioned by Mr Browne on 20 April to the said line (near the said road) and that accordingly this part as defined in sub-paragraph (d) of paragraph 1 of the Fourth and last Schedule hereto was not properly registered in the Land Section.

As regards the lands being Nos 1 and 2 The Lodge fronting on the main road (B3212) from Princetown to Yelverton and situated a short distance south of what was Princetown Railway Terminus. On 21 April Mr D G H Cooper in the course of his oral evidence produced the documents specified in Part V of the Third Schedule hereto. He said (in effect) that No. 2 The Lodge of which he had been the Duchy's tenant since October 1968 which he had purchased from them in July 1981 is a house approximately 60 years old built in the corner of a field and completely enclosed and that its inclusion in the registration must have been a mistake; on the latest OS map it is plot No. 8029 containing 0.16 of an acre. Mr Etherton agreed there had been a mistake and said that No. 1 The Lodge on the opposite side of the road as shown on plans (Duchy/10 and Duchy/11) as being OS No. 7832 containing 0.10 of an acre was also mistakenly included. Notwithstanding that these lands are not mentioned particularly in any Objection (Land Section) I have as above stated in relation to the Bellever strip, jurisdiction to correct the mistake; on like considerations, particularly having regard to re Sutton supra, I consider I should exercise this jurisdiction and accordingly my decision is,



nobody at the hearing suggesting otherwise, that the part of the Unit Land more particularly described in sub-paragraph (e) of paragraph 1 of the Fourth and last Schedule hereto was not properly included in the Land Section registration.

As to the Babeny strip (OS No. 320 containing 4.452 acres) mentioned in Objection (Land Section) No. 649 made by Mrs F Wilkinson, Mr Etherton said that under the agreement above mentioned by which this Objection had been taken over by the Duchy, the Babeny strip was to be removed from the Register. Lady Sayer did not press for it to remain registered. In the absence of any contrary suggestion, my decision is that the Babeny strip was wrongly included in the registration and accordingly the Objection succeeds.

Huccaby Lands

The Huccaby Lands being those shown edged red on the plan annexed to Objection No. 194 (Duchy) for the purposes of exposition I divide into 7 pieces: (1) the largest ("the HH Piece") on the south side of and adjoining the road from Huccaby Bridge (over the West Dart) to the junction ("the T Junction") with the B3357 (formerly A384) road and situated near and north of Huccaby House; (2) another piece ("the Riverside Piece") about 300 yards long between the West Dart and the said road from Huccaby Bridge; (3) and (4) two pieces ("the HF West Piece and the HF East Piece") which are on the west and east sides of the part of the last mentioned road which extends from near Huccaby Farm Buildings on the south to the T junction on the north; and (5), (6) and (7) ("the B3357 West Piece, the B3357 Middle Piece and the B3357 East Piece") all being open to the made up carriageway of the B3357 road, the east piece being about 450 yards long and extending from near the top of the hill down to Dartmeet, westwards to the T junction, the Middle Piece being about 200 yards long extending from the T junction westwards and the West Piece being about 300 yards further to the west and having a length of about 600 yards.

The grounds of the Objection are (in effect) that the Huccaby Lands situated in the Manor of Lydford are let on a lease and were not Common Land at the date of registration.

Mr Browne said that the County Council are not claiming that the HH Piece (it is now enclosed) was properly registered, but contended that the other pieces are manorial waste and/or subject to rights of common and had been used by the public. Miss E Stuart Senior Archivist in the West Devon Record Office produced a Lydford Tithe Award dated 1839 and a copy (certified in 1840) of a map stated to be "of the enclosed land", referred to in the said award. In this map all the Huccaby Land is uncoloured and unnumbered.

I reject the contention made while I was hearing evidence about the Huccaby Lands that Lady Sayer had no right to be heard against the Land Section Objections. On



the application of Sir Guy Sayer and herself the Right Section registration at Entry No. 123 was made and the removal of any land from the Land Section would necessarily to some extent affect this Entry; indeed by section 5 of the 1965 Act every such objection is to be treated as an objection to every Rights Section registration. As to such a right to be heard, the smallness of the interference with their registration which will result from the removal of the Objection land is irrelevant.

Lady Sayer who has lived at Dartmoor from very early in her childhood (her grandfather lived at Huccaby House) and who has been chairman of the Dartmoor Preservation Association for 22 years in the course of her oral evidence said (in effect):- The B3357 Pieces and the HF Pieces are and have always been within her recollection moorland, in places with large rocks. They had never been usefully occupied as farmland. Being open to the road, they had been used by people travelling along it with cattle and by people riding ponies. People riding can get off the road and escape the traffic (busy in summer) and she had been very glad to get her ponies off the road there. The Riverside Piece is and has always been open to the road: a mecca for the people who want their children to bathe and paddle; last year it had to be repaired by the National Park Committee because the recreational use was eroding the part of it by the River. She did not agree that the HH Piece was not (as had been conceded by the County Council) common land; there is a pack horse way through it which preserved it although she realised it is now enclosed; however she conceded that it had been enclosed for a very long time and couldn't think it would serve any useful purpose for anyone to exercise common rights over it.

Mr G Cackett, Clerk Surveyor (in London) of the Duchy of Cornwall, in the course of his oral evidence produced and explained the documents mentioned in Part V of the Third Schedule hereto.

Mr C E Warren whose first visit to Huccaby was in 1920 (he was then 14 years of age) remembered that at that time there was a gate near to and just south of the T junction across the road from there to Huccaby Bridge and across the same road near to the Forest Inn (a little under a mile to the southwest on the other side of the West Dart) and that between these two gates there never across that road was any other gate.

Mr W Chaffe who farmed Huccaby Farm from 1948-1973 in the course of his oral evidence said (in effect):- He considered he had an interest in the Huccaby Land because he was paying rent for it. Ice cream vendors used the land but he drove them away. A lot of people parked their cars on it but about this he did nothing. Nobody turned out their stock on the Huccaby land although there was stock on it which he pushed off if they "out stayed their welcome"; during his tenancy no person claimed a right over the Huccaby Land.

Mr M H Mudge who is the present tenant of Huccaby Farm in the course of his oral evidence said (in effect):- He regarded the Huccaby Lands (meaning the Pieces above referred to) as part of the Farm because "we pay rent for them"; he used them for dung heaps, silage clamps and cubicles (divisions) for cows; as to the use by other



people depends on what you mean by "use"; there are picnickers; there are straying cattle, "we move them on" but no-one had come to say that they had a right there. He agreed with Mr Browne that cattle came along the public road and explained that the dung heap was on the A384 West Piece at its east end (about 50 tons of dung), that the silage clamp is opposite the Farm Buildings, as also are the cow cubicles (about 50 cattle lived there at times). He agreed that the Riverside Piece had been recently repaired by the National Parks Committee (they said it was being eroded), that the public use it and that cars park there, some of them most of the day.

Mr Etherton referred me to re Britford 1977 1 WLR 39 and re Box 1980 1 Ch 110; on Shillibeer (Duchy/5) the B3357 Pieces were marked as parts of either the (green) enclosures or the (uncoloured) newtakes, and the HF Pieces marked as (yellow) customary freeholds; they had all he said been included in the leases; alternatively he contended that they were, in accordance with the presumption applicable to lands next to and unfenced from public carriage ways, highway, and therefore not within the definition of common land in section 22 of the 1965 Act.

Contra Mr Browne (supported by Lady Sayer) relied on the Tithe map, and contended that because common land may be let subject to such common and/or public rights as may exist, the inclusion of land in a lease was not evidence against it being within the definition; and that the gates mentioned by Mr Warren were to keep out strays and did not signify a legal inclosure.

As to highway, my views are:- Section 21 of the 1965 Act provides that registration of land under the Act shall not be conclusive evidence that it is not highway. Many commons are crossed by roads, tracks and footpaths which are or may be highways, and it would be troublesome and expensive if every registration under the 1965 Act had to be considered with a view to excluding highways. I infer from section 21 that Parliament did not intend Commons Commissioners or anyone else to spend time considering whether any registered land included highway unless some injustice could not otherwise be avoided. If either the County Council or the Duchy hereafter wish to contend that any of the Huccaby Lands are highway, no decision of mine confirming their registration can prejudice them, nor would any decision of mine refusing to confirm the registration establish that they were highway. The County Council as highway authority are asking for confirmation of the Huccaby Lands (except the HH Piece) on the basis that they are not, or at least may not be, highway, and I shall consider the evidence on this basis.

As to the letting of the Huccaby Lands, apart from the 1973 tenancy agreement; I can find nothing in Duchy/9 showing conclusively that the Huccaby Lands were included in any letting: the acreages of the holding recorded in Duchy/9 are not enough for me to conclude that they were certainly included in the total. In the 1973 agreement the B3357P, the HF Pieces and the Riverside Piece are described: "Waste adjoining/ by Road", a description consistent with them being waste land of a manor.



So as to the documents I am left with Shillibeer while the old OS maps and the Tithe map, all unsatisfying indications of the 1968 status of the Pieces. *Copstake v West Sussex* 1911 2 Ch 331 shows that in considering the extent of a public right any presumption about it should be drawn by reference to all the circumstances existing at the time when the question as to its extent arises and that it would be wrong to raise a presumption from a state of circumstances presumed to have existed 30 or 50 years ago; this case was followed in *Attorney-General v Beynon* 1970 1 Ch 1. As to what has "happened since" the said 150 years old documents, I have the oral evidence above summarised (to which the 1973 tenancy agreement adds little if anything) and what I saw on my inspection on 24 April.

During my inspection, with the above considerations in mind, I concluded that the B3357 Pieces and the Riverside Piece are now and have at all material times been waste land of a manor and are therefore properly registered under the 1965 Act and that the HH Piece and the HF Pieces are not now and have not been at any material time waste land and are part of Huccaby Farm and are therefore not properly registered. My decision is accordingly.

Warren House Land

This land (two pieces) is shown edged red on one of the plans attached to Objection No. 193 (Duchy). One of the pieces approximately semi-circular with a diameter of about 25 yards is on the northwest side of the B3212 road; on it stands the whole or some part of the Warren House Inn. The other piece ("the Larger Piece") approximately triangular with an east side of a little under 1 mile (the line of Walla Brook), a north side of about $\frac{1}{2}$ a mile (mostly a short distance from the southeast side of the B3212 road) and a west side of about 900 yards.

The grounds of the Objection (stating its effect shortly) are that the land situated in the Manor of Lydford is let on lease and was not Common Land at the date of registration.

Lady Sayer and Mr Etherton were agreed that the smaller (25 yards) piece should be removed from the Register, and nobody at the hearing suggested otherwise.

Lady Sayer (against the Objection) in the course of her evidence (partly in writing SRPS/1) said (in effect):- The Larger Piece is known as Walna and is now indistinguishable from the surrounding commons. It is part of the "ancient tenement" of Walna first mentioned in 1301/2, but lost its identity some centuries ago and by 1702 became associated with Rummage (a farm a short distance to the south), from which it is still separated by an area of undisputed common (here less than $\frac{1}{4}$ of a mile wide). The whole of Dartmoor is criss-crossed by ancient banks, ditches, reaves and remnants of stone walls, many prehistoric, some mediaeval and later. Commoners' sheep and cattle have never been turned off the



Walna area of open moorland which has long been merged in the surrounding common. She had known it for 63 years and remembered riding over it on her pony when very young and jumping its low ruined walls. Sousson Plantation (adjoining on the east) with its wall is an obvious enclosure, very different from Walna.

Lady Sayer contended that if remnants of banks and tumbled walls were ever to be accepted as sufficient evidence to allow common status to be denied, and modern enclosures made upon the alignments, there would hardly be any common land left in Dartmoor, and referred to the 1897 observations to this effect of His Honour Judge Edge in *Reddioliffe v Hill & Hill* (Devon County Court).

Mr G Haslam who is and has been since 1975 Record Clerk of the Duchy (that is Archivist and Librarian) in the course of his oral evidence said (in effect):- This area (the Larger Piece) is an ancient "ancient tenement" (a species of copyhold). He had found a 1355 reference to it, as Walebrook (a variant spelling of Walna); he could trace the name back to 1333. The Manor of Lydford is described in Domesday. He thought that an "ancient tenement" would not change its status as customary freehold merely because the house on it had ceased to exist. In a reference to Walna in the first decade of the 17th century, it is clearly an "ancient tenement"; in (the lists of) ancient tenements there are variations in the numbers; not always 35; if Walna is not in a list, he would not have thought that it was excluded deliberately. He could not say what had happened to the house.

Mr B R Goab who is the licensee of the Warren House Inn, has been there since 1968 and held the Inn as tenant of the Duchy since 1972 in the course of his evidence said (in effect):- During his time at the Inn nobody (other than himself so I understand) claimed a right to run animals over the Larger Piece, although cattle not belonging to him had frequently come onto it. He did not like other people's cattle coming onto land for which he had paid (ie rented); as an employee (1968 to 1972) on the instructions of his employer he had manoeuvred other people's stock off, but they found their way back very quickly. His predecessor as tenants were, Mr Denis Seaman (his employer) and before that Mr William Ash and Mr B J Sillem; he (Mr Sillem) ran the Inn and also (as a bit of a side line) the Farm; he understood he made more money out of the land than he did out of the pub. Mr Ash modernised the pub. As to the land having "reverted to common", he did not stop people walking over it; he welcomed people, they made his living!

Mr G Cackett gave further evidence with particular reference to the Larger Piece in the course of which he produced the documents specified in Part VIII of the Third Schedule hereto. Under these documents (stating their effect shortly): (a) under the 1918 surrender the Duchy acquired from Mrs A E and Mrs C Hopkins "New House of Walna" (115.027 acres) and "Runnage" (97.682 acres) altogether 212,709 acres as shown on the plan annexed; the surrender was in form by a customary freehold tenant to HRH as Lord of the Manor of Lydford and included "New House Inn Garden" but did not include the Inn; (b) next this 115 a. 0 r. 4 p. as Walna was let to T Hext; (c) next Stephens F and later Stephens Wm were tenants of both Warren Inn



and Walna; (d) by the 1931, 1947 and 1962 leases, Warren Inn (.089 acres) and the lands formerly called Walna (115.027 acres) were let together as 115.116 acres the lease back sheets being "The Warren (House) Inn and Walna Tenement". I treat the wording of the 1981 lease (back sheet simply "Warren House Inn") as being irrelevant because made after these disputes had arisen.

In reply to this evidence Lady Sayer gave further evidence in writing (Lady S/16) with an oral explanation to the following effect:- The northern boundary of Walna is wrongly drawn on the 1918 surrender as it includes the garden and plots of the Warren House Inn (not part of the "ancient tenement"). The assumption that ancient tenements can lapse and be absorbed into common land is factually correct; she referred to a Bailiff's Account for 1350/51 listing tenements unoccupied under head of "decay rent". The Venville rights have never been legally extinguished. Walna is not among the 35 ancient tenements listed by William Crossing (1912, County/11). There is no trace (on the Larger Piece) of any foundations of the house which would at one time have been there: a massive long house which an early 14th century building would have been; foundations of such long houses could be found in many parts of Dartmoor and they never disappear entirely without trace. The little square enclosure thus within the north boundary of the Larger Piece could not be from the old house (meaning it must have disappeared centuries ago). Later, (after its disappearance) at the time of Queen Elizabeth I, tin miners worked in the area. No doubt in 1702 the area was associated with Runnage, but it is not now; it seemed to her extraordinary that it was handed over to Warren House Inn whose owner is not a farmer and who said that he proposed to rebuild the stone walls in their original state right round this piece of land (something that would cost more than £100,000!).

On 24 April I walked along and within the northwest boundary of the Larger Piece, it having been agreed at the hearing that I might do so unattended, see regulation 27 of the Commons Commissioners Regulation 1971.

The evidence above summarised is in many respects conflicting and I must consider therefore the weight I must attach to the various parts of it. I refuse to reject the surrender and the leases merely because they wholly or partly originated from the Duchy who may at the time have been concerned to enclose as much of the Unit Land as they could. A lease may be given in evidence without proof of possession or payment of rent under it as being in itself an act of ownership and proof of possession see *Blandy-Jenkins v Dunraven* 1899 2 Ch 21 quoting from the opinion of the Judges given to the House of Lords in *Malcomson v O'Dea* (1864) 10 HLC 593. Accordingly I must treat the 1918 surrender and the 1919, 1931 and 1962 leases as such acts in accordance with their terms, not conclusive but to be weighed against any other evidence available. The changeover soon after 1918 to the association of the Larger Piece with Runnage to an association with the Inn is I think indecisive; if at that time the Duchy rightly thought that the Larger Piece was theirs to do with as they pleased I know no reason why they should not make the change; indeed the present appearance of this part of the Unit Land and the little evidence I have as to how the Larger Piece has been grazed indicates that this may have been good management; if anything the change



supports the case of the Duchy. Lady Sayer and Mr Haslam appeared to me to agree at least to this extent that Walna was at one time many centuries ago a tenement on its own which must have had on it a dwellinghouse of some kind; if I had had no evidence from Mr Goab and Mr Cackett I could (and I suppose probably would) have deduced from the present appearance of the Larger Piece and its apparent similarity to the nearby waste lands of the Manor currently being grazed in common that it had by some legal process reverted to common. In many manors, the Court rolls show that lands at one time enclosed from the waste with the consent of the homage, have subsequently been treated (presumably because the enclosures have been abandoned) as having in some way reverted to waste; in such circumstances a grant of new rights of common could be presumed; and the disappearance of any house would support the presumption. But such a supposed case is not this one because ^{and} I have evidence that the customary freehold tenants and their successors ^{and} the Lord of the Manor treated the Larger Piece otherwise. In my opinion an owner of land does not somehow merge his land with that adjoining so as to subject it to the same rights of ownership and the same rights of common merely by allowing the buildings on his land to become derelict or disappear, and by failing to keep up the fence between his land and the adjoining; such lack of interest in his own land may encourage others to take possession of it, but until they do so his ownership is unaffected. I realize I must be cautious in deducing from lines of stonework in Dartmoor anything about the date and purpose for which the stonework was made and about the ownership and common rights on either side; and while not overlooking the 1918 change over, I have tried to be uninfluenced by such appearance. The straying of animals as described by Lady Sayer and Mr Goab is not enough to establish rights of common: against such rights I have the said surrender and leases and also the Shillibeer map.

Balancing this conflicting evidence, I am uncertain whether the Larger Piece, assuming it was at one time, has now ceased to be an ancient tenement; at its highest any such cesser against the Objection amounts to no more than raising a probability that before 1808, and possibly before 1898, it appeared to be waste land of the Manor of Lydford much as the remainder of the nearby parts of the Unit Land. Contra during the present century, apart from its appearance I have nothing against the Objection and much in support of it. Applying the legal principles stated in *Copestake v West Sussex* supra I regard the recent history as more significant, and my decision is therefore that the Larger Piece was not properly registered as common land.



Huntingdon Warren

In this decision by "Huntingdon Warren" I mean the part of the land edged blue on the plan attached to Objection No. 65 (Duchy) which (a) is part of the Unit Land, and (b) is within the U shaped area lying between the River Avon (being the west, southwest and south boundary of the U area) and Western Walla Brook (being the southeast and east boundary of the U area), and (c) is south of a line ("the East-west Line") marked on the Register map from a point on the River Avon near the figures "1386" a short distance north of "Ford" near "Broad Falls" (all marked on the map) to a point a short distance southwest of the "S" of "T Girt Stream" and thence southeastwards to join Western Walla Brook by the "y" of "Co Const Bdy". Huntingdon Warren so defined was said to be about 320 acres. The said land edged blue said to be about by some 609 acres and by others 586 acres, included additionally land to the west of the River Avon and land to the north of the East-west Line.

The grounds of the Objection are the land edged blue situate in the Manor of Lydford (609 acres approximately) was not common land at the date of registration. In the course of the hearing on behalf of the Duchy it was said that the Objection now was to Huntingdon Warren as above defined and the evidence for and against the Objection was given on this basis. It was agreed between Mr Etherton and Lady Sayer that a small area around Warren House (marked on the Register map) should be excluded from the registration but I have no note or recollection of Mr Browne agreeing this or of this small area ever being defined with any precision.

Dr Haslam continuing his evidence produced in support of the Objection the 1722 Court Roll and the 1800-1809 Record mentioned in part X of the Third Schedule hereto. About them he said (in effect):- The Court Roll contains approximately 20 entries of Newtakes "at Huntingdon"; and also a number of other Newtakes elsewhere and a number of surrenders (by one tenant of the Manor to another tenant) of Newtakes. The Roll shows that the jury then met regularly (every 3 weeks or so) and that these transactions were accepted by them. He inferred that by the custom of the Manor of Lydford a tenant of the Manor on being admitted to any tenancy (copyhold) could claim (and had a right to) an additional admission to a Newtake of 8 acres which he could (although it was not contiguous) combine with his existing holding (so he became a copholder of both).

The 1800-1809 Record included a petition to the "Chancellor of His Royal Highness ..." by "Thomas Michelmore of Huntingdon Warren" which showed "(para 1) at a court held on 11 June 1722" for the Manor of Lydford and the Forest of Dartmoor" Nicholas Trist was admitted "tenant for ten several ... Newtakes ... situate upon Huntingdon Down ... (rents one shilling for each Newtake) and at a court on 6 May 1745 Bronze Trist was admitted to the same Newtakes as heir; (para. 2) Bronze Trist had disposed of the Newtakes to the petitioner who applied to the Steward to hold a Court "for the purpose of effecting such transfer but the same being refused upon the ground that all grants of this kind were illegal and could not be confirmed it has since been agreed to accept a lease of the premises with an additional allotment of adjoining waste land" for 99 years at a yearly rent of 2 pence per acre (instead of the former rent) "in the manner as was lately done by Richard Hussey Esq and others"; and (para. 3) the land anciently enclosed within the "Bounds of the said Newtakes and now called Huntingdon Warren" is about 320 acres upon which there is a dwellinghouse the residence of the petitioner and the waste land proposed to be allotted on the south west and north will extend the quantity to 586A. OR. 37P.



Dr Haslam in reply to questions explained:- It is not possible to check how or when all the Huntingdon Down Newtakes were made because some of the Court Rolls are damaged and many years are missing. The 1722 Court Roll mentions the areas "8 acres" particularly, but the descriptions are verbal (ie without any plan). He could not therefore say how the 20 Newtakes of 8 acres had become 320 acres; he inferred there had been other Newtakes. He could not say why customary tenants wanted Newtakes because the Roll did not record this, but mining is a possibility; according to the Stannary customs, land could be mined although not enclosed, so the Newtakes procedure was not the normal way of establishing a boundary for mining claims, but a Newtake would give a miner an advantage because his mining would be in an enclosed area.

Mr Cockett continuing his evidence produced the other documents listed in Part X of the Third Schedule hereto. The older leases and assignments are lengthy. In accordance with the said petition HRH granted a lease for 99 years (expiring 25 March 1908 and this was assigned from time to time. In 1910 HRH granted further lease from 1908 expiring 1 August 1938 of "enclosed land known as Huntingdon Warren ... (several small enclosures with dwellinghouse and the enclosed areas of land surrounding on the north west and south as on the map OS 1886) without any right to turn stock onto the open forest of Dartmoor or onto the commons belonging thereto", with a covenant by the tenants to repair the walls between "AB" and "BC"; being east-west line above mentioned and BC with the River Avon boundary of Huntingdon Warren as above defined. In 1933 an annual tenancy was granted to Commander C H Davey. The 1958 tenancy agreement to Mr Percy Waye has on it a special condition that the tenant will not be held responsible for the upkeep and maintenance of the boundary wall in the above area "which are more or less non-existent at the commencement of this tenancy" and the letter of 7 April 1965 records that on the termination of the 99 year lease in 1908 there was considerable correspondence between the Duchy and the lessee regarding the repair of the boundary fences.

Mr W J Edmunds who is and has been since 1966 agister of the South Quarter of the Forest in succession to his father and previous members of his family since 1843 and whose duties included protecting and upholding the interests of the Duchy particularly reporting unthrifty (not very healthy) stock to its owner and reporting unlawfully depastured stock to the Duchy, in the course of his evidence said that he and his father had regarded Huntingdon Warren as being let separately by the Duchy, and over which there were therefore no rights of common and said generally that he knew of no-one who claimed rights over it and that any stock straying there had been turned back.

On behalf of the Duchy a signed statement (Duchy/35) by Mr Percy Waye who is now 70 years of age was produced as evidence by him. He said (in effect):- He was taken to live at Huntingdon Warren by his father when he was 1 year old. His father who farmed the 609 acres with his own sheep and cattle always regarded Huntingdon Warren as being private neither part of the common or the Forest of Dartmoor. He took over from his father in 1957 and was he understood not subject to common or rights; a commoner paid him money to allow his stock to graze there. There was a certain amount of trespass from outside stock but he never let this build up to any quantity; he asked the owner to remove them; no owner complained or deliberately turned them back on the Warren. The small enclosures in front of the old house were as he remembered always kept stock proof and on occasions they would cut and save hay.



In support of the registration of Huntingdon Warren Mr Browne contended:- The Duchy had conceded that the holders of ancient tenements and Venville tenants had common rights over all the waste of the Forest and it was therefore necessary (if the registration was to be avoided) to show some event by which these rights were extinguished. That the land is a Newtake and a customary freehold and that it is in the ownership of the Lord of the Manor and capable of being let at a rent, are mutually inconsistent propositions, unless all the Newtakes escheated to the Lord at the same time; of this there is no evidence. A more likely explanation is that Shillibeer was employed when the Duchy considered the Newtake situation was getting out of hand; it should be inferred that the land was capable of being let by the Duchy because the Newtakes had been illegal (Duchy/20 above quoted from the 1809 report). To cease to be common land it is not enough that it is enclosed (by physical fences); it is necessary that it shall be inclosed (lose its legal status); see Harris and Ryan, Common Land (1967) paragraph 1-3 and 1-4. The wall shown on Shillibeer may not have been an enclosure; we do not know whether it was to keep rabbits in or to keep cattle out. In the 19th century Huntingdon Warren as its name implies was used for keeping rabbits, see Crossing, Guide to Dartmoor (County/11). The wall on the East-West Line has now disappeared if it ever existed; if it had been cattle proof and kept up to date it might be possible to claim that Venville rights had been extinguished but there is no evidence as to this. The 1840 Tithe map shows no enclosure at all: the Schedule to the apportionment accounts for 4,037 acres of enclosed land and 50,421 acres of common land a total which corresponds reasonably accurately with the acreage of the Parish and it therefore followed the Tithe Commissioners considered Huntingdon Warren to be common land; so it should be concluded that either no wall existed or that it was not considered to amount to legal enclosure.

Lady Sayer (Lady Sayer/15):- No record exists of any legal enclosure of Huntingdon Warren; it is doubtful whether the banks were intended to keep the cattle out rather than constructed to keep rabbits in (the main business of the tenants of Huntingdon Warren House). William Crossing, Guide to Dartmoor (1912 County/11) shows that a house and Newtake existed in Huntingdon Warren before the end of the 17th century; and Worth at page 335 (1967 reprint) shows that the tenants of ancient tenements had a right to enclose Newtakes a right strictly limited which can in no way be held to justify the enclosures made in the 18th and 19th centuries (this author quotes from the answer to the defendants in Bernaford (Rector of Lydford) v Hext and others set out in DPA Moore page 83 as showing the custom was limited to 8 acres). The very small enclosures which can be traced close to the ruins of Huntingdon Warren House (which she did not claim were common land) are likely to be of this limited nature; but the main area was common before 1722 and the Venville rights on it were not extinguished. Further even if the rest of Huntingdon Warren could be proved ever to have been a viable enclosure, it has long reverted to open common; a reasonable explanation of the small "ghost" Newtakes at Huntingdon Warren (the 20 mysterious interior Newtakes without banks or walls of which no trace seems now to exist) is that they were simply stake claims by freelance warreners for temporary trapping, and cannot seriously be accepted as evidence that the Warren itself was ever a fully enclosed stockproof Newtake.



I agree with Lady Sayer that the evidence about the enclosure of Huntingdon Warren during the last 200 years is open to criticism, in that I am unable to say how stockproof or rabbitproof the fences of which I saw some remains during my inspection were during this period; certainly they are not stockproof now and the East-west Line is not rabbitproof. However I understood it to be conceded that rabbits would not normally cross either the River or the Brook. So I am left to balance as best I can the post-1810 documents against such information as I have about the legality or otherwise of the 18th century Newtake proceedings.

The evidentiary value of leases and assignments and tenancy agreements such as those mentioned in Part X of the Third Schedule hereto was considered in *Blandy-Jenkins v Dunraven supra*, and in *Malcomson v O'Dea supra*. From the 1864 opinion of the Judges, it appears that such documents are not conclusive as to possession or ownership but their weight may be judged from their nature and content. Those produced to me (Duchy/22) all comprised the area edged blue on the Objection plan being a larger area than Huntingdon Warren; but the circumstance that the Duchy reduced their Objection to the smaller area does not I think affect the evidentiary value of the leases because both that of 1809 and that of 1910 treat the 320 acres of Huntingdon Warren as a distinct piece of land. In form these documents are such as would be usual for a letting of agricultural land free of any rights of common. Accordingly I treat these documents as some evidence that for 200 years Huntingdon Warren has been owned and possessed to the exclusion of such rights attached to ancient tenements, to Venville tenements or to tenements otherwise describable.

I need not I think determine at any rate with any precision, the relevant customs of the Manor of Lydford as understood before 1820. That there could be no custom to enclose without limit the whole of the Manorial waste to the possible prejudice of commoners is I think clear, as being contrary to the Statute of Merton, see *Commissioners v Glasse (1874) 19 Eq. 134* at page 153; equally clear it is I think that there is nothing inherently illegal or unreasonable about Newtakes as such. The illegality mentioned in the 1809 petition must I think be read on the assumption apparently made by the Steward in it that the illegality could be cured by the granting of the lease asked for by the petitioner; that is, that the Newtakes were illegal not as against the commoners but against HRH Prince of Wales (illegally he got too little rent). I am not persuaded that in the 18th century persons with rights of common over the Forest would have regarded Newtakes extending over so large an area as Huntingdon Warren as being against the Statute of Merton; an encroachment on the Forest during that century would not I think be regarded then as some environmentalists do (may be with good reasons) now. I conclude that those concerned with the 1809 petition and the 1810 lease considered they were acting lawfully and after this lapse of time, I presume they were so acting because it is possible and I have no good reason for thinking otherwise.

I consider the observations above quoted from *Copestake v West Sussex supra* as a guide in balancing the pre-1820 evidence in this case against what has happened since. Standing on the top of Huntingdon Warren (as I did on 24 April 1982), I felt no doubt that it is a distinct piece of land the boundaries of which, the said River, or the



said Brook and the now very dilapidated wall are obvious enough; there are remains of mine workings on it and near to it. An owner of land which some time long ago under some Newtake procedure passed out of the ownership of the Lord of the Manor free of all rights of common, does not lose his ownership or subject his land to the rights of common which have continued to subsist over the nearby land merely by not keeping up the fences or even by not fencing it at all; his neglect about fencing may make it easier for someone else to claim by prescription or lost modern grant a right of common but such neglect does not of itself provide any evidence in support of such a claim. Although the statement of Mr Waye is not clear as to his relationship with Commander Davies his conclusion is consistent with the post-1810 documents, the evidence of Mr Edmunds and the present appearance of Huntingdon Warren. Balancing the conflicting evidence as best I can, my decision is that Huntingdon Warren is not now subject to any rights of common such as have been registered and has long ago ceased to be part of the waste of the Manor of Lydford; accordingly it should not have been registered.

Rights Section: introduction

I have to give a decision about each of 1,008 Rights Section registrations, of which about 30 have since they were made, been replaced by other registrations, as stated in Part I of the First Schedule hereto.

Those concerned to support these registrations for the purposes of exposition I classify: (i) those ("Prescription Claimants") who believing (generally rightly) that their registrations were opposed, attended and offered evidence that the rights they claimed had for some years been exercised, relying (so I suppose) either on prescription at common law or on prescription under the Prescription Act 1832, or on a lost modern grant being presumed after 20 years exercise in accordance with legal principles set out in *Tehidy v Norman* 1971 2QB 528; (ii) those ("Venville Claimants") who holding a similar belief attended but offered no or very little oral evidence of any exercise of their rights, relying on historic documents (or the opinion of historians about them) as showing that their lands were "in Venville", and that they were accordingly entitled to rights; (iii) those ("Non-controversial Claimants") who attended and finding that no one opposed their registrations or apparently opposed them in part only, offered no or very little evidence, assuming, so I suppose, that upon evidence offered by others I would confirm their registrations modifying them only so far as the apparent opposition required; and (iv) those ("the Absent Claimants") who did not attend leaving me to determine as best I could on evidence offered by others whether I would or would not confirm their registrations. The Absent Claimants are by far the most numerous. And it must be understood that class (i) and (ii) overlap, some relying on their Venville status as an additional or alternative ground to prescription at common law; and that these two classes may overlap with class (iii).

Early in these proceedings I decided to hear the evidence of those claiming rights before that of those against. During this evidence reference was made to some of the other Register Units in the Dartmoor National Park, 88 in all, adjoining, or within 3, 4 or 5 miles of the Unit Land. Of these, 5 (CL 57, CL 66, CL 114, CL 148 and CL 190) have been considered by the Chief Commons Commissioner, and reference was made to his decisions dated 17 February 1976 ("the Headland Warren decision") relating to CL 148 and to his decision dated 30 May 1977 ("the Hentor Warren



decision") relating to CL 190; this 1977 decision was on 26 October 1979 affirmed by His Honour Judge Finlay QC sitting as a judge of the High Court. Of the remaining 83, I listed 20 for 24 May and 21 June 1982 and for the following or other days; of these I have (before 31/1/83) completed the hearings of 18 leaving 2 to be heard on 19 April and 17 May 1983. Of the remaining 63, 43 are in the pipe line for hearing by a Commons Commissioner (some may begin on 8 March 1983). I suppose the remaining 20 either have been or will be disposed of without reference to a Commons Commissioner, most likely because in the absence of Objection, all the registrations have become final under section 7 of the 1965 Act. However desirable it may be in theory that I should postpone giving a decision about any of the Dartmoor National Park Units before hearing the arguments offered in all of them, such a course is for me impossible, and I am accordingly giving this decision about the Unit Land being aware that I may regret parts of it as a result of some future clarification of matters about which I am now uncertain.

In the course of my said 18 hearings it became apparent that many of the questions then raised were the same or very similar to those raised in these Unit Land (CL 164) proceedings, particularly as to: (a) References in one Register Unit to another Unit, (b) Straying, (c) Numbers, in a registration, of animals, (d) Venville, and (e) As of right.

These questions of general interest received most attention during the CL 188 hearing relating to Ditsworthy Warren, Ringmoor Down, etc in Sheepstor, which lasted 12 days and during which I had the benefit of arguments from:-

(1) Mrs F G Canning, (2) Mr P A J Browne, and (3) Mr P W Harker who represented the same persons as they did at this Unit Land hearing (South West Water Authority, Devon County Council, and as stated in Part IV of the First Schedule hereto); (4) Mr Ernest Fredrick Palmer who attended in person on his own behalf and as representing Sheepstor Commons Association; (5) Mr N A Theyer solicitor with Burd, Pearce & Co, Solicitors of Plymouth who represented Sir G B and Lady S R P Sayer, Admiral Sir J H F Eberle and Mrs E N Smallwood, (at this Unit Land hearing two of them attended in person on their own behalf and as representing the others); and (6) Mr T Etherton of counsel instructed by Farrer & Co, Solicitors of London who represented Hon H M Lopes, Hon G E Lopes, Mr G C C T G Meyrick and Mr J R Cook-Hurle ("the Maristow Trustees"). With this great similarity of representation at the two hearings, those above named often seemed to me to assume (sometimes but not always rightly) that arguments and evidence presented to me at one need not be repeated at the other. Although strictly evidence presented at one is not binding on those not represented at the other (Mr Etherton had different clients at each), it is convenient as regards all questions not relating to any particular piece of land (dominant tenement) to set out in this decision my views as regards all the said questions of general interest. Although this will lengthen this decision considerably, I can by reference shorten my decision of even date about the CL 188 Land and also my decisions about other Register Units, eg. about Peter Tavy Great Common (CL 194) and Lydford Inner Common (CL 64).

On these general questions, some persons present at these other 18 hearings have referred to this Unit Land hearing and to the CL 188 hearing and have added arguments. Although these additions have sometimes been in the absence



of the persons interested in contending the contrary, and I may in this and other decisions refer to the additions either expressly or impliedly, the persons concerned in opposition will not I think be prejudiced for all such additions did no more than confirm my understanding of arguments regularly made but less clearly expressed.

Also by way of introduction I record that as a result of hearing the claimants' evidence first, apart from the questions put in cross examination, the exhibits Duchy/43 and 44 and answers to questions I myself put, I was, and possibly others too were, until nearly the last day of the hearing in doubt as to the evidence and arguments which would be given in support of the Objections. The Duchy were the principal Objectors, see the Second Schedule hereto; and I can simplify what follows in this decision by describing their attitude next.

In the Ownership Section the Duchy with negligible exceptions, are the registered owners of all the Unit Land, and this ownership was not at the hearing doubted by anyone. For reasons below mentioned the Duchy disputed shooting, piscary, pannage, the taking of minerals and the taking of wild animals and birds; their support of any registration was conditional upon the deletion from it of any reference in it to these rights. They also had Objections relating to Okehampton Hamlets, Sampford Courtenay, Lewtrenchard and Thrushleton. The Duchy early in the hearing withdrew the Objections apparently directed to limiting rights to one of the "Quarters" of the Forest to the exclusion of the other three; this withdrawal was I understood on the basis that the Unit Land could and should for the purposes of the 1965 Act be treated as one common (or as part of one common); they were therefore agreeable that every registration which is now expressly limited to one or more Quarters of the Forest (possibly so limited because the applicants deferred to what they thought was the wish of the Duchy) should (assuming it was in all other respects proper) be enlarged so as to extend over all the Unit Land. Nobody at the hearing objecting to this enlargement (of course on the same assumption) my decision will for this (and other reasons, see below) be accordingly.

By reason of the Land Section Objections all the Rights Section registrations are in question in these proceedings, see subsection (7) of section 5 of the 1965 Act. About the registrations only in question by reason of this subsection, and possibly about others too the Duchy provided two lists (Duchy/43 and 44), headed "Holdings in Venville" and "Holdings not in Venville not objected to" showing the registrations which they conceded; the Entry Nos in each of these lists are set out in Parts II and III of the First Schedule hereto, such Parts being headed with a brief statement of the conditions attached by the Duchy to their concessions. Mr Sturmer in the course of his evidence said (in effect):- The Duchy/43 list includes registrations of rights attached to land in the Forest (meaning parts of the Forest not registered under the 1965 Act) which or some of which had in the proceedings been referred to as "ancient tenements" and the other registrations were intended to be of lands which fulfilled the definition ("the 1976 definition") which they had deduced from the Headland Warren decision:- "the claim of Venville men is based on land in respect of which the Venville rents are payable ... A man is a Venville man because Venville rent is payable in respect of his property", see page 7; accordingly Duchy/43 includes all rights attached to land in respect of which the Duchy has received a Venville rent. As to such receipt, Duchy/43 has been compiled on information available to



the Duchy about the receipts of the Agisters of the East and South Quarters and from their own records and on the basis that where any Venville rent has been paid by a Parish Council or on behalf of a Parish all the registrations made in respect of land within that Parish were treated as being in Venville. Receipts for the South Quarter were supplied by Mr W J Edmunds from his personal knowledge and from his father's records. Receipts for the East Quarter were taken from a book in the possession of Mr (?) Coaker of (?) Runnage Farm. The mere circumstances that one farm in a Parish was conceded by a payment made for that farm to be in Venville did not qualify for the rest of the Parish for inclusion in Duchy/43. As to the other list, Duchy/44, the rights were attached to lands for which the Duchy had no evidence of any Venville payments ever having been made; this lack of evidence did not necessarily establish that no payment had ever been made because the Duchy had no information as to what monies had been received by the Agisters of the North Quarter and the West Quarter; the Entry Nos were put on the list because the information available to the Duchy satisfied them that they ought to recognise the rights as established by actual or probable use over the years. The lists Duchy/43 and 44 were compiled during the course of the hearing as a result of remarks made by myself.

As to the Objections Nos 315, 380 and 981 made by the Duchy as to the non-existence of rights, Mr Sturmer said (in effect):- The Entry Nos had been selected after taking the advice of Mr Tom Brown who was then the Secretary of the Dartmoor Commoners Association and who is now deceased; they were unable to say (at any rate with any precision) on what basis he gave this advice. So as regards the Entry Nos about which various witnesses had given oral evidence and who had been questioned by Mr Etherton, the Duchy could give no evidence in answer save that generally as regards all the rights mentioned in these Objections, he could say that the Duchy (apart from such evidence) had no record or knowledge of such rights ever having been exercised and they did not consider them to be in Venville on the basis above explained in relation to Duchy/43. So in the result the Duchy, as explained by Mr Etherton, left the propriety or otherwise of these registrations about which oral evidence had been given to be determined by me without any submissions by him.

References in one Register Unit to another Unit

Of such a reference column 4 of the registration made in the Rights Section of Register Unit No. CL 153 (Holne Moor) on the application of Mr D M Scott illustrates the question I am now discussing:- "Turbary, Estovers, to dig stone and sand, to graze 52 bullocks or ponies, 200 sheep, over the whole of the land comprised in this register unit and register units numbers CL 19, CL 64, CL 67, CL 68, CL 69, CL 70, CL 73, CL 84, CL 85, CL 96, CL 97, CL 109, CL 112, CL 134, CL 135, CL 146, CL 148, CL 155, CL 156, CL 161, CL 162, CL 164, CL 173, CL 176, CL 180, CL 187, CL 188, CL 190, CL 191, CL 192, CL 194 and CL 195."

This registration referring to 33 other Units is not unique, but I have not come across many which refer to more than about 10 other Units. However references to one, two, three, four, five or six other Units formally similar to that above quoted are indeed very numerous not only in the County of Devon but also in the Registers of other Counties.



In my opinion these references in a registration to other register units are surplus to the registration and have no legal effect. On this point I follow the decision dated 11 February 1981 and made by the Chief Commons Commissioner in re Pickup Bank Height, reference 220/D/231.

However I do not regard the County Council as doing anything wrong by including these references to other Units, as such references are for some purposes convenient; they indicate that the application mentioned in column 2 was a composite application relating to many register units, and are convenient to persons who search the Register providing them with information about the sort of further inquiries they ought to make.

That these registrations are ^(in part) surplus is important because by section 10 of the Commons Registration Act 1965, the "registration of ... any rights of common over any (common) land shall be conclusive evidence of the matters registered". It was suggested (1) that the finality of the above quoted CL 153 registration conclusively established that there was attached to the land in the Units mentioned in column 5 the right above set out not only over the CL 153 land but also over all the lands in the other 33 Units; and (2) that because the County Council should have included the word "Venville" in the registration, it was also conclusively established that Venville tenants, or at least that Mr Scott and his successors as such were entitled to such rights over all these lands.

Having regard to the sections of the Act relating to Objections and to inquiries by a Commons Commissioner and having regard to the Regulations made under the Act, it would be extraordinary if a person concerned with one and only one Register Unit was by some proceedings in his absence and of which he had no notice and had no right to be heard, adversely bound. In my opinion section 10 applies only to "matters" registered in accordance with the Act and the Regulations and I therefore reject suggestion (1). I also reject suggestion (2) even if it can be properly assumed (contrary to the opinion below set out) the County Council should the County Council should because as seems likely, Mr Scott mentioned the word in his application, have included the word "Venville" in the registration.

In this decision relating to the Unit Land (CL 164) I disregard references to other register units altogether unless for some reason, eg some knowledge of the state of the register relating to these other register units I consider it convenient to make a correction which must sooner or later be made by somebody. And I record that if for convenience of grammar I have directed some modification which apparently validates some registration in another Unit, no such validation is by me intended.

When the Commons Commissioners have given their decision as regards all the other register units mentioned in column 4, the County Council as registration authority may perhaps consider it worthwhile to correct these surplus words in the column so as to accord with the final registrations in all the other register units; but it is not I think for me to give any decision as to how or when they should do this, if at all.



Grazing

Grazing is far and away the most valuable of the rights of common which have been registered over the Unit Land, and possibly the most valuable over all the other Units in the Dartmoor National Park. Of the animals grazed, sheep are the most numerous and for most of those who gave evidence before me the most important; cattle next, for some in addition to sheep but for many cattle were their sole concern. Many also grazed ponies and a few grazed none other.

Mr Herbert Hugh Whitley was the first (23 April) to give oral evidence about grazing in Dartmoor. He is 70 years of age and spoke of grazing sheep from Moorgate Farm, Okehampton which his father bought in 1935. The Farm adjoins Okehampton Common (CL 155), to which there is easy access through a gate (or gates), but which does not adjoin the Unit Land; so that to get there from the Farm, sheep must go at least $\frac{3}{4}$ of a mile (conveniently perhaps much more) across the Common. His, (and before him his father's) flock, now numbers about 380, but he has had up to 500; they are leared and always grazed in their lear. I so spell "lear" because it was locally so pronounced, although the word is I suppose etymologically the same as "lair" and it was so spelt by one witness; the word "lair" nationally to most means an area much smaller than the lear which I viewed with Mr Whitley and others, containing two square miles or more and being partly on the Unit Land and partly on Okehampton Common. His sheep were out all the year round except for lambing (3 weeks to a month in April), shearing (3 days in July), dipping (2 days end of July) and ramming (tupping) (1 month end of October). The sheep after being brought in were "put out" merely by opening a gate leading from the Farm into Okehampton Common; being leared it was unnecessary for anyone to take them to their lear, they knew the way having lived on it from within a few days of their birth; exceptionally after lambing ewes were accompanied to the lear not because they needed any guidance, but to see their lambs did not get left behind or otherwise lost. Mr Whitley said that the procedure he described accorded with what had been done from his Farm for the nearly 50 years he had known, was in accordance with good husbandry and with what had been done all over Dartmoor, and he could not see how else sheep (and cattle and ponies) could otherwise with a view to profit be grazed without loss.

Other witnesses at this and at other Dartmoor hearing have described the grazing of sheep more or less as above. Sometimes the Farm (the dominant tenement) was some distance from the nearest common (not being the Unit Land) and the sheep would not go there merely by way of a gate opening on to the common; but even at considerable distances it might be enough just to open a gate for a flock which being leared would know the way from it to the common. Sometimes the distance from the Farm to the Unit Land across the intervening common was much more than $\frac{3}{4}$ of a mile. Further a lear is a somewhat variable area because sheep have a tendency in the afternoon or evening to go up to graze at a higher level and in the morning they come down to graze at a lower level; also in the summer they prefer the better grass at a higher level and in winter tolerate the lower ground, sometimes in the expectation of supplemental feeding from their owner. They are fed in the winter either on the common nearest the Farm, or on the Farm itself or sometimes taken during the actual feeding in a shed (so that the owner can conveniently limit his feeding to his own animals without competition from the animals of others).



Nobody mentioned sheep being grazed otherwise than in lears; they instinctively limit their grazing (if there is enough of it) to the area in which they were born or have been during their first 6 or so months of their lives. Leared sheep are perhaps not unlike sheep in the north of England heaved or hefted or in Wales in Cynefin; but so far as I have myself inspected commons so hefted and in Cynefin, I would say the likeness must not be pressed too far; the lears in Dartmoor are generally very much larger than anything I know of elsewhere, due so I understood to a preference for Scotch sheep, first extensively introduced to Dartmoor about 100 years ago.

Cattle are grazed also in lears their lears may be larger than those of sheep, they having less tendency to bunch together; for those who keep both cattle and sheep the advantages of learing them together are obvious. Galloways tend to scatter more than Highland and Friesian. Cattle are brought in for calving, brucellosis tests and bulling; otherwise they are left out all the year although fed in the winter under arrangements similar to those of sheep.

Ponies are grazed on a similar basis although they tend to scatter more than cattle. Although some ponies stray for great distances, it is not practicable to look after them at all unless they are leared. They are drifted in October or end of September the colts being taken away for sale. The introduction of cattle grids in about 1971 on the roads has somewhat reduced the value of grazing for ponies; before the cattle grids, in winter the ponies tended to stray into the adjoining villages and inhabited areas and benefit from the shelter from the wind and the warmth there existing and also from the kindness of the inhabitants; from these advantages the cattle grids have cut them off and many would suffer hardship if not looked after by their owners.

In describing grazing I have had difficulty in differentiating between what I was told during evidence given at a public hearing from what I was told during an inspection by those who accompanied me. Nothing above recorded goes I think beyond a fair inference from what I was told at a hearing although it may be that I would have overlooked the inference but for the guidance given on an inspection. At one inspection I was told that it was practicably impossible to prevent animals, except by shooting them, grazing on their lear, and on another that nobody would sell a leared animal in a local market because after the sale it would almost certainly come back to its lear to the prejudice of his unsold animals.

The above observations about grazing must not be taken to be a finding about grazing applicable to everywhere on Dartmoor National Park; mention was made to me of some Register Units with which I was not dealing being stinted pastures. Mention was also made of some animals being left for long periods (perhaps between two annual drifts) without any attention upon their owners. Also I suppose that there are many (they did not trouble to give evidence) who exercised their rights in a homely way, eg grazing an animal for some temporary purpose or to give it a change.

Even allowing for all the possible variations in which animals may be grazed, and leaving aside the possibility of animals being taken from one side of Dartmoor to the other by motor transport I have no evidence or suggestion at all that anyone had a lear which extended from and included a Register Unit on the east



side, and the Unit Land and a register unit on the west. So whatever evidence I may hereafter have about animals leared on the Unit Land and two or more commons on the same side as regards the CL 188 land to which this decision in part hereinafter relates I find that there are no animals leared either on the Helme Moor (CL 153) or on Spitchwick Common (CL 33) whose lear extends both to the Unit Land and beyond to Ditsworthy Warren, Sheepstor (CL 188).

Straying

The Rights Section of this Register Unit (CL 164) and of many other Register Units in the Dartmoor National Park contain many registrations expressed as "to stray ... (a specified number of animals) ... on (the land in the Unit) ... from ... (some other Unit)".

In my opinion a right of common by reason of vicinage is not registrable under the 1965 Act; such right is an excuse for trespass, see *Jones v Robins* 1847 10 QB 620 at page 632. The Commons Commissioners have since they first began (1962) always refused to confirm such a right. As to this practice being contrary to *Newman v Bennett* 1981 1QB 727, Mr Etherton on behalf of the Duchy contended, rightly I think, that the Court there was considering a different Act and neither the decision nor the observations of the Judges were directed to the Commons Registration Act 1965, see in particular page 735 of the report. Further section 15 of the 1965 Act which provides that registered grazing rights shall be quantified seems to be wholly inappropriate to a right of vicinage; in the instant registrations, the rights of straying are quantified equally with the relative grazing right, and I cannot suppose that by reason of vicinage trespass by a whole flock could be contemplated.

Early during these hearings (CL 164 and CL 188), I said that in my view (to which I still adhere) the words "right to stray" were a popular way of describing a right of common by reason of vicinage and that such a registration would if anything else was intended, be confusing and therefore unless modified should be avoided. It was disputed at the hearing that these registrations were merely of a right by reason of vicinage; Mr Goldberg* at the CL 188 hearing quoted from a booklet (CL 188: PGD/5) entitled "Common Land" and prepared in 1966 by the Ministry of Land and Natural Resources and the Central Office of Information which says (in effect) that an applicant under the 1965 Act can register "rights of common of pasture on Blackacre Common together with a right to allow stock to stray on the adjoining Whiteacre Common". Further in the course of the hearing Mr Etherton on behalf of the Duchy conceded that the registrations listed in Duchy/43 and in Part II of the First Schedule hereto, could if they contained the word "stray" be modified by substituting "graze". In these circumstances I gave and still give all persons who applied for or are otherwise interested in a right registered as "to stray" LIBERTY TO APPLY for it to be so modified; in my view the power conferred by section 6 of the 1965 Act on a Commons Commissioner is wide enough to include modifications made on the request of an applicant even although it may increase the burden on the owner of the Unit Land or on a person entitled to graze. As herein appears, several persons at the hearing took advantage of this liberty, but I record that I intend it to be still exercisable by any person who neither attended nor was represented at the hearing in accordance with the Fourth and last Schedule hereto.

* of Arthur Goldberg, Solicitors of Plymouth representing Mr and Mrs Dean and Mr Webb.



At the hearing it was contended that I should have granted no such liberty because there might be persons who refrained from making a formal Objection to a registration because they thought a right to stray was to them harmless or who would have thought otherwise about a right to graze; and also because I should in effect be reviving a right of common which because not registered is due time has been finally extinguished by section 1 of the 1965 Act. These contentions are important matters to be considered with the evidence upon the hearing of an application made pursuant to the said liberty, but are not I think against my giving it. Indeed I see no reason why a Commons Commissioner should not in appropriate circumstances modify a register at the request of an applicant (eg by reason of a mistake accepted as excusable by all concerned), and I have in other cases done this many times.

Pursuant to the above considerations, I shall modify all the "stray" registrations listed in Part II of the First Schedule hereto by substituting "graze" excepting only those to which at the hearing some question was raised which I have reasons herein appearing treated specially. But I give to any person not present or represented at the hearing LIBERTY TO APPLY to discharge these modifications in accordance with the Fourth and last Schedule hereto.

Mr J W Northmore in the course of his evidence (8 June) requested some clarification of the law relating to straying, and during some discussion Mr Etherton, Mr Harker, Mr E F Palmer made (9 June) similar request. By refusing to allow the registrations of a right of vicinage, I do not wish to be understood that animals pursuant to a right grazing on Common X are necessarily if they can and do stray on to Common Y, excusably there. Some straying is an unavoidable incidence of grazing anywhere on Dartmoor, and much of it is tolerated on this basis, because those concerned realise they must help each other; indeed I understood that many go to considerable trouble to inform owners of strays of the whereabouts of their animals and to help them get them back. A right of vicinage from X to Y is not established merely by showing that there is no fence or other obstruction to prevent an animal going from X to Y. Further although a right of vicinage may exist from Common X to stray on Common Y, such right does not extend to straying on Common Z if the only way an animal can get there is over Common Y, see Halsbury Law of England 4th Edition (1974) volume 6 paragraphs 566 et seq. Further an animal may be properly described as "a stray" when it is found off its own leas on the leas of some other animals; its presence may be excusable for some reason other than a right of vicinage. Many hefted commons are hefted by express or tacit agreement between the commoners made from time to time depending on the needs or wishes of those concerned; a person may have a right to graze on all and every part of a common but he may on some particular occasion in some particular circumstances be exercising his right unreasonably (and therefore unlawfully) if he so grazes his animal as to obstruct the exercise by others of similar rights.

I have no jurisdiction to determine questions which may arise about straying animals; I get the impression that in Dartmoor (like in other places in England) there is a good deal of tolerance and understanding between graziers; if questions arise the Court or other tribunal who have to determine them will not be helped by any nypothetical ruling by a Commons Commissioner.



Numbers in a registration, of animals

The Commons Registration (Objections and Maps) Regulation 1968 (SI 1968 No 989) provides how Objections are to be made and prescribes an Objection Form (No 26) which includes Notes intended to be detached when the Objection is sent to the registration authority. In these Notes among 5 examples of grounds of Objection are: "that the rights should comprise fewer (state how many) animals, or other (state which) animals". None of the Objection relating to the Unit Land (CL 164) contain any such grounds.

Nevertheless during a discussion in the course of the hearing Mr Etherton, Mr Harker and Mr E F Palmer requested my views about section 15 of the 1965 Act as to the effect of the numbers mentioned in column 4 of each registration.

Although during other hearings I have been told that two (possibly more) of the Units in the Dartmoor National Park are stinted commons, I have no evidence that any of the rights registered over the Unit Land were either stinted or gated or would have been treated as limited by number apart from section 15 of the Act. Although for many purposes the rules of levancy and couchancy which may be applicable over the Unit Land in effect enable a number to be fixed if there ever is a dispute about over grazing, I regard rights so regulated as "not limited by number". I conclude therefore that each of the rights with which I am dealing "consists of or includes" (within the meaning of the opening words of section 15 of the 1965 Act) "a right not limited by number to graze animals ...". Notwithstanding the absence of any limit, the section requires a number to be stated in the register. The section contains no indication as to how the numbers shall be determined; however it does expressly warn all concerned that there is no finality about the number because Parliament had in 1965 an intention to alter it.

The section contains nothing expressly stating that the number shall be the levancy and couchancy number. The rules of law under which a right of common is regulated by levancy and couchancy have the advantage that a right which would otherwise be without limit, is saved from becoming invalid for uncertainty. But apart from this advantage, the rules have no special merit when applied to a common; they may result in commoners collectively having a right to graze animals far in excess of what the pasture will bear so that who ever comes first does best, and disputes are unavoidable; alternatively, the common may be under grazed to the advantage of nobody. Before 1926 on a manorial common, any disputes could be resolved by the Court Baron (or homage) who would take into account the rights of those who at any particular moment wished to graze, and the amount of grass available. When the manorial system was swept away in 1925 with it went (at any rate as a general rule) the Courts Baron, and manorial commons thereafter were (in the absence of agreement) without any regulating authority; I say as a general rule, because the 1958 Report of the Royal Commission on Common Land includes a picture of a Court Baron being sworn in for the purpose of regulating a common and I do not wish to say anything to suggest that any such proceedings may be invalid.



Another difficulty about the section, is that not every grazing right not limited by number is based on levancy and couchancy. Persons entitled to a sole or several herbage or vesture may not be subject to any numerical limitations at all.

Section 15 uses the words "treated as exercisable in relation to no more animals ... than a definite number"; this does not I think mean that when a number is inserted on the register pursuant to the section, the owner of the right thereafter has under section 10 the right in all circumstances to graze that number of animals. In my view section 15 does no more than provide an upper limit. If anybody wishes to claim that the number of animals grazed by anyone at any time is, notwithstanding that it is less than the upper limit, excessive, his right to take legal proceedings is unaffected by the 1965 Act, except to the extent that section 10 is applicable. It may be therefore that in this case and in many other cases the number put on the register pursuant to section 15 may be of little practical consequence.

Guidance as to how the section 15 number is to be fixed, can be found in the notes to form 9 scheduled to the Commons Registration (General) Regulations 1966, as follows:-

"However for registration purposes grazing rights not limited by number (sometimes called rights "sans nombre" or "without stint") must be quantified. This means the applicant must enter in part 5 of the application form, the number of animals or the number of animals of different classes which he believes himself entitled to graze ... The applicant should not insert a figure higher than that which he believes himself entitled to. If he puts in an excessive figure provisional registration is likely to be objected to. In that case unless the registration authority permits it to be cancelled or the objection is withdrawn, the matter will in due course be referred to a Commons Commissioner for decision, and if the Commissioner orders the figure to be reduced he may also order the applicant to pay the costs of the objector".

The possibility of a Commons Commissioner ordering costs, does not, I think, affect the substance of the note that every applicant is to register what he believes to be his entitlement. Section 15 is I think, a transitional provision towards future legislation under which all commons will become gated or stinted commons to be regulated under section 16 et seq of the Inclosure Act 1773 or under some similar provisions, and as a preparation towards abolishing levancy and couchancy. As a first step a right owner is required to state what he claims. Practically it is impossible for an ordinary person who having concluded that he has a right properly described as "not limited by number" to determine for himself the number by which his right is limited: at the best he can only make a guess based on existing and reasonably foreseeable future circumstances. Being a transitional provision in which Parliament has expressly stated that the number would be altered, it would be a hardship to applicants if they could without good reason be compelled to litigate the numbers they put forward relying on the note on the form.

I construe section 15 showing an intention by Parliament to abolish levancy and couchancy; but I do not think it was the intention that any Court who should be



concerned with a registered right of common should be bound under section 10 of the Act to assume that the right owner could graze at all times and in all circumstances the number of animals mentioned on the register without regard to the circumstances in which the right came into existence; the object of the Act is I think, to provide a register of rights, not to provide a register of regulations which would determine every conceivable dispute which might arise as to the exercise of rights.

I must not be understood as meaning that the numbers of animals stated in the registration is never the concern of the Commons Commissioners, even when the right is not limited by number. If the right registered is a stint, the number will in general be essential to identify the stint; in some circumstances the right intended to be registered will not be sufficiently identified unless the number is stated precisely; if the pasture is gated the numbers must inter se be proportionate to the gates registered otherwise the registration will cause confusion; there may be circumstances making it essential that even levancy and couchancy numbers should be registered so that each person who wishes to graze may know his rights as against others wishing to exercise their rights. The test is, I think, whether the registration as a registration of a right is practically enough. Nobody having suggested otherwise, I assume that the registrations in the form they are now as regards the Unit Land are practically enough.

When as here in Dartmoor many registrations in one Register Unit contain cross references to other Units, indicating that the registrations were made pursuant to an application made in one document, it may be possible to infer that the applicant thought he was registering one right which subsisted over two Units and not two rights, one over one Unit and another over another Unit. Whether the rights so registered are one or two rights must I think be determined by the Court or other tribunal who has to consider whether the person entitled is or is not at any particular time or in any particular circumstances grazing excessively and in a manner to which either the owner of the land or the owners of other rights can properly object; As I see it the court or tribunal although it will not be bound by, may if it thinks fit pay attention to, words in the register which for reasons under a separate heading I regard as surplusage.

It may be that as a result of decisions by Commons Commissioners, there will be registrations say, of a right to graze x cattle over one Register Unit and to graze y cattle over an adjoining Unit (rights attached to the same land); in my view it will not follow that such person can lean $x + y$ cattle across the boundary relying on some supposed right of vicinage; there is no reason why rights over two commons should not be so connected as to require the animals on one for numerical purposes to be treated as being grazed on both. In other cases elsewhere in England I have been told that this is the local understanding and have at the request of those concerned modified registrations so that the understanding is therein expressed; but by occasionally doing this I am not saying that such an understanding (a sort of bringing of animal numbers into hotch-pot) may not in a proper case be implied without being in the Register expressed.



Venville

The word "Venville" in these Unit Land (CL 164) proceedings was used in the Duchy/43 and /44 lists summarised in Parts II and III of the First Schedule hereto as the basis of the large Duchy Concessions made about numerous registrations. The Prescription Claimants would be concerned if the rights they are now exercising are greater than those in Venville, because their rights might have to be reduced, see *Commissioners v Glassey* supra at page 155. Some of the Prescription Claimants claimed alternatively as being in Venville. So I must in this CL 164 decision express views about Venville.

At the Ditsworthy Warren, Ringmoor Down (CL 188) hearing, Mr Theyer on behalf of Sir Guy and Lady Sayer, Sir James Eberle and Mrs Smallwood claimed ("the Venville - Commons of Devon Claim") that any person in Venville had a right of common attached to his land (dominant tenement) not only over the Unit Land and the common (land in a Unit) between it and the dominant tenement, but also over all the lands in all the Units which adjoin (and possibly those not too far away from) the Unit Land. The arguments used in support of the Venville-Commons of Devon Claim were adopted by Mr Harker on behalf of some of his clients. Against the Claim was Mrs Canning on behalf of South West Water Authority (she had other arguments against the Authority's parts of the CL 188 land and of Walkhampton Common (CL 193) being subject to any rights of common which I deal with in my decisions relating to these units). Also against the Claim Mr E F Palmer on his own behalf and on behalf of Sheepstor Commoners Association.

The Venville considerations were very fully argued and discussed at the CL 188 hearing. Because the reasoning for my decision about the Claim comprehends all relevant aspects of Venville, I shall in this decision deal with Venville not only as regards the Unit Land (CL 164) but also as regards the CL 188 land.

Mr Theyer on the last day (12 November) of the CL 188 hearing based his clients Venville claims on four propositions: (1) His clients are Venville tenants; (2) Venville Tenants are entitled to exercise common rights over the Forest and the Common(s) of Devon; (3) the Common(s) of Devon which are a continuous belt of land adjoining (and surrounding) the Forest, and the Forest are one common; (4) the whole (or a substantial part) of the CL 188 Land is part of such one common. In support of these propositions generally he relied on the Headland Warren and Hentor Warren decisions. As regards (1) particularly he relied on the finality of his clients' registrations in relation to Spitchwick Common (Register Unit No CL 33 as regards Sir G and Lady Sayer) and Holne Moor (Register Unit No CL 153 as regards Sir J Eberle as successor of Mr D M Scott, and Mrs Smallwood) saying that these registrations had become final because there had never been any objection to them and further relied on the finality (as a result of the said decisions) of their CL 148 and CL 190 registrations and claimed these finalities by section 10 of the 1965 Act were conclusive evidence of his clients' Venville status. As regards (2) particularly he relied on various 16th and 17th century documents extracted in 1890 DPA/Moore, on the expert opinion as a local historian of Mr J V Somers-Cocks about the effect of such documents (he asked that his opinion be preferred to that of Mrs Wilkinson below mentioned) and on the views expressed in such books as *Perambulation of the Ancient and Royal Forest of Dartmoor* by Rev Samuel Rowe, 1848 (second edition 1856, revised 1896) and *Worth's Dartmoor* 1967. As regards



(3) and (4) he relied particularly on various maps showing the extents of the Commons of Devon, eg that opposite page 1 of 1890 DPA/Birkett and on Appendices 1 and 2 the minutes of the evidence given on 30 April 1957 by the Dartmoor Commoners Association to the Royal Commission on Common Land and contended that the Commons of Devon included any land (common land) which was the property of the King of England or the Duke of Cornwall or subject to the jurisdiction of the Forest Court of Lydford.

During the Unit Land hearing and during some of the other hearings I held Lady Sayer amplified the arguments of Mr Theyer. These arguments were also generally accepted by Mr Harker for the benefit of such of his clients who as being in Venville^{the} Duchy conceded had a right to graze on the Unit Land and for whom he therefore claimed a right over the CL 188 land.

Against the Claim, Mrs Canning for the South West Water Authority summarised her submissions as follows (CL 188: WA/3): (a) the Commons of Devon do not exist as a legal entity, (b) the Venville rights exist as a common right over the Forest only; (c) in modern times at least the extent of rights varied enormously and individuals must prove what rights applied to them and these should be strictly proved as ordinary land law required; (d) with regard to any common a Venville tenant could only exercise those rights to which he had easy access and that such rights are a separate issue unconnected with Venville, (e) his rights only exist on those lands which were in the control of the Crown and later in some cases the Duke of Cornwall and that ownership and jurisdiction have been confused in the minds of the applicants for Venville rights. Mrs Canning elaborated her argument about Venville, relying on the evidence of Mrs Wilkinson as a person having special knowledge of Dartmoor, certain historical documents and extracts from the Law Reports (CL 188 WA/4-12) and contended at the Headland Warren and Hentor Warren decisions were not binding on her Authority and should not be followed by me and that a grant of Venville rights if they extended over all the so called Commons of Devon would be "contrary to sense ... and contrary to law (WA/7 page 7)". By contrary to law I understood her to mean particularly contrary to the judgment of Jessel MR in *Commissioners v. Glasse supra* and the various other judgments of the High Court about commons with which she assumed I would be familiar.

Mr E F Palmer for himself and on behalf of the Sheepstor Commoners Association with regard to the CL 188 land also opposed Venville claims. He called evidence and questioned witnesses so as to provide me with information as to the persons by whom and the manner in which the Unit Land and the CL 188 land and the lands of some of the other Units had been grazed; as to the facts about grazing he put forward no particular argument, merely saying generally (in effect) that grazing in accordance with the Venville-Commons of Devon Claim would be contrary to commonsense and that the Headland Warren and Hentor Warren decisions were given upon concessions mistakenly made by those who argued against the Venville Claims, that neither he nor anybody else in this case made any such concession, and he hoped that there was no legal reason why I should not follow commonsense.

The first contention in support of the Claim was that the said two decisions were test cases and conclusively established at least as regard the land in all the 33 Units mentioned in any of the registrations made on the application of Mr Theyer's client were in Venville as being within the above quoted 1976 definition, that these Units were all one common and that the



Venville-Commons of Devon Claim was therefore in accordance with the law. A judicial decision in one set of legal proceedings is as a "test case" only conclusive in another set of legal proceedings if the parties concerned in the other set have so agreed, and then only to the extent agreed, see *Boguslawski v Gdynia* 1951 2KB 328. There was no evidence that either North West Water Authority or Sheepstor Commons Association had ever made any such agreement, and I find that there was none; they were not concerned in the CL 148 and CL 190 decisions they had no right to be heard at and did not in fact attend the hearings before the Chief Commons Commissioner leading up to them and I can see no reason why they should not in hearings before me require me to make new findings of fact about other Register Units. I reject the suggestion that Mr E F Palmer who was nominally the appellant in the High Court Hentor Warren proceedings as representing Shaugh Prior Commons Association should be in any worse position: further as regards the Venville-Commons of Devon Claim he was in the CL 188 proceedings mostly acting as advocate so what he had done in other proceedings was irrelevant.

Although in the absence of agreement the result of legal proceedings may not as a test case be binding on non-parties, they may be affected by the judgment given insofar as it is an authority for any statements in it about the law. In this limited sense anything said by Judge Finlay in the Hentor Warren decision if relevant is binding on me. However in affirming the view of the Chief Commons Commissioner that Venville rights had not been abandoned, he merely followed the Court of Appeal decision in *Tehidy v Norman* 1971 2QB 528; at my hearing the contention was that Venville rights such as were claimed by Mr Theyer did not exist not that they did at one time exist and had been abandoned. As to the law expressed by the Chief Commons Commissioner in the Headland Warren decision: I have not anywhere in this decision consciously differed from any view of the law expressed by him; but I do not regard him as having expressed any view about the rightness of any concession made before him or as to any evidence not particularly mentioned in his decision being necessarily relevant or as to the propriety of the basic assumptions underlying the question which he thought (possibly with the agreement of Mr Sher and Mr Scott) needed from him an answer. It is I think open to Mrs Canning and Mr E F Palmer to challenge these basic assumptions and suggest I give a different answer.

The definition of a Venville tenant (the 1976 definition above mentioned) in the Headland Warren decision was in answer to Mr Sher's submission that a fluctuating class cannot claim by prescription, and given in the context that the relevant land was owned by the Duchy; the Chief Commissioner cannot I think have intended to say either that a payment made to and accepted by the Duchy as being made pursuant to a right necessarily established that a right existed over land not owned by them or that rights could as a matter of law and without any regard to evidence of actual user, be attached to each and every piece of land in a parish (a Venville parish) contrary to the legal principles established in *Smith v Gateward* 1607 Cro Jac 152 and the later cases which followed and explained such principles.

Further the Chief Commons Commissioner never considered how it should be determined whether any particular piece of land was included in the Common(s) of



Devon which with the Forest, he concluded was one common; so having regard to the claims in the CL 118 proceedings, to decide this question, I must unavoidably review the decisions.

Lady Sayer emphasised that the rights she was claiming were ancient. I reject any suggestion that the rights claimed by her are nonsense; ancient rights may be effective, see *Wyld v Silver* 1963 1 Ch 243, when an ancient right so described in a 1799 Act of Parliament was established. She is entitled to claim her rights, notwithstanding that at least 300 (possibly more) others who might have made similar claims may have lost them by failure to register under the 1965 Act. But nevertheless she is not relieved of the burden in proceedings such as these of showing that rights she claims exist.

Sir James Eberle in a letter of 5 November 1982 (CL 188: JHFE/1) emphasised the importance "of preserving Common rights — and thus of preserving Common Land — where otherwise such rights might be bought out and hence extinguished ... and so Common land would be lost to the community as a whole. Whilst a full legal right of access for the public to common land does not now exist, it is I understand, the Government's wish to pursue legislation which would have this effect ..." In the CL 188 proceedings Mr Browne on behalf of the County Council said that they were concerned as managers of Dartmoor National Park and therefore favoured as much of the Park being subject to rights of common because land so subject would for purposes of the Park be more manageable; however later during this hearing I understood that the County Council wished to be neutral about the Venville — Commons of Devon Claim. That persons other than the commoners and the owner of the land may have an interest in common land has at least since the 18th century been accepted by Parliament, in that various Inclosure Acts provide recreational allotments, allotments for poor persons etc for the benefit of the locality; and there are similar provisions in the Inclosure Act 1805 and the Inclosure Act 1845. Round about the middle of the last century the idea grew up of a plaintiff claiming a right of common for himself and others having a like right with the object of preventing the land being enclosed; about the development of this idea, see *Commons Forests and Footpaths* by Lord Eversley (1910 octavo 356 pages); he gives the background of the following cases reported in the Law Reports: *Smith v Brownlow* (Berkhamstead, Herts) 1869 9 Eq. 241, *Warwick v Queens College* (Plumstead Tooting) 1871 10 Eq. 105, and 1871 6 Ch 716; *Glasse v Commissioners*, and *Commissioners v Glass* (Epping Forest, Essex) 1871 7 Ch 456 and 1874 19 Eq. 134; *Rivers v Adams* (Tollard Farnham) 1878 3 Ex D61; *De la Warr v Miles* (Ashdown Forest) 1881 17 Ch D 534; and *Robertson v Hartopp* (Banstead, Surrey) 1890 43 ChD 484. I conclude from these reports that the plaintiff's amenity motive for his claim is irrelevant; although Jessel MR at least must have realised that the Commissioners of Sewers were a thin disguise for the Lord Mayor Aldermen and Citizens of London interested in amenity, see page 164.

Similarly it is not against the existence of rights over a very large area that it would be contrary to commonsense for any person to graze comprehensively over such an area; but I am not saying that commonsense is altogether irrelevant in these proceedings, see below under heading "As of right".

But Mrs Canning contended that the Claim was contrary to law. As I read the 1965 Act I must determine any disputes referred to me according to the law of England so this contention requires careful consideration.



As to the law it was implicit if not expressed in much of what was said by Mr Theyer and Lady Sayer that my only source of law was what they described as "the Authorities", meaning such books as (1) the Perambulation of the Antient and Royal Forest of Dartmoor by Rev Samuel Rowe 1848 (2nd ed 1856, revised 1896); (2) DPA 1890, Short history of the rights of common upon the Forest of Dartmoor and the Commons of Devon by Percival Birkett with a report by Mr Stuart A Moore and an introduction by Sir Frederick Pollock and (3) Worth's Dartmoor (1953 from a new edition 1967); and possibly other publications about Dartmoor containing about common rights much the same sort of information; alternatively "the Authorities" were the historical documents mentioned in Rowe supra and DPA 1890 supra. That the authors and compilers of these books are "authorities" within the ordinary meaning of this word cannot I think be doubted, and indeed some of them are nationally famous. But as a source of the law of England, the authorities are Acts of Parliament and the judgments of HM Judges as reported in recognised Law Reports; and as a general rule books such as those just mentioned are not Authorities as to the law of England save in exceptional cases (such as there being no relevant Acts or judgments). And I reject the suggestion that I may not in these proceedings pay any regard to a judgment of the High Court unless it relates to some part of Dartmoor.

Mr Canning as above stated relied on Commissioners v Glasse (1874) supra, which dealt at length with a claim almost identical with the Venville - Commons of Devon Claim. There one of the questions was whether certain wastes ("the Epping Disputed Area") containing nearly 4,000 acres were all one common, over which the commoners had rights or whether they were according to parishes, townships or manors, a number of commons over which the commoners having land in the corresponding parish township or manor had rights but none over the rest except possibly by reason of vicinage. Jessel MR held that the Epping Disputed Area was all one common; so superficially the decision seems to support the Venville - Commons of Devon Claim; but Mrs Canning claimed that on a close examination of the reasoning of the judgment, the Claim was shown to be contrary to law.

Before dealing with the 1874 judgment in detail, I must first consider the pleading points which were in the same case dealt with 3 years earlier, Glasse v Commissioners 1871 7 Ch. 456. To establish a right of common it must be capable of being properly pleaded in High Court proceedings, and if the pleading is not proper the claim may be struck out, as happened in Baylis v Tyssen-Amhurst (1877) 6 Ch D 500 (a case relating to lammas lands in Hackney, Middlesex). In my opinion a 1965 Act registration is not a pleading; neither the Act nor the Regulations made under it require a registration to define with certainty how and when the right can be exercised; if the manner of its exercise is challenged by legal proceedings, the right must be capable of being pleaded in the ordinary way.

I now consider a pleading on the lines of Mr Theyer's said four propositions. Such a pleading is objectionable because expressions "Venville tenants" or "all the King's tenants which are in Venville", or "a man in Venville" such as are to be found in 1890 DPA/Moore are not known to the law; by the Tenures Abolition Act 1660 stating its effect shortly, all land except copyhold was thereafter to be held in common socage; see Megarry & Wade, Real Property (4th ed 1975)



pages 34-38; land cannot be held otherwise. Although those claiming as Venville tenants may perhaps claim under former copyholds of a manor, nobody suggested that their manor was the same as or a submanor (such as exists in some parts of England) of, the Manor of Lydford of which Unit land forms part; indeed as I understood it the whole purpose of the Claim is that persons allegedly in Venville are in relation to Unit Land extra manorial to the Manor of Lydford. Although expressions such as "the Forest" and "the Common of Devon" may be in order in a pleading, as describing an area possibly capable of being identified, the expression "The Commons of Devon" in a pleading is objectionable because it can only mean lands which are both common land and in the county of Devon (a meaning not intended by anyone in these proceedings). Further a pleading which alleges that the rights claimed are as a matter of law exercisable in respect of every piece of land (regardless of its nature) in a parish (Venville Parish) entitled to graze either by virtue of a custom (using the word in its legal meaning) or otherwise is contrary to *Smith v Gateward* (1607) *supra* and the numerous cases such as *Goodman v Saltash* (1882) v AC 633 which Gateward's case has been explained. As to many of the lands in a parish having practically identical rights, see *James LJ in De la Warr v Miles supra* at pages 585 and 586.

But that Venville rights are not recognised by law does not establish that rights which persons in Devonshire choose to call Venville rights do not exist; for in *Bayliss v Tyssen-Amhurst supra*, Jessel MR explained in great detail how lammas rights could be pleaded in accordance with the law and concluded his judgment with the following observations which I regard as important in these proceedings: "I entirely assent to what has fallen from eminent Judges, to the effect that where long-continued user is proved of a beneficial enjoyment of rights of this kind, the tribunal ought not to be astute to destroy those valuable rights on any technical notion that a legal origin could not be attributed to them. It is the duty of the Judges, as far as it is possible to do so, to attribute a legal origin to the actual exercise of those rights".

In the documents produced on behalf of Lady Sayer and in the course of her own oral evidence frequent reference was made to the rights claimed being Venville rights. The effect of evidence given by a witness by reference to rights not recognised by law was considered in detail by the Court of Appeal in *De la Warr v Miles* (1881) 17 Ch D 535 the land there considered being formerly in the Forest of Ashdown in Sussex; claims were made by numerous persons who when giving evidence used expressions not known to the law. Of these persons Brett LJ said at page 594: "His claiming to exercise the right, which he did in fact exercise, in respect of some alleged title which could not be supported, is, in my opinion wholly immaterial ..." and Cotton LJ, at page 596, having said "... and it is said here, that these acts, if they are made out in fact to have been done ... were done, not under what the Court thinks would give a good defence, but as under a custom which the Court holds incapable of proof and not proved", said (stating his own contrary view): "will see whether the acts which the defendant claims a right to do ... are such as could be supported as lawful by custom, prescription or grant ...", and "it is said however that nearly all the persons who cut litter did it not in respect of their own particular farms but under a



general supposition that the (1693) decree gave them a right to do so and that there was some custom which justified it. In my opinion as I have already said it is not necessary ... that the acts done should at the time have been attempted to have been justified in a way in which we think they can legally be justified ...". I think these above quoted observations although made in circumstances not exactly similar to this case guides me to the conclusion that I must regard not the apparent justification of the acts described as being somehow associated with the word "Venville", but to the acts themselves. The thoughts and the ideas of the doers of the acts are irrelevant.

So I come to whether the Venville - Commons of Devon Claim was in effect decisively determined by Jessel MR in *Commissioners v Glassey* (1874) 19 Ex. 134. This case, perhaps the most famous of all those dealing with common land, related to the Epping Disputed Area, being all that was then left of the wastes of the Forest of Epping at one time considered as part of a larger area known as the Forest of Essex. At the hearing there were 6 QCs and 14 junior counsel, and the evidence and arguments lasted 23 days, at the end of which Jessel MR without calling on the Plaintiff's counsel for a reply said at page 149:- The matter is very plain and very clear. The nature of the proof required ... well known and long used in our Courts ...". By this he meant, see page 150 that each of the rights "was an ordinary right of common appurtenant". And that each could be made out by showing it had been exercised for 60 years. The Court of Appeal also considered 60 years as appropriate, see *De la Warr v Miles* supra at page 586, they clearly having in mind prescription at common law as modified by the Prescription Act 1832. They did not say that an "ordinary right" could not be otherwise established and I have the advantage of a more recent Court of Appeal decision showing that a modern lost grant may be presumed after 20 years exercise as of right, *Tehidy v Norman* 1971 2QB 528. There was no evidence in the instant (CL164 and CL188) cases or in any others I have so far dealt with of any actual grant; so my decision depends on whether I can presume either (by prescription) an ancient (before 1189) grant or a lost modern grant. So in these proceedings, apart from any concession on which I am able to act, I am concerned with what persons have been doing. What they have said or written as recorded in such books as DPA 1890 is only relevant as indicating what they or others have been doing.

Jessel MR mentions the distinction between the "wastes of the Forest" and "the Forest". I have the same distinction in Dartmoor; for example, Rowe in his perambulation of the Antient and Royal Forest of Dartmoor includes a map of the Forest showing it as one roughly rectangular area which includes built up areas such as Princetown and Hexworthy and much now enclosed land; while the Unit Land comprises (as hereinbefore mentioned) 15 separate pieces; Rowe's area is roughly what would be marked out by an imaginary string tautly drawn around and enclosing all the 15 pieces. Before me many used the expression "the Forest" sometimes in the larger sense as including Princetown and Hexworthy and other enclosures were in the Forest as they appear on many maps, and sometimes used it as meaning the Unit Land, that is the wastes grazeable. Like Jessel MR I shall in this decision disregard the distinction, leaving the reader from the context himself to make it where necessary.

Next Jessel MR after pointing out that the Epping Disputed Area was in a number of parishes or manors, at page 151 propounded the first question which he considered to be possibly decisive:-



"With this great body of evidence and under these circumstances, what am I to consider proved? First of all what is this thing called?"

And he next asked himself what the Epping Disputed Area was called and what the various parish parts of the Epping Disputed Area were called. It seems to me that this "thing?" test so concisely stated by Jessel MR is another way of stating the general principle applicable in determining the boundaries of commons in all sorts of different circumstances: stated at greater length, "What is the piece of land about which we are talking?"; the boundary of a common regarded as a piece of land is not the edge of the places where animals actually graze; nobody excludes from the piece of land bearing the name of the common, the mires or the rocky areas such as the tops of tors, where animals cannot or do not graze; the boundary of the common is that of the relevant piece of land which is grazed, often (but not always) a fence or some other easily recognisable physical feature. So to answer the Venville - Commons of Devon Claim, according to the test of Jessel MR, I must consider first is there a thing called "the Forest", and secondly is there a thing either called "the Forest and the Common of Devon", or called "the Forest and the Commons of Devon". I need not consider whether there is anything called "the Common of Devon" or "the Commons of Devon" apart from "the Forest" as nobody suggested that they could be a common apart from the Forest. The Duchy map (Duchy/2) suggests that there may be some areas outside the Unit Land which are, perhaps disputably, part of the Forest. → But understanding that the so disputed areas are very small compared with the whole Forest, I shall in this decision disregard the possibility that the Forest may not be exactly the same as the Unit Land.

As to the first question:- The documents put before me (I believe without exception, not having found one) refer to "the Forest" as an identifiable thing with known boundaries being those described in Rowe, ib. During the evidence put before me at these (CL164 and CL188) hearings and at all the other hearings I have so far held, witnesses referred to "the Forest" as being a distinct and identifiable piece of land over and over and over again; the piece is easily identifiable with the Unit Land. During my inspections, I frequently tried to determine from my map whether I was in or out of the Forest; those with me sometimes after a short pause to enable them to look at landmarks such as the summit of a tor or an upright granite stone never had any difficulty either in understanding or in answering the question at any rate to within a few yards and in explaining where the boundary was and sometimes referring to one of these upright stones projecting 8 or more feet above the ground apparently of long standing and intended to mark an important boundary. I find that there is and has at all relevant times been a thing called "the Forest".

As to the second question:- Mrs Canning contended (rightly I think) that whatever is described by "the Forest and the Common of Devon" or "the Forest and the Commons of Devon" cannot be (as a matter of ordinary English language) one thing but is necessarily two or at least three things. Further the expression "the Commons of Devon" in the historic documents put before me is always used in conjunction with the Forest from the point of view of a person primarily interested in the Forest circumferentially and can naturally be read in a distributive sense as referring to that one of the numerous things known as the Commons of Devon as in relation to the commoner in question is his concern. Further although it is easy to suppose that those using the expression must have intended to include commons which adjoined the Forest, moving centrifugally where is their boundary? Could it be (a) the shaded area shown marked on the map annexed to the memorandum of evidence by the Dartmoor Commoners' Association on 30 April 1957 submitted to the Royal Commission



being the same as that shown on the map bound up with 1890 DPA/S.Moore or (b) is it the area to the "Cornedychis" mentioned in the 1542 Instructions for my Lord Prince. The CL 164 registrations at Entry Nos 123, 124 and 766 by including CL 84 (Plasterdown) seem to favour the wider view. Whether parts of CL 188 such as Ringmoor Down and Yellowmead Down are included seems uncertain. During my inspections there appeared no obvious boundary on which corn either was or could be grown. As appears in my CL 188 decision Mr Etherton on behalf of the Maristow Estate Trustees made various submissions as to how (assuming there is such a thing as the Commons of Devon) this circumferential boundary could if need be determined; but within the limits of the question propounded by Jessel MR such boundary is I think quite uncertain. But most strikingly in contrast to the use by witnesses as above stated of the expression "the Forest" nobody at any of the hearings before me used the expression "Common of Devon" or "Commons of Devon" for the purpose of describing anything which they or anybody else had done; they spoke of animals going from or to Okehampton Common, Belstone Common, Ugborough Moor, Stall Moor, Ditsworthy Warren, Walkhampton Common, various named parts of Peter Tavy Great Common etc to or from the Forest and never used in their descriptions any expressions like going to or from the Forest from or to the Common of Devon or the Commons of Devon. I find that there is no one thing called either "the Forest and the Common of Devon" or "the Forest and the Commons of Devon".

Jessel MR, although at pages 151 and 152 he described his thing test as being "first of all", did not treat his own answers as conclusive, because in some detail he discusses other arguments that the Epping Disputed Area which he found was locally called "the Forest", could properly be treated as divided into several commons, according to parishes or manors; here I am concerned whether "the Forest" can properly be treated as part of a much larger common.

As to this possibility Jessel MR at page 157 considered the evidence that the Forest of Epping was at one time very much larger and he at page 157 referred to the Delimitation of Forest Act 1640 (16 Car I c.16) which fixed the boundaries of all forests being as they were considered to be in 1623 and which contained the extraordinary enactment (section 4) that every judgment and award and that every perambulation, extent and other acts at any time theretofore by which the bounds of the said forest are pretended to be further extended and that all fines and amerciements by reason of any presentment at any Court shall be "deemed and taken to be utterly void and of no force or effect". The Act provided that there should be commission returning the boundary but I have no note or recollection of anybody at the hearing mentioning any such return and I shall assume that the Unit Land being the land now and for many years called the Forest is the area referred to in the 1640 Act*. Section 5 goes on to enact the lands outside the limits so determined shall be disforested "any presentment inquiry Act or thing heretofore made or hereafter to be made or done to the contrary notwithstanding". The Act in effect destroys as regards all forest questions any link there might otherwise be between historians interested in establishing how ideas have locally developed and how rights had possibly been considered in the past, and persons like myself concerned to determine rights as they now are. As regards the Unit Land I follow Jessel MR at page 158: "So that looking to the terms of the Act of Parliament, particularly of the 4th section, I am bound to hold and I do hold, that the boundaries of the forest have never varied".

*Note:- The 1640 Act, although repealed by the Wild Life and Forest Laws Act 1971 is still relevant, see Interpretation Act 1889 section 38.



Nevertheless following Jessel MR I must consider the matters particularly raised of which the most important are the historic documents extracted by Mr S Moore (1890 DPA/Moore supra) of which the 1608 verdict of the Court of Survey and the 1542 Instruction to my Lord Prince were the most discussed. It not having been suggested that any of the historic documents contain or were evidence of the terms of any actual grant of any rights of common, they are relevant only as showing what was being done when they were made. I reject the idea implicit in the affidavit of Mr Somers-Cocks and in the evidence given by Lady Sayer that I must consider each of these historic documents as if I were a Court sitting immediately after it was made for the purpose of determining what rights by it and all earlier documents had been established; such an approach is I think contrary to *Copestake v West Sussex* supra. The historic documents relevant in this case so far as they enable me to determine what people were doing at the time when they were made and about this they are a mine of information; but the reliability of such information depends upon a consideration of how the documents came to be produced, the probable knowledge of their author, and as regards anything not stated with absolute clarity what would be their likely answers to questions if they could be supposed to be actually giving evidence to me. At the outset I observe that Mr Moore who extracted the documents and who as a lawyer was well qualified to draw conclusions, when summarising the result of his researches at page 99 et seq provided nothing in support of the Venville - Commons of Devon Claim; on the contrary he clearly thought that to ascertain the rights over such areas of land it would be necessary to consult the manorial records of each of the relevant manors. However Mr P Birkett at page xxvi does anticipate the Claim saying (in effect) that "the Forests and Commons of Devon are, so far as the Commoners are concerned, one vast Common"; but he is not consistent for "he seems to conclude at page xxii from the 1524 Instructions that the commoners (meaning other than the tenants in Venville) can depasture upon the Commons of Devon without paying anything if they will depose to the fact that their cattle did not go into the forest", an idea consistent with the Forest and the Commons of Devon not being one vast common.

The 1608 Court of Survey was concerned to determine the "honours lands tenements" belonging to the Duchy and had no jurisdiction to declare the rights of the commoners; indeed paragraph 2 of the Verdict makes it clear that Jurors did not intend to make any such declaration as they "do leave the same to the judgement of lawe and to the justisse of their tytles which they make to the same"; further the Jurors in the same paragraph make a distinction between the "moores, commons and wastes" (note plural) usually called "the Common of Devonsheere (singular) which are "parcel of the Duchy" and the like "commons, moores and wasts of other men"; I see no reason to give the words in paragraph 3 "the King's tenants which are Venville" as meaning anything other than leaseholder or tenants (copyhold or customary) of a Royal (including the Prince) manor; the Jurors would not I think have used "King's tenants" to comprehend all persons holding of the King in common socage; they would deal only with land part of the Duchy. I have the map (Duchy/4) of the Common of Devon as are now owned by the Duchy; I have evidence in the CL188 proceedings that the land in that use has not for many years prior to the 16th century ever been owned by the Duchy, and I note that persons have registered themselves as owners of many of the units in the Dartmoor National Park; so from the 1608 Verdict I have no difficulty in finding that the lands therein called the Forest and the Common of Devon were being grazed by commoners and that an important class of such graziers then known as "the King's tenants which are Venville" did so (as stated in paragraph 3) paying for the same



"Venville rents and other dues" to the Duchy and paying extra for "night rest" to the Duchy (grasewait) but further than that I can make no findings.

As to the 1542 Instructions to my Lord Prince I reject the suggestion by Mrs Canning that they are not admissible because there is some doubt as to the whereabouts of the original. But I accept her submission that in considering what they establish regard may be had to their apparently domestic character, ie they are a memorandum from a subordinate to his superior as to the way in which for the benefit of the Prince a profit could be made from the Forest and other nearby lands owned by him; that the author in such circumstances intended to declare in detail the rights of the commoners is unlikely. The Instructions are evidence that there was then a class "every man of the Vyndefelde be the King's tenants" who paying rent could graze by day-time and who paying extra could graze by night, and also another class "every man of the Sheire of Devonshyre" who could on payment graze on the Forest. The Instructions contain the statement that such men of the "Sheire" could come on to the "Comyns of Devonshyre and paye nothing"; bearing in mind what has been said to me at various hearings about grazing on the Forest and the surroundings, I find it incredible that the author of the Instructions to the Prince intended to say that any man in the County of Devon was entitled at will to graze on all the common lands adjoining the Forest (? all the units in the Dartmoor National Park adjoining the Unit Land) without any regard at all to the needs of those living in the parishes where such lands were situated; as I read the Instructions he intended to say that in addition to those he called "kynges tenants" there were others who grazed both on the Forest and the "Comyns of Devonshyre" who provided they did not graze on the Forest could not be required to pay anything to the Prince; unlike the 1608 Jurors, he did not contemplate any of the "Comyns of Devonshyre" could not belong to the Prince, and he seems to have treated any such "Comyns" as part of the Forest. Nobody at the CL188 and CL164 hearings claimed as a man of Devon, although such a claim has since been made in relation to other Register Units about which I have held a hearing; Mr Etherton on behalf of the Duchy at the beginning of this hearing said that any such claim if made would be disputed.

As far as Venville is concerned, the Instructions establish that in 1542 all grazing by commoners was on payment of rent and an extra sum for night use. Whether grazing in 1542 and 1604 subject to payment to the owner of the land can in proceedings in 1982 be regarded as evidence of a right registerable under the 1965 Act must in my view be determined in accordance with the law not as it would have been understood in 1542 and 1608 but, as it is understood now; I have the ruling of the House of Lords in *Gardner v Hodgson* 1903 AC 229 that in the absence of any other evidence user on payment is not as of right. The possibility of a Court reaching such a, from the point of view of persons calling themselves Venville tenants, dismal conclusion was considered by Sir Frederick Pollock (1890 DPA/Pollock) at page ix, when he suggested that payments made by Venville tenants could be regarded as made under a rent charge. On this he anticipated the speech of Lord Lindley in *Gardner v Hodgson* supra who while concurring with the rest of the House of Lords that in the absence of evidence payment could not be presumed to be made pursuant to a rent charge, said it might be proved to have been so made. I need not consider whether it has been proved because the Duchy have as regards all registrations on their list Duchy/43 in effect conceded that all monies paid to them in respect of the rights so listed were pursuant to a rent charge. In relation to the judgment of Jessel MR in *Commissioners v Glassey* supra, in my opinion neither the 1542 Instructions nor



the 1604 Verdict nor any of the other documents extracted in DPA 1890 provide any reason for not giving effect to my answer to the test he put "first".

Next it was suggested that the Manor/Forest Court at Lydford had from time to time regulated the grazing on the Commons of Devon and thus showed that they were with the Forest one common. So far as such Court was manorial, its jurisdiction was necessarily confined to the limits of the Manor; so far as such Courts purported to act as a Forest Court its jurisdiction was necessarily limited to the Forest. It was said that if the records now held by the Duchy of the activities of this Court were carefully investigated, they might reveal that the Court in addition to the very few cases mentioned at the hearing have exercised jurisdiction outside the Unit Land; however this may be such few cases and any others which might be discovered would not assist the Venville - Commons of Devon Claim because each and every exercise of such jurisdiction was by section 4 of 1640 Act declared to be "utterly void and of no force or effect"; so the Duchy acted rightly in not undertaking for the purpose of these proceedings any such investigation of these Lydford Manorial records.

Against applying the "first" test proposed by Jessel MR, I have given careful consideration to the circumstance that many animals are leared across the boundary between the Forest and the land of some adjoining Register Unit and also that there is in many places no fence preventing animals from going from one end of this vast area to the other; so that to treat it as one common to some extent accords with common-sense. But contra to include land of other Register Units (eg those on the opposite side of the Forest) which could not be in the same lear because some miles away, to an equal extent lacks common-sense. I am concerned with the rights not of animals but of human beings; so for this reason the circumstances that some animals wander for miles and turn up in the most unlikely places and the circumstances that animals while grazing apparently take no notice whether they are on one side or the other side of the boundary of the Forest is irrelevant to the test.

For the above reasons, I conclude that my answer to the test "first" put by Jessel MR is decisive and that the Venville - Commons of Devon Claim fails. In the result a person who successfully proves that he has a right of common over the Forest (CL164) and a right of common over land of another Register Unit situated between his land and the Forest does not thereby establish that he has a right of common over any other Register Unit; and the word "Venville" has been rightly not mentioned in the Register. But I do not regard it as established that each and every other Register Unit is a parochial common; very many commons in England are grazed on a parochial basis because grazing in common requires much co-operation between those concerned and this is often obtainable on, and only on, a parochial basis; I know of no presumption of law in favour of a parochial basis, and its applicability to any particular Register Unit depends on such matters as the position of the surrounding farms relative to the common, physical features, etc; matters which so far as they arise I will deal with in my decision relating to the Unit concerned.

Summarising what I have said above under the heading of "Venville":- The legal position of rights of common over Dartmoor is the same as the legal position of rights of common elsewhere in England; in no respect under the law of England is Dartmoor any different. What matters is not what the rights are called but what the land over which the rights claimed to be exercisable is called. If to land in or around Dartmoor there is attached any ordinary right of common appurtenant, such as exists elsewhere in England, persons entitled to it may call it and any other like right by the name of Venville; but



no person or body of persons however often they may describe what they do as being in Venville or being a Venville right can thereby for themselves or anyone else acquire a right of common; such acquisition being only capable of being established as by law provided. And for the benefit of those who have at the hearings before me taken so much trouble to explain their views about Venville, I venture to suggest that they are all better off thus. From the agricultural point of view an ordinary right of common established by recent enjoyment is by a fiction of the law treated as if it were ancient and as having always been as it is now enjoyed; a better idea so it seems to me than trying to fit what is now being done in the 20th century into some shadowy and vague idea of what persons would have been doing 400 years ago. And those who are interested in amenity and I suppose sympathise with the so far unfulfilled recommendations of the 1954 Royal Commission on Common Land, will I think be better off by being able to join with others elsewhere in England with like sympathies; for nearly every problem said at my hearings to have arisen in Dartmoor is more or less (perhaps oftener more than less) the same as has arisen elsewhere.

As of right

Because all the Rights Section registrations are in question, the burden of proof is on those who wish to support them, see re Sutton 1982 1 WLR 647; but in that case the Judge was careful not to lay down any general rules as to how this burden may be satisfied, see page 657. One way of doing this is to show that each right sought to be established has by the persons claiming to be entitled to it and by their predecessors been exercised as of right, see for example *Commissioners v Glassey* supra at page 150 and *De la Warr v Miles* supra at page 584. But a collective approach is I think permissible. The documents extracted in 1848/Rowe and in 1890 DPA/Moore include many statements about persons having rights and these statements may I think be read meaning that those responsible for them were saying that things such as might be done under the rights described were being done; I conclude therefore from them that the Unit Land has for many centuries been grazed not only by persons having lands within the Forest but also very extensively by persons having farms nearby and less extensive by persons having farms a short distance away and possibly occasionally by persons having farms some not short distance away. The general appearance of the Unit Land as I have seen it confirms this conclusion and I find that such grazing has taken place from time immemorial. This conclusion does not of itself establish that any rights are exercisable by anyone; but it may, according to the situation at the farm concerned, add much, or a little, or not at all to the cogency of other evidence.

The Duchy have conceded the rights set out in Parts II and III of the First Schedule hereto; an admission by the owner of land that it is subject to a right of common is some evidence of the existence of the right. By section 7 of the Commons Registration Act 1965, a registration to which there has been no Objection, becomes final without any evidence in support of it other than the statutory declaration by the Regulations required to be made when the application is left with the registration authority. If the particular parts of the Unit Land specified in the Land Section Objections had never been included in the Unit Land, so that in the result such Objections would never have been made, the Rights Section registration might have become final under section 7. Jessel MR said in *Baylis v Tyssen - Amhurst* supra at page 510 (quoted above) that a tribunal "ought not to be astute to destroy ...". Upon these considerations my decision



is that subject to the next mentioned provisions and exceptions all the registration by the Duchy conceded as set out in the said Parts II and III were properly made.

Such decision is subject to the provisions made as recorded in such Parts by the Duchy when they made the concessions. And also I except from it the registrations specified in Part IV of the First Schedule, so specified by reason of Objections by persons other than the Duchy or by deemed Objections arising from a conflict or for some other reason which to me seems to make it desirable I give registration special consideration. These Duchy concessions, having regard to the explanation given by Mr Sturmer as to the circumstances in which they were made, cannot as against anyone other than the Duchy be treated as cogent; Mr Tom Brown on whom the Duchy so much relied may in his review of all the rights registered over the Unit Land have as regards some of the registrations lacked important relevant information or may for some other reason have been mistaken; Mr Sturmer did not claim that the Duchy could be in any better position or that in making the concession they had been acting in any quasi judicial way.

At some hearings relating to other Register Units (not CL188), because nobody objected to the registrations made on the application of Sir Guy and Lady Sayer, Mr Scott and Mrs Smallwood, and it appeared that persons of the locality accepted the registrations, I said that I would confirm them notwithstanding there might be some doubt as to their propriety. Lady Sayer in other cases claimed that by so stating I was being inconsistent and that I should therefore confirm all Venville registrations even when they were opposed. I reject this contention; some inconsistency is under the 1965 Act unavoidable, because by section 7 registrations to which no Objection has been made become final without ever being considered by a Commons Commissioner; so in the result all over England there are many registrations which under Section 10 are now conclusive, although it is reasonably plain that in accordance with High Court decisions given since their finality they could not be proper. In my view Parliament must have contemplated this result, and accepted that it might come about by persons agreeing or not objecting to registrations merely to save themselves the risk of being involved with the expense of legal proceedings. There is enough controversial matter in this decision to make the risk of a successful appeal against it substantial; the possibility of such an appeal has many times been mentioned to me by Lady Sayer; I consider I can properly recognise this risk and help those who wish to save themselves the expense of legal proceedings by confirming registrations desired by the applicants and not objected to by anyone.

By some at my Dartmoor hearings, it seems to be assumed that the grazing of animals belonging to the claimant on a Register Unit was enough to establish a grazing right of some kind. This is not the law. For this purpose the grazing must have been "as of right", an expression whose special legal meaning was explained in *De la Warr v Miles* supra as meaning "not secretly, not as acts of violence, not under permission from time to time given by the person on whose soil the acts were done ... it must be shewn that the acts were done in respect of some tenement owned by the (claimant) and his predecessors in title" see page 596. The expression was further explained in *Beckett v Lyons* 1967 1Ch 449, which dealt with the gathering of sea coal off a foreshore; "as of right ... means that the person doing it believes him to be exercising ... a right ...



(not) merely doing something which he felt confident the owner would not stop, but would tolerate because it did no harm", at page 469; and "... as of right as distinct from being a merely de facto practice which the gatherers rightly thought no one would find objectionable and which the owner of the foreshore in fact tolerated as unobjectionable", at page 475. The legal principles applicable are summarised in Halsbury Laws of England (4th edition 1974) volume 6 paragraph 597 et seq. Each claimant in respect of each right claimed is entitled to have his particular circumstances separately considered; so there can be few helpful generalities. By "not secretly", absence of conscious deception is not enough; "the enjoyment must have been open, of such a character that an ordinary owner of the land diligent in the protection of his interests would have or must be taken to have a reasonable opportunity of becoming aware of that enjoyment", see *Union v London* 1902 2Ch 557 at page 571. And some straying because it does no harm, is tolerated; an animal is not being grazed as of right in every part of Dartmoor in which it has been seen; its presence in an unexpected and unjustifiable place may be tolerated in the absence of anything to suggest that its presence there was not accidental.

Moorgate Farm, Okehampton

Rights Section Entry No. 89, applicant Mr H H Whitley as owner; see Part IV of First Schedule.

Mr Whitley who is 70 years of age giving oral evidence in support of his registration said (in effect):- His father in 1935 bought the Farm (it was then known as Pothanger) from the executors of Mr Ewens; at the time they were both well acquainted with the Farm because his father had been since about 1925 Master of the South Devon Fox Hounds and the boundary of the Hunt includes part of the nearby moorland (Okehampton Common CL No. 155) and much of the nearby part of the Unit Land (the Hunt boundary was the East Dart River and the West Okement River). When they bought the Farm the late Mr Hodge senior who they understood was a cousin of Mr Ewens, took them over the Farm and told them that they had rights over Okehampton Common and over the Forest and that the leas of the cattle belonging to the Farm was at Brim Brook (within the Unit Land) which rises just south of the place where Black-a-ven Brook rises. Ever since this purchase he (the witness) had managed the Farm although his father who died in 1957 had paid for it; in the beginning of 1960 he bought the Farm from his executors. After the 1935 purchase he (for his father) put out cattle on the Forest; however during his father's lifetime they got rid of the cattle because they got scattered when before artillery firing on the range, the men employed by the War Department cleared the stock off the area; the cattle on the west side being driven back on to Okehampton Common, those on the east side being driven into the Forest. In about 1938 he bought a flock of Welsh Black Sheep who were then leas on the boundary between Okehampton Common and the Forest but they spent most of the time on the Forest, and when there was no firing they usually were on the Forest. He had kept up the flock ever since 1938 and it now numbers 380 sheep although at one time he had 500 (this being why he applied for registration of 500). He identified the leas as being the valley down which a brook (on the register map marked as Black-a-ven Brook) being a tributary of and at Cullever Steps joining East Okement River.



During my inspection on 11 June 1982 (attended by Mr Whitley, Mr J A T Hodge and Mr Sturmer) I viewed the lea from a Land Rover on the track leading from the southwest entrance of Moorgate Farm up to near the source of the Black-a-ven Brook and viewed from a distance such source and the source of Brim Brook. Here the boundary between Okehampton Common (CL 155) and the Unit Land is marked by large upright stones 6 ft or more high at some distance from each other, so the boundary is easy to judge with a human eye; the eye of sheep and cattle would not see any difference in the grazing.

On the evidence of Mr Whitley and from what I saw on my inspection I find that sheep and cattle could sensibly in this valley be leared on a lea which extended both sides of the boundary. Because Okehampton Common is not now under consideration by me, I cannot give any decision as to the propriety of any registration made on the application of Mr Whitley over it; nevertheless I have no good reason to make my decision about the Unit Land conditional upon what may after hearing before me or some other Commons Commissioner, be the final form of the Register so far as it relates to Okehampton Common. On appearance, I infer that from time immemorial there has been grazing from Moorgate Farm onto Okehampton Common and the Unit Land. The Farm is in the parish of Okehampton, a parish not included in the list of Venville Parishes set out in Appendix II of the Memorandum of Evidence in 1957 submitted by the Dartmoor Preservation Association to the Royal Commission (Minutes No. 46). To those who consider that "Venville tenants" comprehend all persons having land in a Venville parish, and Okehampton Farm is I suppose, suspect. It may be that of many parishes near the Unit Land, it can be truly stated that practically to every piece of land in it there is attached a grazing right on the Unit Land; but of Okehampton, being so much built up, such a statement is improbable. The historic documents extracted in 1890 Moore would, notwithstanding their frequent references to "Venville" show that for a long time those near the Unit Land (whether or not in Venville) have grazed on the Unit Land and it is perhaps relevant that on the map facing page xi, "Hellestoke" is shown as a vill or hamlet in Venville AD1502 to 1550, as perhaps Halstock and Moorgate can be identified as being within Hellestoke. Thinking as I do that Historic documents may be read generally as applicable at least to lands adjoining a common near the Unit Land, I am not suspicious and accept the evidence of Mr Whitley without any qualification.

An ordinary right of common appurtenant appropriate to his evidence would be for animals levant and couchant on the Farm. I infer from his evidence that his sheep were out on the Moor most of the Winter, so if the words "levant and couchant" be read literally, the sheep from Moorgate Farm were not within them. But the words have a technical meaning wide enough to include outwintering animals as appears from Carr v. Lambert 1866, 1 Ex 168 and Robertson v. Hartopp 1888, 43 ChD 484 from which it appears at page 517 "levancy and couchancy is rather the measure of capacity of the land than a condition to be actually and literally complied with by the cattle lying down and getting up or by being fed off the land".

I conclude therefore that such a right has been established and the registration was therefore rightly made.



Kerslake Farm Meldon,
Okehampton Hamlets

Rights Section Entry No. 444, applicant Mr P I Pellow as owner; see Part IV of the First Schedule hereto.

Mr Woodward (on 22 April) said that he was not pursuing the registration as regards "piscary, estovers, turbary, or taking stone and gravel."

Mr Pellow in the course of his oral evidence produced the documents mentioned in Part XI of the Third Schedule hereto. He said (in effect):- He was born in 1945; Philip Pellow who was tenant of the Farm under the 1893 lease, was his grandfather. His father Philip Ivan Pellow was born in 1907 and having succeeded as tenant, became the owner under the 1960 conveyance. On the death of his father in 1974, under his will he (the witness) became the owner subject to an annuity payable to his mother. The Dartmoor Scotch Sheep Breeders Association Book of 1929 (PIP/3) illustrates the ear-mark and brand of the sheep owned by Mr P I Pellow of Kerslake Farm; quite independently of the book he had always understood that his family had before him kept Scotch sheep as he had done and was now doing; when they lamb he put them on Okehampton Common but in the summer after the shearing they were driven to the Forest because Okehampton Common then had too many sheep (Cheviots) and was then over-stocked; he brought in the sheep for ramming, lambing, shearing and dipping; after lambing he turned them on to Okehampton Common because he thought it too far to drive young lambs to the Forest but after shearing and dipping they were driven to the Forest where the grass was sweeter there and there were not so many sheep; after ramming he turned them on to the Common but they went on to the Forest if they wanted to; generally he considered them to be leared along the river which flows down from Black Tor (meaning the part of West Okement River between Bridestow and Sourton Common and Okehampton Common).

During my inspection on 11 June 1980 Mr Pellow took me through the gate across the road leading to Meldon Reservoir dam and also over some high ground on the west side of the Reservoir from which it was possible to view Vellake Corner and the West Okement River valley where it stretches up towards Black Tor.

On appearance, I would infer that there has been from time immemorial attached to this Farm a grazing right such as Mr Pellow said he was exercising, and I consider I can give full effect to his evidence. For the reasons outlined above in relation to Moorgate Farm I reach similar conclusion that the registration (piscary, estovers, turbary, sand and gravel having been withdrawn) was rightly made.



(i) Meldon Farm, Okehampton and East Bowerland, Higher West Bowden and other land in Okehampton Hamlets; (ii) Hughslade, Place, Fowley and part East Bowerland, in Okehampton Hamlets; and (iii) part Fowley Farm, East Bowerland Farm and Yelland Farm in Okehampton Hamlets and part Oatneal in Sourton.

Entry No. 870 (Meldon Farm etc) was made on the application of Mr C J Heard as owner/tenant; Entry No. 908 (Hughslade etc) was made on the application of Mr K C Heard as owner/tenant; and Entry No. 997 (Yelland Farm etc) was made on the application of Mr W J L Heard as owner/tenant; see Part IV of the First Schedule hereto.

Mr Woodward (on 22 and 23 April) said as regards Entry No. 908 and No. 870 that estovers, turbary, piscary, sand and gravel were withdrawn; and Mr Etherton said that Objection No. 318 (about the North Quarter) was withdrawn.

In opening Mr Woodward said (in effect):- The said applicants are three brothers, sons of Mr James Cyril Heard (he died 17 August 1956) of Hughslade Farm of which he was from 1926 tenant of the owner Mr W J Brown. On 25 March 1957 Mr K C Heard and Mr C J Heard jointly bought Hughslade from the Executors of Mr W J Brown; shortly afterwards on 4 October 1958 Mr C J Heard bought Meldon Farm from Mr J J Newcombe (since deceased). On 6 February 1965, Messrs C J and K C Heard partitioned what they had jointly bought, Mr K C Heard taking Hughslade and Mr C J Heard was already the owner of Meldon Farm adding his share to it; thereafter the two brothers farmed separately Meldon Farm and Hughslade. In 1964 Mr K C Heard bought Place Farm but his clients could give no evidence of any stocking from it of the Forest before then. Also in 1964 Mr K C Heard bought part and Mr W J L Heard bought the other part of Fowley Farm from the Luxmoore Estate; prior to the purchase this farm was tenanted by the Brown brothers (1926 the tenant was George Brown see declaration PIP/3).

Mr K C Heard (22 April) in the course of his oral evidence after confirming the above opening said (in effect):- Mr J J Newcombe had farmed Meldon for about 53 years as owner before his brother purchased it. He (the witness) was born in July 1932 and from about the age of 10 years he helped his father with the farm Hughslade; his sister Mrs Weeks was living there until she married in 1950. Mr Smith worked there (as below stated). He understood that his father at Hughslade started in 1928 a flock of Scotch sheep and from ever since he could remember had sheep on the Forest, a leas starting from New Bridge (over Black-a-bes Brook as extending to Dinger Tor up over Great Kneaset to Black Ridge) and so as to go down to Brim Brook and Cranmere and to include Cranmere Pool. From 1942 to the present day they had had cattle (in addition to sheep) leas on the Forest. Before they bought Fowley in 1964, the brothers Brown as tenants of the Luxmoore Estate had stocked the Forest from it, a separate flock; when they purchased Fowley they purchased some of their cattle (about 30) but not their sheep. They had a flock of between 400 and 500; the Fowley cattle had been leas from between Kneaset Nose to New Bridge. Because Fowley adjoins Hughslade they have amalgamated the flocks. His father farmed Bowerland and although it was in different ownership, farmed it with Hughslade.



Mrs F M Weeks, daughter of Mr J C Heard, born in 1928 at Hughslade Farm in the course of her oral evidence said (in effect):- She lived at Hughslade until her marriage in 1950 and was conversant with her father's activities. She could corroborate her brother's evidence that between 1939 and 1950 her father and her brothers put out on Dartmoor.

Mr F H J Smith in the course of his oral evidence said (in effect):- He worked for Mr J C Heard from 1931 to about 1939, drawing the horse and going on Dartmoor rounding up sheep and cattle and a few ponies; after 1939 for a few months he worked on the railway and was then called up. The Brown brothers of Fowley kept sheep and cattle on the Forest. So far as Fowley is concerned, he could say that he brought in their cattle and sheep from the Forest and had occasionally taken them out onto the Forest but not regularly.

Mr C J Heard who was born in 1934, in the course of his oral evidence said (in effect):- From about 1944 his father rented Meldon Farm in succession to Mr Webber, who was tenant from about 1941 to 1944 and during that time put his sheep out on the Forest and Okehampton Common. Before him a Mr Harris was tenant. Before he (the witness) bought Meldon Farm in 1958, he was renting it although not living there. He started to live there when he bought it in 1958, and started to farm it separately in 1965 after the partition (under which he paid for equality of exchange). In 1944 they bought Mr Webber's flock of sheep but not his cattle. Since 1944 they had sheep, ponies and cattle both on Okehampton Common and the Forest. He described his leas as being a U-shaped area including Brim Brook and the upper part of West Okehampton River extending along a line a short distance east of Dinger Tor southward and a little west of Crammere Pool east of Peat Ridge over Little Kneaset a short distance east of Green Tor over Kitty Tor through the Logan Stone to the north. He regarded his cattle as being leas on the Forest where they have always been; the leas is about one mile from his farm (the farmhouse is further away but the cattle and sheep are fed on the farm which goes right up to Okehampton Common; his farm extended as far as Veltacke Corner (the upper end of Meldon Reservoir into which West Okehampton River flows from the southeast). Driving the animals he took them to Sandy Ford. When he bought Meldon Farm in 1958 it comprised 226 acres; the part of it which before then he had rented was only 150 acres. Since his purchase he had made various additions and sold off part for the Reservoir.

Mr W J Turner was born in 1915 and lived in the Meldon area all his life in the course of his evidence said that he had known the Newcombe family who had owned Meldon Farm which they first let but ultimately took over. He could remember back to about 1927 Mr Simmons had a lease of 13 years. He worked for him from 1929 to 1936 (a 7 years apprenticeship) at that time Mr Simmons kept sheep and cows (not ponies very much). He (the witness) used to ride out with them to the Moor to the other side of Dinger to the area around Crammere Pool; he described the leas as right across Dinger Tor (lovely grazing!). In 1936 Mr Simmons gave up the tenancy and Mr Harris took over but he only did very little work for him. Cattle was still sent out, Mr Harris was paid and Mr Newcombe was the boss. In 1941 the farm was taken over by Mr Frank Webber for which he did tractor work he had a few stock which were put out on to the Forest. After that Mr C J Heard took over the farm and he only worked "in and out" for him; he put stock out on to the Forest.



Mr Turner being unable to explain about the gathering of the ponies, Mr C J Heard was recalled and said in effect:- He was not a Venville tenant; the gathering was done by local farmers as far as he knew was never done by the Duchy; he never paid anything to the Duchy.

Mr K C Heard gave further evidence about Fowley Farm directed so I understood to Entry No. 997, in the course of which he said that his brother (Mr W J L Heard) purchased his part of Fowley Farm from Mr Ryan concerned for the Luxmoore Estate and that the Brown brothers were tenants and stocked cattle and sheep there. Although he knew them as good horsemen he could not say that they stocked ponies. He thought that his brother after he bought it in 1964 had continued to stock them and that he had brought some of the Brown cattle. He thought that his brother had stocked from Fowley, cattle sheep and ponies extending from Links Tor, Kneaset Nose, Great Kneaset, Amicombe Hill, Kitty Tor on CJH/1 marked as "works (disused)". To Mr Etherton's question that there was no evidence of any stocking from Yelland Farm, he merely said that he could not say what happened before 1950, although his brother tenanted Yelland Farm before he purchased from about 1949 to 1951.

On 11 June I inspected the lands to which the evidence above summarised related, first by going to the A30 road entrance of Hughslade and there meeting Messrs W J L Heard, K C Heard and C T Heard and Mr Sturmer; they having pointed out to me the boundaries of Hughslade (so far as visible from the entrance) and distantly where Yelland Farm was, in a Land Rover we went by the A30 entrance to Fowley and then by the road up to the Quarry and by its side to Fowley Moor (the 63a. 16p acquired by Mr K C Heard in 1964) and then across Okehampton Common (much used by the military as a range to the Unit Land and then back past a different part of Okehampton Common to Meldon Farm. As for the grazing of cattle, while on Fowley Moor it was explained to me: those grazed on Okehampton Common and the Unit Land (on the Hughslade leas) were cows and heifers (no steers); the cows were brought in in April for calving; in June they were let out with their calves and stayed until August until brought back for about 6 weeks to the bull and then they go out again; in the last week of October the calves are weaned and they are either sold off or go back as breeding stock on the Moor; save as just mentioned cattle are out all the year except when being given supplementary feed in the winter. The sheep stay out all the time except when they are brought in for lambing etc; comparatively they require very little supplementary winter feed.

Although on the above summarised evidence and my inspection I would have given a decision in effect as below set out; in matters of detail I am helped by copies of the 1967 partition (KCH/101), of conveyances (KCH/102 and WJLH/2) both dated 6 October 1964 by Mrs M M K Ryan of parts of Fowley to Mr K C Heard and Mr W J L Heard and of conveyance (WJLH/1) dated 25 November 1960 by Mr D P K and Mrs M M K Ryan to Mr W J L Heard of Yelland produced to me at a hearing on 9 March 1983 (relating to Register Unit No. CL 96) and the information I was then given about the areas of Part Oatneal (about 3 acres) and Place (115 acres). I have also (sent me April 1983) copies of conveyance dated 25 March 1958 by Mr W J Brown to Messrs K C and C J Heard of Hughslade (242a. 1r. 8p.), of conveyance dated 4 October 1958 by Mr J J Newcombe to Messrs K C and C J Heard of Meldon (226a. 2r. 33p.), of conveyance dated 1 May 1960 by Mr E P Danby to Mr C J Heard of part of Higher Bowden (12a. 3r. 18p.) and of conveyance dated 1 October 1962 by Mr W A Dennis to Messrs K C and C J Heard of part of East Bowerland Farm (19a. 38p.).



All the instant registrations are of rights attached to a number of pieces of land each of which has a separate ownership and/or tenancy history. So the claims being based on prescription, I must consider each piece separately.

As to Hughslade meaning the 242 acres which was by the conveyance dated 25 March 1958 conveyed by Mr W J Brown to Messrs K C and C J Heard and of which Mr J C Heard was tenant from about 1928 until his death in 1956:- It is north of the A30 road (now carrying much traffic); between it and Okehampton Common (CL 155) there is Meldon Quarry apparently having been and being very extensively worked; so much lies between Hughslade and the grazing common that I am surprised that Mr J C Heard thought it convenient to graze on the Moor at all. However for a determined man such grazing is possible and bearing in mind that the road traffic must then have been much less and the Quarry different from what it is now I accept the evidence of the children of Mr J C Heard above summarised that he did in fact graze from Hughslade as they described. Although Hughslade is not near the Common, I consider that such grazing was as of right being in exercise of what could properly be regarded as an ordinary right of common appurtenant. As to the period after the death of Mr J C Heard, the acquisition in 1964 of Fowley Moor by Mr K C Heard under the 1964 conveyance must have made grazing from Hughslade much more convenient than it ever could have been when Mr J C Heard was there; for Fowley Moor although moorland pasture not unlike the adjoining Okehampton Common is enclosed private land whose use and grazing was under the sole control of Mr K C Heard. So I infer that from 1964 onwards Fowley Moor was an essential part of the grazing activity. Nevertheless in my opinion the prescription period which was running during the lifetime of Mr J C Heard in respect of Hughslade was not broken by the acquisition of Fowley Moor and continued up to the date of Objection No. 380 (11 September 1970). So I find that such a right has been established in respect of Hughslade.

As to Place (115 acres):- Although the grazing by Mr K C Heard since 1964 when he acquired it, might perhaps be regarded as being additionally in respect of Place, there was no evidence that before 1964 there had been any grazing from it on the Unit Land either by Mr A P Labrun the then tenant or any of his predecessors; any grazing after the date of the Objection is irrelevant as regards the Prescription Act 1832, see section 16 of the Commons Registration Act 1965; similar considerations are I think applicable to any claim under *Tehidy v. Norman supra*. I conclude therefore that no right in respect of Place has been established.

As to Fowley (farmland 89 acres north of the A30 and Fowley Moor 63 acres):- The land conveyed to Mr K C Heard in 1964 was part of a larger estate then or at one time held in one ownership including at least the 51 acres conveyed to Mr W A L Heard and also the house Fowley with which I am not concerned. That the 89 acres was conveyed with Fowley Moor raises at least a probability that the Moor was grazed from the 89 acres in much the same way as it might have been if it had been common land over which a grazing right was attached to the 89 acres. That Fowley Moor and Okehampton Common adjoin raises at least another probability that sometimes animals on one were grazed on the other. So notwithstanding the evidence in support of grazing from Fowley before 1964 was somewhat lacking in precision, I consider I can give effect to it and conclude that a right over the Unit Land from at least the 89 acres of Fowley has been established.



As to part of East Bowerland mentioned in the No. 908 registration there was no evidence that before 1964 there had been grazing on it or from any other part of what was East Bowerland Farm on the Unit Land; my conclusion about it is therefore the same as about Place.

In by far the greater number of the Rights Section registrations the animal numbers are stated without the word "and" being therein mentioned; exceptionally (there are a few others) those at Entry Nos 870, 908 and 997 include the word. In regard to the use elsewhere in the Register of the NFU Scale, to avoid confusion → I shall treat the word at Entry No. 908 as a mistake. I reject the idea that a person having a right of common appurtenant over the Unit Land can by acquiring additional land automatically acquire a right to put more stock on the Unit Land; any right to graze additional stock must be acquired in accordance with legal principles applicable to the additional land. In the absence of any evidence as to the actual levancy and couchancy numbers appropriate to the lands mentioned in the registration at Entry No. 908, I shall assume that the applicants numbers were appropriate for the lands in respect for which the registration was made and that as a result of my deleting Place and part East Bowerland such numbers should be reduced; to calculate the reduction, the 63 acres of Fowley Moor being moorland should be disregarded, so the reduction should be in the proportion that 242 plus 89 now bears to 115 plus 19; say to 143 cattle 855 ewes, 107 ponies. My confirmation of the registration will therefore be as stated in Part IV of the First Schedule hereto.

Meldon mentioned in Entry No. 870, conveyed in 1958 as then being 226 acres, was reduced in 1967 and 1978 by the sale of two cottages and in 1975 by the sale of 35 acres for the Reservoir. The situation and appearance of Meldon is consistent with there having been attached to it from time immemorial a grazing right over Okeshampton Common and over the Forest. I give full effect to the evidence about the grazing from it summarised above and conclude that a right attached to Meldon has been established.

As to the part of East Bowerland (19 acres) and the part of Higher West Bowden (12 acres) I have no evidence → relating to grazing from them before the 1962 conveyances and conclude that neither of them should have been mentioned in the Entry. In the absence of evidence about numbers any reduction consequential on the removal of Higher Bowden and East Bowerland must be somewhat arbitrary; my decision is that for 650 sheep 290 cattle and 120 ponies should be substituted 630 sheep, 260 cattle, 110 ponies and the word "and" should (as for No. 908 supra) be omitted. My confirmation of the registration will therefore be as stated in Part IV of the First Schedule hereto.

As to registration at Entry No. 997 made on the application of Mr W J L Heard:- The land in respect of which this Entry was made in all northwest of the A386 road; I mention the road not because a road has any special legal significance in relation to "As of right" considerations but to indicate that all the land is at such a distance from Okeshampton Common and the Unit Land as to raise doubt as to whether any grazing from it could be appurtenant in any now relevant sense. It was I think unfortunate that Mr W J L Heard was so indisposed as to be unable to give evidence at the hearing. As I understood Mr Woodward and the evidence of Mr K C Heard, the main contention in support of this registration was that there was a right of grazing attached to Fowley and that because Mr W J L Heard had



under the 1964 conveyance acquired 51 acres of Fowley the registration was therefore justified at least as regards this 51 acres. I accept that where land to which a right of common is appurtenant is divided then in some way on the division the right must be apportioned and that a rateable apportionment according to area may be correct, see *White v Taylor* (No. 2) 1969 Ch 160. But I do not accept that when the owner of a large estate such as Fowley successfully prescribes for a right of common appurtenant, that the right so prescribed for is necessarily appurtenant to all the estate. I have concluded the rights exercised as described in the evidence before me and Fowley did appertain to the 89 acres included in the 1964 conveyance to Mr K C Heard. That on a division of the Fowley Estate at about the same time, 51 acres were conveyed to W J L Heard is a significant indication that for agricultural purposes the 51 acres were then different from the 89 acres. Having regard to their relative situation I conclude that they were before 1964 different, and I therefore reject this main contention. I am not sure whether it was contended that there was ever any grazing on the Unit Land from Yelland at any time; so I merely record that in my view notwithstanding that Mr J C Heard was at some time tenant of Yelland, I am unable to conclude that the grazing he did on the Unit Land from Hughslade can properly be treated as appertaining to Yelland.

As to the part of the farm formerly known as East Bowerland (about 100 acres) mentioned in the registration, I reject this as I have rejected the other parts of this farm. And as to Oatneal (about 3 acres in Sourton) I had no evidence at all, so I reject this too.

For the above reasons I conclude that no part of the registration at Entry No. 997 was properly made.

- (i) East Bowden in Okehampton Hamlets and dwellinghouse (near Vicarage Road) Okehampton Borough; (ii) at Park and Lower Halstock Farms in Okehampton Hamlets and Okehampton Borough; (iii) land at Okehampton Park Estate in Okehampton Hamlets and Okehampton Borough; and (iv) Higher Halstock and land at Stoney Park Lane

Entry No. 675 (East Bowden and the said dwellinghouse) was made on the application of Mrs G E Hodge as owner; Entry No. 676 (at Park and Lower Halstock) was made on the application of Mr J A T Hodge as tenant; Entry No. 1,000 (Okehampton Park Estate) was made on the application of the Public Trustee (for the trustees of Marion Luxmoore's Settlement) as owners and by Mr J A T Hodge as tenant; Entry No. 1027 (Higher Halstock) replacing Entry No. 677, was made on the application of Mr J A T Hodge as owner; for further details see Part IV of the First Schedule hereto.

Mr John Albert Thomas Hodge, who was born in 1938 at Higher Halstock and is the son of Mr Albert Southcombe Hodge, in the course of his oral evidence (23/iv and 8/vi) said (in effect):- The "Hodge GW & Thos" said in the 1926 statutory declaration (PIP/3) to be tenants of Lower Halstock were his great uncles (George William and Thomas). His (the witness') grandfather (Albert George Hodge)



and before him, his great and his great-great grandfather lived at Higher or Lower Halstock. In about 1939 his father moved from Higher Halstock to Lower Halstock, exchanging with his grandfather who moved from Lower Halstock to Higher Halstock. In 1955 when his grandfather died, he (the witness) took over Higher Halstock. In 1963 he took over Lower Halstock when his father retired. (he died in 1963). In the 1929 Dartmoor Scotch Sheepbreeders Association Book there are entries for "Mr G W", "Mr T" and "Mr T" Hodge (Nos. 58, 59 and 142) of "Lower Halstock", of Lower Halstock Farm, and of "Higher Halstock Farm" respectively (meaning his great uncles). As to grazing on the Forest from these Farms, he understood that his great uncles kept their animals (cattle and sheep) separate, but since he had farmed the Farms he had run them all together. He understood his father had grazed as he was and had been doing. The cattle were Galloways and their leas extended from Dinger Tor, Lints Tor and Kneeset down the "Kneeset Valley" to Crammere Pool. The cattle went out as far as Hanging Stone Hill. The sheep came down the Okement valley (meaning I think Black-a-ven Brook). He rejected the suggestion that his animals were merely straying from Okehampton Common (CL 155). He put the acreage of the farms from which he was grazing as East Bowden 26 or 27, Higher Halstock 100, and Lower Halstock 800.

In the course of Mr Hodge's evidence Mr Woodward said (8 June) that on these registrations no claim was made for turbary, piscary, estover^y, or for sand, gravel or stone so the claim was limited to grazing.

During my inspection, I saw what is (or was) Halstock Pound, and the general situation of the said three farms in relation to the northeast part of Okehampton Common (CL 155) and to the Unit Land. From the appearance, I think it likely that there has been grazing as described by Mr Hodge from these three farms from time immemorial, and I can therefore ascribe his evidence of what he has himself seen and done as having been done by his great uncles and their predecessors. The circumstance that these three Farms are owned under different titles and do not therefore have the same ownership history, does not I think prevent me from attributing the grazing done by the persons in occupation, to all three of them. But to fit the prescriptive rights so established into these four registrations, I must consider each separately.

The land to which the rights registered at Entry No. 1027 are attached is described as "Higher Halstock" and at "Stoney Park Lane". In the documents produced, it appears that "Higher Halstock" is part of the lands which were originally owned by Mr C F Brook who died in 1926, which passed under his will to his widow Mrs E E Hodge (she died 1955) and then to Mr A S Hodge as devisee (Mr Brook was his uncle) and which were in 1960 by him given to his son (the witness). Higher Halstock is obviously a convenient place from which to graze the Common and the Unit Land. But the land at Stoney Park Lane is (as appears from the application map) situated on the north side of a road leading westwards from Okehampton to join the B 3218 (and is a short distance north of the A30(T), and some distance from Higher Halstock; it is not convenient for grazing on the Common or the Unit Land. In the absence of any evidence about this Stoney Park Lane, I am unable to treat the grazing described by Mr J A T Hodge as appurtenant to it.



The land to which the rights registered at Entry No. 675 are attached are described as "land at East Bowden ... and the dwellinghouse ...". From the documents produced it appears: the East Bowden land is between Higher Halstock and Lower Halstock, it before 1932 belonged equally to Messrs T W and T Hodge (the great uncles), they then partitioned it GW taking 14a. 2r. 14p. on the northeast and T taking 10a. 2r. 1p. on the southwest, and 10 acres was in 1950 convey by GW to Mr A S Hodge (the witness's father) and the 14 acres was in 1950 (Thomas Hodge having died in 1948) also to Mr A S Hodge. Mr J A T Hodge explained that the registration was made on the application of his mother Mrs G E Hodge who was life tenant under his father's will and that he was of the 24 acres his mother's tenant. This 24 acres is also a convenient place from which to graze the Common and the Use Lane. The site of the dwellinghouse is in Vicarage Road near Okehampton, and in the absence of any evidence about it, I am unable to treat the the grazing described by Mr J A T Hodge as appurtenant to it.

The land to which the registration at Entry No. 676 is attached is described as "at Park and Lower Halstock Farm". I accepted Mr Hodge's evidence that he and his ancestors have been tenants of Lower Halstock as delineated on the plan he provided (attached to JATH/2) and have grazed from it as he described. I am not concerned therefore with the ownership of Mr Richard A Bacon as successors of the Luxmoore Estate. I assume that "Park" referred to in the Entry is the part of the land within the red line on the said plan over which this word is written, and conclude therefore that the registration is in accordance with the evidence.

The land to which the right at Entry No. 1,000 is attached is described as "at Okehampton Park Estate". The map attached to the application shows it as west and northwest of the Camp and as adjoining that outlined on the said plan (JATH/2). I have no recollection or note of anything being said in support of this registration I am unable to attribute the grazing described by Mr J A T Hodge as applicable to it. Accordingly I conclude that the registration should not have been made.

As to numbers, the inclusion of the dwellinghouse at Entry No. 675 cannot I think have been material to "the belief" of the applicant as to the appropriate numbers to be included in the application. But the inclusion of Stoney Park land in Entry No. 1,027 is material; comparing the map attached to the application with the map (JATH/3) of Higher Halstock I deduce that the Stoney Park Lane land is at least $\frac{1}{3}$ rd of the 100 acres estimated by Mr Hodge as the area of Higher Halstock, acting arbitrarily, as unavoidably I must, I reduce the figures at this entry by one quarter to 58 cattle 282 sheep 8 ponies.

My decision is therefore as set out in Part IV of the First Schedule hereto.

(1) Tors Hotel, Town Living Farm and other land in Belstone in South Tawton and (ii) Pike's Moors, Restland Farm, Ratcombe and marsh and woodlands in Sampford Courtenay

Entry No. 711 (Tors Hotel etc) was made on the application of Mr J W Reddaway as to Tors Hotel, Caws and Fields, Sheep Dip and Doctors Fields as owner, as to



Cross Parks as tenant for life, and as to Town Living and Church Parks as tenant; Entry No. 715 (Pike's Moors etc) was made on the application of Mr J W Reddaway as to Ratcombe as owner, as to Restland as tenant for life and as to Pike's Moors as tenant; for details see Part IV of the First Schedule hereto.

Subject to deletion of shooting and piscary, the Duchy at the hearing agreed registration at Entry No. 711 although "not in Venville", see Part III of this Schedule. Mr Woodward opening the claim under No. 715 (8 June) said it was confined to Restland Farm, so that in the registration Pike's Moors and Ratcombe Farm could be deleted.

At the hearing I indicated that the agreement of the Duchy as owners of the Unit Land to the registration at Entry No. 711 was some evidence, so far as it related to grazing, that it was properly made and that in the absence of any Objection or evidence against the registration (there was none) my decision would be (as it now is) that except as regard shooting and piscary and the absence of any Water Authority Provision, it was properly made. Nevertheless what was done under the grazing right so registered is relevant to the propriety of Entry No. 715.

Mr Reddaway who was born in 1921, in the course of his oral evidence produced the documents specified in Part XVIII of the Third Schedule hereto, which show that Restland Farm had been owned by Mr John Brock from 1860 to 1911, then by his daughters until 1952, then by Mr William Reddaway until his death in 1961 and had since been held upon the trust of his will, being (as Mr Reddaway explained) for Mrs E A Reddaway for life (she died 1973) then to him for life and then to his son Michael Reddaway.

Mr Reddaway after explaining that he did not claim that Sampford Courtenay is a "Venville Parish", said (in effect):- From 1931 to 1952 Mr Charlie Watts was the tenant of Restland. At that time his father (Mr W Reddaway) and his uncle (Mr John Reddaway) were running sheep from Town Living on to Belstone Common (CL73) and the Unit Land; see the 1929 Dartmoor Sheepbreeders Association Book of marks (JWR/6) which at Entry No. 99 gives "Messrs W & J Reddaway" as owners of "Town Living Belstone". Mr Watts at this time (1931 to 1952) stocked the Unit Land with sheep (he started with cattle but did not carry on); "I don't think he had a lot, not more than 200 ewes". After his father (Mr W Reddaway) purchased Restland Farm, he being then, and having for some time having been, the owner or one of the owners of Town Living Farm continued to graze the Unit Land; and after his death he (the witness) continued; their lease was in the area bounded roughly by a line from Oke Tor, to Okement Hill, Taw Head, Quintin's and back to Hangingstone Hill, Wild Taw, Steperton Tor, Metheral Hill, so as to include part of Taw Marsh; they had Galloway cattle and Blackfaced Scottish sheep, the sheep being in continuation of his grandfather's flock more than 100 years old.

Restland Farm is north of the A30 road, being by road about $1\frac{1}{2}$ miles from it (the nearest point Tongue End Cross); from there to Belstone (the Parish Church) is a little under a mile; from there across Belstone Common (along the track a little to the west of the River Taw) to the Unit Land is about $1\frac{1}{2}$ miles.



The registration as it now stands is of a right "to stray" from CL 40 and CL 53 (Sticklepath Moor and Sticklepath Common). For reasons given above under heading "Straying", I conclude that the registration unless modified should be avoided. The evidence of Mr Reddaway was offered on the basis that I should modify the registration so it becomes (or includes) a right attached to Restland Farm to graze on the Unit Land the animals as now specified, such right allegedly established by its exercise "as of right" (i) by Mr Reddaway and his father before him from 1952 to 1970, and (ii) by Mr Watts from 1931 to 1952.

As to (i), as explained above under heading "as of right", such grazing must not be secret, meaning not such as an ordinary land owner (of the Unit Land) would not be aware of it. As to what a land land might think, the applications dated 27 June 1968 made by Mr J W Reddaway for these two registrations are relevant as showing what he himself (and perhaps his advisers) then thought; the rights claimed for Town Living are to graze Belstone (CL 93) South Tawton (CL 176) and the Forest (Unit Land) with right to stray on Gidleigh (CL 134), Throwleigh (CL 19) and Okehampton (CL 155), quite different from the rights claimed for Restland, to graze Sticklepath Moor (CL 40) and Sticklepath Common (CL 53) with a right to stray from them on to Belstone (CL 73 and CL 95) and the Forest (the Unit Land).

Mr Reddaway as I understood him was in effect contending that because Restland and Town Living were from 1952 to 1970 farmed as one agricultural unit, all the animals grazed by his father and himself on the Unit land were grazed in exercise of a right appurtenant not only to Town Living but to Town Living and Restland. In answer to questions by Mr Etherton, he particularised the grazing to this effect:- The animals are for most of the time on the Forest and are only taken to Town Living and Restland on special occasions. Both cattle and sheep are left out in the Forest all the winter; the cattle must be fed there and the sheep if need be. Apart from a few Swaledale and Welsh crossbreds, his sheep (Scotch Blackfaced) were grazed starting at Taw Marsh, (not on Belstone Common). When brought in the choice between Town Living and Restland was which had the better grass.

Having inspected the lear and seen some of the fields which together make up Town Living and seen the situation of Restland, to avoid misunderstanding, I mention that the land to which the registration at Entry No. 711 is attached is made up of pieces scattered widely over the parish of Belstone (including Tors Hotel and Garden) and also a small field in South Tawton; and I also mention that CL 53 although consisting mainly of Belstone Common as marked on the map and adjoining the Unit Land, includes also a number of smaller, some much smaller pieces scattered over the Parish of Belstone such as Bremnamoor Common and Belstone Cleave. I use 'Town Living' as meaning the agricultural unit in Belstone, and I use "Belstone Common" as meaning the area so marked on the map.



Mr Reddaway when asked about straying from Sticklepath Common said it was south of the A30 road adjoining Belstone Common; I take him to have meant adjoining Sticklepath Cleave. Although I understand him not to be much concerned with grazing on CL 73, on my inspection I understood that his animals generally to get to the Unit land cross Belstone Common; although they could I suppose from Restland go via Sticklepath Common, Mr Reddaway's application if not absolutely inconsistent with, is a long way from his oral evidence.

I reject the suggestion that because the animals graze on the Unit Land, when brought in, were sometimes grazed on Restland, that in applying the law as to "as of right", it is necessary to assume that the Unit Land as of right grazing was from Restland. Animals grazed as of right from a dominant tenement need not have spent all their lives on the dominant tenement, and Messrs Reddaway could graze their Unit Land animals on Restland because they were owners of Restland without in any way endangering their rights on the Unit Land. Mr Reddaway described his grazing as being in continuation of what had been done for 100 years, starting long before Restland and Town Living came together; to going on the Unit Land the acquisition of Restland made no difference. I find that the grazing he described was in exercise of a right appurtenant to Town Living and was not appurtenant to Restland between 1952 and 1970 or at any other time.

The grazing of Mr Watts from 1931 to 1952 was sometime ago. I thank Mr J W T Hodge for giving me his recollection of it; but he was so young at the time, that I base this decision on Mr Reddaway said about it. Mr Watts exercised no rights over Belstone Common; his sheep on the Unit Land were crossbred, quieter than the Scotch, and they were grazed between Oke Tor and Belstone Common, that is not very far on the Unit Land. When he saw them on the Moor "they were with ours".

The distance between Restland and the Oak Tor parts of the Unit Land is considerable. I do not overlook that such grazing is not impossible having in other cases about Dartmoor heard mention of summer grazing by persons from far away, less now than formerly because crossing a busy main road is discouraging. Also I do not overlook that in 1890/Moor and other printed works produced mention is made of grazing by men of Devon presumably applying some distance away (I am not concerned in this case whether such grazing could be as of right because paid for).

Even assuming that Mr Watts' grazing was not paid for, I am not persuaded that a prudent owner (of the Unit Land) between 1931 and 1952 can reasonably be fixed with knowledge of what Mr Watts was doing and for this reason I am unable to find that it was in any now relevant sense as of right. Mr Reddaway said his father bought Restland because of the rights; but about these rights I think one of them was mistaken, or may have been thinking of Sticklepath Common. However this may be, I am unable to find that any prescriptive user appurtenant to Restland after 1952 was in continuation of any prescriptive user by Mr Watts before; their grazing activities were I think of an altogether different kind.

My decision is therefore that Mr Reddaway was not established a right of grazing for which during his evidence he contended. The question whether he had established such a right I could in the circumstances modify the registration to accord with it does not arise. So far as the Unit Land is concerned the registration was not properly made.



(i) Northlake, Okehampton
Hamlets and East Lake (part)
Belstone; (ii) North Alfordon,
Okehampton; and (iii) Fatherford
(part) Okehampton

Entry No. 673 (Northlake and part East Lake) was made on the application of Mrs Hetty Luxton as owner; Entry No. 835 (North Alfordon) was made on the application of Mr Dudley Luxton and Mrs Frances Margaret Luxton as owners; Entry No. 837 was made on the application of Mr D Luxton as owner; see Part IV of First Schedule hereto for details.

Mrs Hetty of Luxton since her application (April 1968) has died, and Mr D Luxton is her son.

Before any evidence was called Mr Woodward said that it was agreed that the conflict between Entry No. 498 and No. 673 be resolved by striking out OS No. 20 from column 5 of Entry No. 673.

The registrations with which I am concerned are of rights attached: (No. 673) to OS Nos. 1, 2, 3, 4, 6, and 20 containing 39.090 acres all situated south of and adjoining the A30 road and to a dwellinghouse and premises known as Northlake containing less than 1 acre situated north of the said road; (No. 835) to North Alfordon containing 41.323 acres; and (No. 837) to land ("Fatherford South Piece") containing 33.630 acres also south of and adjoining A30 road. The registrations in relation to the Unit Land as regards animals are for Entry No. 673 to graze and for Entry Nos. 835 and 837 to stray.

In support of the registrations oral evidence was given by Mr D Luxton in the course of which he produced the document specified in Part XIX of the Third Schedule hereto; the letter from Mr A Brendon (DL/4) being put in as written evidence by him.

Mr Luxton explained his interest in these registrations by reference to a plan (DL/8) which showed 5 pieces of land: (a) North Alfordon (green) being the said 41.323 acres; (b) the Middle Piece (orange) on the west side of North Alfordon on the other side of the public road and containing about 80 acres; (c) Fatherford Main Piece (yellow) containing about 30 acres southwest of the Middle Piece and north of the A30 road; (d) Fatherford South Piece (pink) south of the A30 road and being the said 33.630 acres; and (e) the East Lake Piece (blue) also south of the A30 road and next to Fatherford South Piece, containing 31.135 acres (being as I understood the said 39.090 acres less OS 20). The farm buildings of North Alfordon are (in a direct line) about $2\frac{3}{4}$ miles from the nearest part of the Unit Land.

The documents produced show:- Mr Frederick George Brendon under a conveyance dated 31 December 1920 became the owner of the Fatherford Main Piece and the Fatherford South Piece and other land (altogether 153.679 acres) and became under a conveyance dated 5 November 1932 the owner of North Alfordon and other land (altogether 56.305 acres). He died 5 February 1940 and shortly afterwards the ownership of North Alfordon devolved separately from the Fatherford Pieces; in that by a



conveyance dated 23 October 1940, his executrix conveyed the Fatherford Pieces with other land (altogether 149.870 acres) to Sterling Products Ltd and after mesne conveyances, under a conveyance dated 25 March 1950 the pieces with other land came into the ownership of Mr Thomas Charles Turl; and in that North Alfordon by an assent dated 16 January 1941 came into the ownership of his widow Mrs Mary Squayles Brendon and after her death on 22 September 1953 under an assent dated 11 December 1953 came into the ownership of their son Mr Arthur Brendon, being therein described as 48a. 3r. 2p. in the occupation of Arthur William Clark as tenant thereof.

Mr D Luxton first became interested in the Fatherford South Piece (then 33.630 acres) under a conveyance dated 29 September 1961 by Mr Turl to trustees for him on his attaining the age of 21 years. Mr D Luxton first became interested in North Alfordon then 41.323 acres under a conveyance dated 31 December 1966 made to him and his wife Mrs Frances Mary Luxton by Mr Kenneth Bushby Young, he having got it under a conveyance dated 30 September 1963 from Mr A S and Mrs A G A B O Gage who got it under a conveyance dated 25 June 1956 by Mr Arthur Brendon.

Mr Luxton who was born in 1942 said (in effect):- In his earliest years his parents lived at Glendon at a farm owned by his father situated a short distance from North Alfordon. When he was 5 years old his father died and shortly afterwards his mother went to live with her father at East Lake Farm owned by him. When he died he left her 36 acres of this Farm. Of this 36 acres, about 8 acres was resold by her to her brother (his uncle) leaving her with OS Nos 1, 2, 3, 4 and 6 in Belstone meaning the East Lake Piece as above defined. From his uncle's death until 1961, his brother was his mother's tenant of the East Lake Piece; afterwards he (Mr D Luxton) rented it from her and after her death East Lake Piece passed to him. He understood that one of the reasons for her purchasing the South Fatherford Piece in 1961 for him was that it had common rights.

During this evidence Mr Woodward said that the claim for turbary, piscary, shooting, estovers and taking stone gravel and sand was given up.

As to Entry No. 673, the Duchy in their letter dated 7 June 1982 (Duchy/41) produced shortly before Mr Luxton gave evidence said that Objection No. 381 was withdrawn so far as it related to land in the Parish of Belstone but maintained in relation to the land in the Parish of Okehampton Hamlets. According to the application the land at Northlake in Okehampton Hamlets is a dwelling house and premises so known on the north side of the A30 road; in the absence of any evidence about it, my decision is that Objection No. 381 succeeds as maintained. But as regards the remaining 31.135 acres, in view of the Duchy concession and in the absence of any Objection, I conclude that a right of grazing from it is established. I shall not alter the figure "156" (NFU Units), because the inclusion of OS No. 20 was a mistake and the area of the dwelling house and premises is compared with the rest insignificant. My decision about No. 673 is therefore as set out in Part IV of the First Schedule hereto.

The registrations at Entry Nos. 835 and 837 are as they now stand of rights "to stray" from CL 155 and CL 135 (Okehampton Common and the Triangle to the southwest of it). For reasons given above under heading "Straying", I conclude that the registrations unless modified should be avoided. The evidence of Mr Luxton was offered on the basis that I should modify the registrations so that



they became or included a right to graze (not merely to stray) on the Unit Land from North Alfordon and the Fatherford South Piece animals as now specified, such rights allegedly being established by their exercise "as of right" for the requisite period of years.

Mr Luxton's evidence in support of these not yet registered rights was to this effect:- From 1961 when the Fatherford South Piece was bought for him, he started and had ever since farmed it; thinking there were grazing rights attached to it over the Unit Land, he had put Scotch sheep and some lowland cattle on the Unit Land; at the time he was also farming the East Lake Piece; his lea was on the line of Winter Tor, Oke Tor, Steeperton Tor and Wild Tor, and his sheep went down to Skip Bottom just to the south of East Okement Farm by the East Okement River. They were taken there through East Lake Farm and across Belstone Common. As to North Alfordon, he had seen Mr Clark on the track leading to East Lake, being the shortest way to the Moor from North Alfordon he had been told by his mother that he had been tenant from 1940 and he thought that Mr & Mrs Gage when they bought in 1956 continued with the same sheep. Sheep now went from North Alfordon to the Unit Land across the A30 road by Drews Cottage and then along the private track by East Lake Farm and across Belstone Common. As to the rights he described being different from those registered on his application (in effect straying from Okehampton Common), he said the registrations were an error; he had never grazed on Okehampton Common; it was his mistake; he would like "stray" altered to "graze"; he registered over Okehampton Common because North Alfordon and the South Fatherford Piece was in Okehampton Parish; he had the application without any professional advice.

Accompanied by Mr Luxton I inspected the lea and described, saw the Fatherford Piece and East Lake Piece from the A30 road and left him at North Alfordon.

The application forms as they were apparently completed, show clearly that the rights claimed were over land called "Okehampton Commons" with a right to stray on to Belstone Commons, Dartmoor Forest and Bridestowe & Sourton Commons, a description of rights in my view altogether different from those rights which Mr Luxton to me described as those which he was now and has been exercising. Although stray may imply a right by reason of vicinage, I heard it often used in reference to an animal off its lea (generally because it was in the lea of another) notwithstanding that its owner might (eg because it was all Unit Land) have a right to put it there; nevertheless as a description of what Mr Luxton was doing "stray from Okehampton Common" is a matter of ordinarily English inappropriate and the words can only have been used by him under some mistake of law; in my opinion the circumstances are outside the equitable principles → in accordance with which documents are rectified by the High Court; further to rectify the register as Mr Luxton now ask, would be a hardship to those who might have objected and who by sub-section (2) of section 5 of the 1965 Act are now out of time; the Duchy at the hearing objected to a modification and I must suppose that if the registration had been to "graze" they would have objected in time. I suppose I could refuse to consider the modifications except upon the condition that Mr Luxton agreed to my doing so on the basis that an objection had been put in by the Duchy in 1970. But however this may be I consider the rights now claimed were so different from those registered that they must for all purposes be regarded as now no longer exercisable by sub-section (2) of section 1 of the 1965



Act for non registration. Accordingly I refuse to modify the registrations and accordingly treat them as not having been properly made.

But in case I am mistaken about this, I now consider whether the rights claimed by Mr Luxton when he gave evidence, are established by use as of right. First the Fatherford South Piece.

As to the use from this Piece before the September 1961 Conveyance (DL/2), Mr A Brendon in his April 1982 letter (DL/4) says: "My father lived at Fatherford Farm and he also owned Alfordon Farm, Okehampton. He had a herd of Black Bullocks and a flock of Scotch sheep which grazed the Forest of Dartmoor for 39 years prior to 1965". Mr Brendon said he was unable to attend the hearing because his wife is an invalid and he is unable to leave her. The statement receives some support from the Association pamphlet (DL/5); also Mr Luxton said that his uncle who owned East Lake Farm told him that Mr Brendon kept Galloway Cattle and Scotch sheep.

Against my treating this letter as evidence of grazing as of right from Fatherford on the Unit Land as described by Mr Luxton in his evidence, I have the situation of Fatherford relative to Belstone Common and the Unit Land; grazing on Belstone and beyond on the Unit Land from agricultural land in the parish of Belstone would be likely to be locally acceptable but not from so far away as Fatherford in another Parish. Against too, I have inapt words used by Mr A Brendon; for the documents produced show that Mr F G Brendon who I understand to be "my father" referred to, died in 1940, and that 1926, the beginning of the "39 years", is after the 1920 conveyance when he acquired Fatherford and before the 1932 conveyance when he acquired North Alfordon. Against too, Mr Luxton said that he did not know what Mr Turl did, although he thought he would exercise rights. Against too I have the words used by Mr D Luxton when he made his application in June 1968, quite inappropriate to the rights he was at the hearing claiming was not inappropriately stated but when he himself started farming in 1961 he did not put out cattle and only "in the region of 90 ewes".

By becoming the owner in 1961 of South Fatherford Piece (and in 1966 of North Alfordon) the grazing done from East Lake Piece in excess of the undisputed right attached to it (and therefore "as of right") cannot I think be automatically treated as appertaining to the South Fatherford Piece (or to North Alfordon), merely because Mr D Luxton intended to or perhaps was actually treating both (or all three) as one agricultural unit. As of right grazing must not be secret, that is meaning in the context of the circumstances I am now considering at least so open as a reasonable owner of the Unit Land could be fixed with knowledge of it. Balancing as best I can the conflicting considerations above summarised, I find that before 1968 (the date of the application) there was on Fatherford South Piece no grazing as of right in exercise of a right such as was claimed by Mr Luxton is evidence to have been exercised by him on a large mostly on the Unit Land as he described. I am not in these proceedings concerned with rights which may be attached to the Fatherford South Piece over Belstone Common (CL 73) or Okehampton Common (CL 155) because the propriety registrations relating to these Register Units will be before me at a hearing fixed for July next, so nothing in this decision must be taken as affecting any questions which could then be raised.



As to grazing from the South Fatherford Piece after 1968 I understood from Mr Luxton that since then if grazing on the Unit Land had been from North Alfordon which had on it his residence and principal farm building treated with the South Fatherford Piece and East Lake Piece as one agricultural unit; by doing this he has not prejudiced any rights attached to East Lake Piece. I doubt whether such grazing could be as of right for the purpose of any proceeding under the Commons Registration Act 1965; at least on the date of the Land Section Objections registrations were in question under sub-section (7) of section 5 of the Act. However this may be, the Duchy were entitled to treat the registrations made by Mr Luxton, however mistaken they may have been, as showing his intentions and to regard any animals of his in excess of those appropriate to the East Lake Piece registration as being no more than strays from Okehampton Common (CL 155).

Next as to North Alfordon:- Even if Mr Brendon could be regarded as grazing as of right from Fatherford, I would not necessarily treat what he did as appertaining to North Alfordon which he acquired 12 years later and after (according to his son's letter) he already had animals on the Forest. And I find Mr Luxton's statements about activities of Mr Clarke in the 1953 assent said to be the tenant is not enough to outweigh the contra considerations which are as regards North Alfordon (it being further away) if anything stronger than those above summarised about Fatherford. So about North Alfordon, my decision is the same.

During my inspection, Mr Luxton pointed out certain parts of the Unit Land on which he grazed and suggests that but for his grazing they would become overgrown with Bracken (and possibly scrub) and be unsightly for all, and we had some discussion as to whether Bracken either could be or should be kept there by grazing or mechanically without the use of chemicals. Such considerations are outside by jurisdiction; nevertheless I can say that I know of nothing in the part of the law relating to rights of common which precludes the Duchy coming to some arrangement with Mr Luxton to graze in excess of the number mentioned in Entry No. 673, and it seems to me it would not thereby necessarily acknowledge any rights in "men of Devon" which they now wished to dispute; indeed whether or not such rights on the basis of documents to be found in 1890/Moor could having regard to *Gardner v Hodgson supra* be supported on such documents only, they do at least show some grazing outside parishes adjoining the Unit Land as being considered beneficial. So far as I am concerned I refuse confirmation as set out in Part IV of the First Schedule hereto.



Greenwell Farm and fields
at Lovaton, (held with the Farm),
Meavy

Entry No. 430 was made on the application of Mr Henry Harvie Cole, being a right to stray from CL 191 (Wigford Down, Lynch Common and Yennadon Down); see Part IV of the First Schedule hereto for details.

During the hearing I indicated in outline my views about a registration of a right "to stray", see above under heading "Straying"; in view of this indication the evidence in support of this Entry No. was given so I understood on the basis that I might modify the registration at least by substituting "graze ... over ... and CL 191" for "stray ... on ... from CL 191".

Mr Arnold Henry Cole in the course of his oral evidence produced the documents specified in Part XXIII of the Third Schedule hereto. These show that Mr Henry Harvie Cole acquired the land ("the Attached Land") to which the rights registered are attached under three distinct titles. First under a conveyance dated 31 December 1942 he acquired Greenwell Farm part of the Attached Land containing 158.027 acres together with other land (altogether 186.135 acres, the balance being sold off by him under two conveyances both dated 26 September 1956); of this 158.027 acres Mr H H Cole remained owner until a conveyance dated 1 June 1981 by which he conveyed it to his son Mr Arnold Cole. Secondly under a conveyance dated 27 October 1957 he acquired a field OS No. 349 containing 4.504 acres which he had formerly owned under the said 1942 conveyance but had by one of the said 1956 conveyances ceased to be the owner; this too was conveyed by the 1981 conveyance to Mr Arnold Cole. Thirdly, under a conveyance dated 15 November 1955 he acquired the fields at Lovaton containing 14.964 acres and situated a shorter distance northeast of the 158.027 acres and being between them and Lynch Common. I understood that this 14.964 acres had also —→ by another 1981 conveyance been conveyed to Mr Arnold Cole. The whole of the Attached Land contains about 177.495 acres. The Attached Land is 5 or 6 miles from the nearest grazing area of the Unit Land (measured in the direct line on the map, Greenwell Farm buildings are about 6 miles from Fox Tor).

Mr Arnold H Cole said (in effect):- He was born in 1947 and had always lived at Greenwell Farm. As a toddler he helped his father, and could remember back to the middle 1950s; he left school in 1962. In about 1972 he bought a consignment of ponies and put them onto the Unit Land between Broad Rock and Fox Tor and brought them in when they were drifted; and had so continued with ponies in the following year putting them (or their successors) out 7, 8 or 9 months (according to the weather) before the drift; some of the ponies would go back naturally on their own (without being put out), and stay there as he knew going up maybe once a month, maybe once a week. For the last 4 nearly 5 years he had also kept sheep on the Unit Land in the same place; he bought these sheep (15 altogether) from the executors of Mr John Northmore; about 6 of them proved to be leared on the Fox Tor area; the other 6 or 7 were "never found". Mr Coaker at the same time bought other sheep from the executors leared on the Fox Tor area. He put the sheep onto the Unit Land in a Land Rover going via Princetown to a penn near Peat Cot. To get from Greenwell Farm to the Fox Tor area the animals had to cross either the Sheepstor Commons (CL 188) which now (at the date of the hearing) as registered provisionally includes Ringmoor Down or Shaugh Prior Common (CL 190). He understood that his



said grazing was lawful because Greenwell Farm had a Venville right, being wholly in the Parish of Meavy and being next to or around Lovaton Hamlet; he entitled to cross Ringmoor Down because he had a "Venville passage". His father for reasons which he as below mentioned, later explained did not graze any cattle on the Unit Land after 1955, so that from the Attached Land there was no grazing on it between 1955 and 1972.

Mr Thomas Cole who was born in 1904, an uncle of the last witness, said (in effect):- He was one of 4 brothers (including Mr Harry Harvie Cole); they first came to live at Greenwell Farm in 1931 when their father was tenant. He could not remember much about Greenwell Farm before 1931; he left in 1934 for Pithill Farm (on the west side of the River Erme and a short distance south of Harford and about 8 miles southeast of Greenwell Farm); and in 1957 moved from there to Broomhill (a short distance from Pithill Farm on the other side of the River). His father had (purchased so he understood in 1890) a herd of Galloway cattle which he grazed on the Unit Land. Before 1931 his father had 2 other farms. The herd was grazed around Plym Steps, Broad Rock, Fox Tor and Green Hill. The herd were let out in the middle of May (first or second week) having previously been fed on the farm; "we never drove them, we just let them out and they always found their way to the Forest and they stayed out until Christmas; I was helping my father at Greenwell for 3½ years". Ultimately the herd was divided between him and his 3 brothers, every brother having so many Galloways; when he went to Pithill (1934) he had his share of the herd. The herd from Greenwell could get to the grazing area by 2 ways: (1) from Wigford Down (the nearest, to Greenwell Farm (disregarding Lovaton Fields) and then over Trowlesworthy Warren; alternatively they could go via Lynch Common, and then go right across Shaugh Moor. They were out all the summer and were brought back at Christmas time to feed them. He thought that the cattle to get from Wigford Down to the Unit Land would take them 2 or 3 days "they would work their way out". He regarded their leas as being around Broad Rock and Plym Steps area of 2 or 3 square miles.

Mr Henry Harvie Cole was the applicant for this registration at Entry No. 430 and who born 1909 is the father and brother of the last two witnesses, said (in effect):- His father and he came to live at Greenwell Farm in 1931 with his mother, his brothers (Walter and Tom, not Jack) and his sister. Before then his father farmed Linnecombe Farm, Sourton (about 15 miles north of Greenwell Farm); his brother Tom left (as he said) in 1934; his brother Walter left later (could have been 6 months) so apart from his elderly father he was then farming on his own; in 1938 he got married and about the same time his father left. He himself retired when he was 65 (in 1974) and "did not do much after that". They grazed cattle on Wigford Down and Lynch Common (CL 191) and also on parts of the Forest ("the Unit Land"), the part being Fox Tor, Green Hill and Broad Rock; before they moved Greenwell they did not graze (from Linnecombe Farm) this part of the Forest because it was too far away. As to the after 1931 grazing on the Forest, he was involved some of the time looking after them, occasionally he went to see them, sometimes they were driven, usually they went on their own; they had to be driven first otherwise they might not know the way; in later years, sometimes when he was too busy and they went on their own. They were brought in to be fed in the winter and in June or July to be put to the bull. He stopped grazing cattle in 1955 because for financial reasons arising out of the illness of his wife he had to get rid of the cattle. From 1938 he was on his own on a large mixed farm of 186 acres (Greenwell) and so would not have much time to go on the Moor to look after cattle. His application for registration was made on the advice of Mr Tom Brown an auctioneer of Tavistock. He did not know the difference between a right to graze and a right to stray.



The evidence above summarised was disputed both in cross-examination by Mr Palmer and by Mr Etherton and as below set out.

Mr John Gordon Stanley Coaker (10/vi) said (in effect):- He was born at Sherberton Farm 58 years ago being the 4th generation of his family who had been there as tenants of the Duchy of Cornwall. The tenancy included Fox Tor, New take, an area within Whiteworks, Nunscross, Chiles Tombe, Fox Tor, Caters Beam, then northwards towards Ter Hill (?) including part of the Unit Land and in addition to Fox Tor, a Newtake. He had grazing rights on the Forest (the Unit Land), and so had been going out over the part of the Forest near the Newtake for more than 50 years having been as far round as Aune (or Avon) Head, Redlake and Broad Rock. He would have known if there were any cattle there (other than his own) without necessarily knowing the owner, at any rate if they were not earmarked. He did not remember ever seeing any cattle of Mr Henry Cole. As to animals on Greenwell Farm which Mr Arnold Cole took over from his father Mr Henry Cole he remembered (from 1972) few ponies and also a bunch of sheep formerly belonging to Mr Northmore; he had two flocks of which Mr Cole bought one, he bought the other. He thought possibly there had been a muddle which had resulted in about 4 sheep of Mr Cole's still grazing on Fox Tor in his (the witness); one of the flocks had been sold by tender, he bought the other the price so determined; before he retired Mr Northmore lived at Peek Hill Farm a short distance east of Walkhampton, (north of the B3212 road). He mentioned the animals possibly belonging to others which he had seen, and as regards cattle Mr H H Cole positively asserted that he had never seen any.

Mr Henry Peter Leggassic (19/x) said (in effect):- He was born 50 years ago at Collytown in Sheepstor, it being a farm engaged in hill farming he had frequently been on the parts of the Unit Land between Plym Head and Nun's Cross and from there out to Fox Tor, Avon Head and then back over Black Lane to Broad Rock. He did not see any animals belonging either to Mr Arnold Cole or Mr H H Cole of Greenwell, except only a few sheep in the last 5 or 6 years.

Mr Wilfred John Edmunds who is the agister for the South Quarter of the Forest in succession to his father Mr Wilfred Edmunds gave evidence about the South Quarter at considerable length; as to the evidence above summarised about Greenwell Farm he (20/x) said (in effect):- Mr John Brown from whom Mr H H Cole had obtained advice as to his application for registration was at the time Secretary of the Dartmoor Commoners Association had been such for a number of years from its foundation. He thought the grazing described by Mr Arnold Cole was on the land belonging to the National Trust (meaning the part of Lee Moor, CL 190) which between Plym Head and Broad Rock adjoins the South Quarter. As to cattle said by Mr Thomas Cole and Mr H H Cole on parts of the Unit Land they mentioned being grazed from Greenwell Farm, much of it is in the South Quarter, and if their cattle had been there he or his father before him would have seen and claimed from them agistment money because neither of them would have considered Greenwell Farm being in Venville; he had never seen any such cattle and there was no record of any such agistment being paid for. He, when questioned by Mr Harker as to whether he was saying the evidence given by Mr Thomas Cole and Mr H H Cole as to grazing between 1931 and 1955 was wrong, said firmly that he was "because if the stock had been put there for these years they would have had to pay the agister or take the stock off", and although (as below stated) his records were in some respects incomplete he was confident that if there had been any such grazing rights, he would either heard about them or have some record of them.



Mr Ernest Frederick Palmer who made the Objection now in question, in the course of his evidence produced the documents relating to parish meetings at Sheepstor, said he had been through the minutes of the meeting of Meavy Parish Council, and although Venville payments had been made in respect of the Parish of Sheepstor, none had ever been made in respect of Meavy Parish.

I can somewhat simplify the complicated differences above summarised by now deciding that the registration must be avoided unless I conclude that it can be modified by substituting "graze" for "stray", and that I have therefore to consider (a) whether such a right to graze has been established, and (b) if so, whether such a modification would be proper. The claim of Mr Arnold Cole, as owner since the registration was made, that such a right exists, in my opinion depends on the things in relation to a herd of Galloway cattle in 1931 owned by his grandfather, done by his grandfather and his father (Mr H H Cole), then and subsequently up to 1955. I am not concerned with any grazing after 31 July 1972 (the date of Objection No. 1097) except so far as it could throw light on what was done before, and in my opinion the grazing described by Mr Arnold Cole as done by him being quite different from that described by Mr Thomas Cole and Mr H H Cole, throws no light. As to grazing before July 1972, it was not suggested there was any which could be relevant apart from that by the 1931 Galloway herd or the Galloway cattle which in the ordinary course were substituted for them; and it was not suggested that this herd in any now relevant way existed after 1955.

As to background facts, I accept that the father of Mr Thomas Cole and Mr H H Cole did in and before 1931 own a herd of Galloway cattle which were then grazing on the Unit Land, and that this herd (or their successors in the ordinary course) were ultimately divided between his four sons. Mr Thomas Cole said he had his share in 1934 when he left Greenwell; my guess is that Mr Jack Cole had his share in 1931 when his father left Linnecombe, that Mr Walter Cole had his share when he left soon after Mr Thomas Cole, and Mr H H Cole had his share when his father left him in 1938; but however this may be, in relation to Greenwell the herd had in 1955 vanished. Perhaps in 1890 Mr Cole senior by building up a herd of Galloway cattle was pioneering a new form of grazing (there are many Galloway cattle now on the Unit Land) for which many should now be to him grateful; my difficulty (not unusual with those who introduce reforms) is to fit his activity to long established rules of law. I reject the claim, if not implicit in the evidence of Mr Thomas Cole and Mr H H Cole, certainly implicit in the claims made by or on behalf of Mr Arnold Cole based on such evidence, that in some way a right to graze the herd on the Unit Land could automatically appurtenant to any farm where his grandfather or other the owner for the time being of the herd happened to be. In my opinion the tenants or owners of Greenwell Farm were not as of course grazing animals on the Unit Land as of right within the legal meaning of this expression, merely because they happened to be the owners of animals leared on the Unit Land.

I now consider in what sense if any Mr H H Cole made a mistake by registering a right to "stray" instead of a right to "graze". There are many farms near the Unit Land whose situation is such that it is almost obvious that from time immemorial occupiers have grazed on the adjoining Common, and accordingly on proof of grazing for quite a short period such grazing may be reflected back indefinitely and the right established by prescription at Common law; further such farms may be so situated in relation to the Common and the Unit Land, that animals described as straying on to the Unit Land can reasonably be supposed



when they get there to graze as of right; that the Duchy concluded that as regards some of the farms applicants who merely registered a right to stray should have their right modified so as to be "grazed" seems to me in accordance with law and good sense for it would be hard that such applicants should be deprived of a right which they could almost certainly establish by Prescription at common law. But Greenwell Farm is not such a farm; it is too far away; nobody at this hearing disputed that there was attached to it a right to graze on Wigford Down (part CL 191); grazing on Wigford Down by cattle is different to grazing on the Unit Land by cattle and the circumstance at some times some cattle may on their own go from one to the other does not make it the same.

Mr H H Cole may like many others, not understand a right of common by reason of vicinage; but I do not accept that the word "stray" is or ever was beyond his understanding. The grazing of his father's Galloway herd as described by him and Mr Thomas Cole, whatever may be its effect in law could not sensibly within any of the possible meanings of the word be described as straying from Wigford Down (or any other part of the CL 191 land) on to the Unit Land. And because Mr H H Cole could hardly ever forget his father's Galloway herd, I shall interpret what he and Mr Thomas Cole said about it, on the basis that in 1968 it never occurred to Mr H H Cole that the things his father and he did in relation to this herd could have any possible relevance to any registration under the Commons Registration Act 1965. I decline to infer when the registration was made Mr H H Cole after discussing what he and his father had done about the Galloway herd decided that a registration using the word "stray" was appropriate to enable him to continue to graze it as he told me his father had done in 1931.

I am concerned to determine whether in law what the father of Mr H H Cole and he from 1931 onwards did with his father's herd of Galloway cattle was a grazing as of right appurtenant to Greenwell Farm. I accept that for the short period during which Mr Thomas Cole and Mr Walter Cole were there the herd received attention from Greenwell Farm notwithstanding as Mr H H Cole said its lea before 1931 must have been too far away. As to what happened after 1934, the evidence of Mr H H Cole was by him vaguely expressed; his registration is of 100 cattle and if there had after 1938 been that number of Galloway cattle belonging to him on the Unit Land I think he would have been much less vague about what he was doing about them. He told me that from 1938 he was on his own on a large mixed farm and I infer that if there were some of his father's Galloway herd remaining he would not as he said have had much time for them. The evidence of Mr Coaker and of Mr Edmunds is against there being any such herd grazing from Greenwell Farm and although their evidence personally does not go back much before 1955 (Mr Edmunds left school in 1950) I think if there had been they would have heard about it. Balancing the evidence as best I can, his father's Galloway herd I think in any sense relevant to Greenwell Farm vanished at least 10 years before 1955, long before his wife's unfortunate illness.

In legal language, I find that Mr H H Cole was never grazing as of a right appurtenant to Greenwell Farm his father's Galloway herd. His father's interest in this herd was extraordinary and generally out of line with grazing done by others on the Unit Land and has no significance in relation to the 1965 Act. This finding although it may appear to some to be apparently hostile to Mr H H Cole, is not I think in fact so, because as I see it my conclusion only accords with what he himself did in 1968 when he decided how to fill up his application for the registration which ultimately became No. 430.



My decision for the above reasons is that no useful purpose would be served by my modifying the registration as now suggested by or on behalf of Mr Arnold Cole because if so modified it would be of a registrable right which could not be established.

In case it be said that I am mistaken in refusing to register a right to "stray" if it be no more than a right of common by reason of vicinage, I record there was no evidence that in respect of grazing from Greenwell Farm in exercise of a right of common on Wigford Down or any other part of the CL 191 land, there was any right of common by reason of vicinage over the Unit Land. So however the registration is interpreted my decision is: Objection No. 1097 in relation to it wholly succeeds.

Broomhill Farm, Harford

Entry No. 488 was made on the application of Mrs Mary Louise Cole as owner; see part IV of the First Schedule hereto for details.

The right claimed is "to stray": upon considerations above outlined under the heading "Straying" I consider whether this registration if modified so as to be a right to graze, could be supported.

Broomhill Farm contains about 94.826 acres; it is situated east of the River Erme, and is for the most part west of and next to the road from Ivybridge to Harford; one third or a little more of it is on the opposite side of this road; the east side of the Farm adjoins Harford Moor (CL 195).

Mr Thomas Cole who as above stated under the heading "Greenwell" gave evidence (9/vi) about his father's Galloway herd, his share of which he took when he in 1934 moved to Pithill, said (in effect):- Broomhill is near Pithill (just the other side of the River Erme). He moved from Pithill to Broomhill in 1947 (JTC/1): before then the tenants of Broomhill were Mr Sam Hordern from about 1937 or 1938, before him Mr J Pearce from 1934 or earlier, and before him Mr William Smith from "way back in the 1920's". He (the witness) with the help of his son farmed Broomhill until 1957-58 when he left. "Mr Pearce had ponies and Scotch sheep; he had then on the Commons, but he (the witness) did not think that he (Mr Pearce) had them on the Forest". Mr Hordern may have had some ponies on the Forest, but he had no cattle, and on the Forest no sheep. When he left Pithill for Broomhill it did not make any difference to his (share of the) Galloway herd; at Broomhill, he may have had 15 to 20 ponies, who grazed in the Forest.

Mr John Thomas Cole who is the son of Mrs M L Cole (she died 8 April 1980) in the course of his oral evidence (10/vi) produced the documents specified in Part XXIII of the Third Schedule hereto; from these it appears that his father Mr Thomas Cole acquired the Farm under the 1947 conveyance together "with such rights of grazing over the adjacent common land as have been hitherto enjoyed by the Vendor or her predecessors in title", that he in 1961 conveyed the Farm to his wife (the Applicant) and that Mr J T Cole (the witness) became entitled to it in part by deeds of gift made by her and as to the remainder after her death under the 1980 assent.

Mr J T Cole who was born in 1938 said (in effect):- He came to Broomhill Farm when he was 9 years old. He left school in 1953 and before that was there at weekends



and in the summer. After leaving school he helped his father and when he got married soon after 1961 he took over the farm himself and had ever since run it. As to grazing cattle from the Farm on the Unit Land, the practice was when May comes and the weather is warm they leave Harford Moor area and go to the Forest taking their calves with them; in the summer they went on their own, but there would always be a few stragglers who did not go and "you had to drive them". As to sheep there were always a few sheep but in latter years, in the 1960's he acquired some from Mr Edmunds who were on the Forest because they were born there. As to ponies he had a few not very many; and about them "well, we did not take a lot of notice; on Harford Moor, they wander anyway; ponies are not watched like cattle and sheep; occasionally they go on the Unit Land but not very often. Dartmoor is unique in that you can go from Harford Moor to Okehampton, there being no hedge inbetween to stop you. As to his mother's application, they went to Messrs Kellock (Solicitors of Totnes) and they assumed they knew what to do; we showed them the deeds and they advised. He (the witness) was not aware of any difference between straying and grazing rights, "what is the difference? if they go there which is it?" If Mr Edmunds said that from the South Quarter he drove off animals such as those coming from Broomhill, it would be totally untrue; he (the witness) had 40 or 50 cattle out there, and they "travel around" in the summertime. Before the 1960's from his farm there would only be a few sheep on the Unit Land, the stragglers that had wandered away from the Common (Harford).

Mr W J Edmunds who had given evidence about Huntingdon Warren, gave further evidence (20/x) about the grazing on the South Quarter saying (in effect):- His father was agister from the early 1920's until his death in September 1963; he helped him, and after his death continued as agister. Their duties were the collection of the Venville rents from the South Quarter, the Venville parishes, being named Dean Prior, Buckfastleigh West and Holne, to oversee the stock on the South Quarter, to report any stock unlawfully depastured there; as agisters they had the right to take in stock belonging to other people to graze on the South Quarter and to charge them for this. His practice following his father was to charge non-venville graziers, and if they refused to pay to turn back their stock off the Forest. Until 1940 annual drifts were held under warrant from the Duchy, one for ponies, and one for cattle, and any stock with no lawful rights on the Forest was impounded at Dunnabridge (on the Hexworthy - Two Bridges road); if the owner could be traced he had to pay a fee to redeem his animal; unclaimed animals were sold; animals of a Venville tenant would be taken back on to the Forest without payment or impounding. As to the procedure, he produced the documents specified in Part XXVII of the Third Schedule hereto. As to grazing from Broomhill, as far as cattle are concerned, it was only the odd straying animal; as to sheep, he had sheep in the area (meaning a part of the Forest adjoining Harford Moor) and they (the sheep) would have effectively kept off other sheep; as to ponies, they have only had ponies in more recent years and there may have been the odd stray. He and his father had turned back cattle from Broomhill (off the Forest). The Mr Smith mentioned in the drift records produced is Mr George Smith agister of the West Quarter, different from the Mr W Smith mentioned by Mr T Cole as tenant in the 1920's:- "my information with regard to Mr Smith of Broomhill is that his stock did not go to the Forest".

On 8 November Mr J T Cole took me in his van along the track (now usable by vehicles but formerly a railway) which runs along the ridge from near Bittaford nowhere, from ^{far} the boundary line between Harford Moor (CL 195) and Ugborough Moor (CL 156) to the



Unit Land boundary. He showed me where Broomhill Farm adjoins Harford Moor and emphasised the van was for my convenience and that when collecting his cattle he would be on horseback. Earlier in the day, I had with Mr French been along much of the said track going with him as far as Red Lake China Clay Works (disused) and viewing the South Quarter from the nearby hillock (? waste tip).

Measured on the map in the direct line from Broomhill Farm where it adjoins Harford Moor to Red Lake (a river being the nearest part of the Unit Land) is about $4\frac{1}{2}$ miles; the cattle would owing to the irregular line of the River Erme have to go further. Harford Moor is from north to south about 6 miles long and from east to west comparatively narrow. The nearby South Quarter appears as a different grazing area from Harford Moor and the adjoining Stall Moor being separated from them by the River Erme and Red Lake (a tributary of the Erme). Distance and appearance are against the right now claimed.

It was not suggested that from any of the printed historical papers produced (such as DPA/Moore, Worth and the 1957 Minutes of Evidence of Dartmoor Commoners Association) I could deduce that there had been grazing from Broomhill from time before living memory. As to the before 1947 grazing, quite apart from the hearsay observation of Mr Edmunds about the absence of grazing by Mr W Smith, I am unable to infer from anything said by Mr Thomas Cole that his predecessor ever from Broomhill grazed as of right on the Unit Land.

As to grazing between 1947 and 1957-58 when Mr Thomas Cole left:- The 1947 conveyance provided him with no ground for supposing that he had a right to graze on the Unit Land, it not being "an adjoining Common". He could not properly regard himself as having such a right merely because he had while at Pithill had some Galloway cattle on the Unit Land, because such right (if any) to put them there as may have been attached to Pithill would not automatically have become attached to Broomhill merely because he moved from one to the other. He mentioned having Scotch sheep (black faced) and Cheviot (white faced), but said nothing about where they were leared or about going on to the Unit Land to look after them. His attitude towards his ponies was similar to that taken by his son that they might wander onto the Unit Land and I am not persuaded that they were leared there. If animals from Broomhill before 1957 had been on the South Quarter in numbers of any significance in this case, Mr Edmunds would I think have noticed them, or have heard about them from his father. Balancing the conflicting considerations as best I can, and having regard to what I saw on my inspection, I accept the evidence of Mr Edmunds and conclude that while Mr Thomas Cole was farming before 1958, there was from Broomhill no grazing as of right on the Unit Land.

Objection No. 981 is dated 6 April 1972, so grazing by Mr J T Cole since 1958 could not be significant unless it could somehow be reflected back over the whole of the preceeding 20 years. But in case I am mistaken as to this, I record as follows:- By buying some of Mr Edmunds' sheep leared on the Forest, Mr J T Cole could not acquire automatically a right to graze them there. I think his cattle may in the summertime have wandered off Harford Moor onto the Unit Land, but I do not accept his evidence that he ever (except possibly in the last 4 or 5 years) actually drove them there; if he had I think Mr Edmunds would have noticed and driven them back and he Mr J T Cole would have known that they had been driven back. So apart from the last few years I find that there was no grazing from Broomhill after 1958 on the Unit Land which was as of right.



For these reasons I conclude that there is no right attached to Broomhill to graze over the Unit Land and I need not therefore consider whether if there was I either could or should modify the registration by substituting "graze" for "stray".

The application which led to the registration at Entry No. 488 is dated 26 June 1968 and signed by Mrs M L Cole, and contains these words "Together with rights of vicinage over ... the Forest of Dartmoor CL 164 and such other Common land as may be contiguous to Harford Moor CL 195". So the inability of Mr J T Cole to distinguish between a grazing right and a straying right may be of no consequence. To some extent, I share his inability because although I think the right to graze is an expression reasonably well understood and given much the same meaning by lawyers and non lawyers alike, I find the expression "right to stray" puzzling; the first OED meaning of "stray" is: "a domestic animal found wandering away from the custody of its owner and liable to be impounded and (if not redeemed) forfeited", a meaning implying an illegality and inconsistent with a right. The Dictionary gives another meaning as "an animal that has strayed or wandered away from its flock, home or owner" or (as a verb) "to escape from confinement or control, to wander away from a place, one's companion etc", both meanings although not necessarily implying illegality at least implying an activity on the part of the animal not wanted by its owner. Nevertheless I accept that "a right to stray" is often used as describing a right to an advantage of some kind and was so used in relation to Dartmoor in the Registers kept by the County Council under the 1965 Act and by Mr Sturmer when explaining the Duchy concession, and was also used in a recent case about trespassing cattle, *Crow v. Wood* 1971 1 QB 77. However I have often heard it used as meaning no more than a right properly in law described as a right of common by reason of vicinage. I am concerned not with the possible meaning of the expression "right to Stray" but with proper legal meaning of a right by reason of vicinage, and as to this I answer the question put by Mr J T Cole in his evidence by reference to *Clarke v. Tinker* (1845) 10 QB 604 when the Court considered a plea that from time immemorial cattle duly put onto one Common had "gone, escaped and rambled and have been used and accustomed to go escape &c" and held that proof of this did not establish a common pur cause de vicinage; Lord Denman CJ observed that the real principle is mutual acquiescence and that there must be not only an absence of fence but an immemorial allowance of the straying of the cattle; if "inter-mixing and feeding as well as rambling and straying" is relied on it must be proved; *Williams and Wightman JJ* observed (in effect) that the animals being "driven off the other land by the owners of such other land" is conclusive against the plea. Accepting as I do Mr Edmunds' evidence that there was such a driving off, following this 1845 decision, I conclude that no right by reason of vicinage is established, and that accordingly the Objection wholly succeeds.



Fields at Lovaton
(formerly owned by Mr J F Northmore)

Entry No. 138 was made on the application of Mr J F Northmore as owner; see Part IV of the First Schedule hereto for details.

Mr J W Northmore who was born in 1903 gave evidence (10/vi and 19/x) about his brother's interest in these fields, producing the documents specified in Part XXIV of the Third Schedule hereto and saying (in effect):- They were brought up at Goodameavy Farm which is south (? west) of Wigford Down. His father Mr James Northmore also had these fields at Lovaton (his father Mr John Northmore got them in 1866), and he farmed as one agricultural unit Goodameavy Farm, these fields and some land at Cadworthy. Outside this agricultural unit he grazed Wigford Down, Lynch Common and the Forest. His father was a Venville tenant; he said this because he knew that his father up to his death in 1947 paid a Venville rent to Mr George Smith (Agister of the West Quarter) and because his father received notices from the Duchy of the drifts. His father started keeping Galloways in 1917 and a flock of Scotch sheep in 1921; he had two flocks, one of which he grazed on the Forest in the Erlesbarrow, Nuns Cross, Ter Hill and Fox Tor area. He (the witness) left Goodameavy Farm in 1933 and had ever since farmed in Cornwood. His brother Mr J F Northmore in 1946 (? after his father's death) moved to Peekhill (a farm in Walkhampton by the Yelverton-Princetown road); before he left the fields at Lovaton had been ploughed.

Mr Northmore was asked numerous questions of a general character, no doubt because of all the persons who attended the hearing, he as a farmer had been concerned with Dartmoor for longer than anyone else; his explanation of Venville was to this effect:- His father although owning the fields at Lovaton paid Venville rent for the whole of Lovaton; the parish of Meavy (in his time) comprised the hamlets of Blisworthy, Lovaton, Meavy (itself or Upper Meavy), Middle Meavy (also called Hoo Meavy), and Lower Meavy (or Goodameavy); he (the witness) thought that all these hamlets were in Venville, but "they must fight their own battle!"; he could not say whether his father's Venville payment could be regarded as for all Meavy. As to there being no record of the payments of Venville rents by Meavy Parish Council (Mr E F Palmer later produced minute books showing no such payment), he (the witness) thought that this was because the local overseer never collected it; it was his (the witness) contention that a Venville right was an appendant right which cannot be lost in any way.

Mr J G Coaker (in addition to his evidence about Greenwell see above) said (in effect):- Mr J F Northmore who farmed at Peekhill also had fields at Lovaton. He then had 2 flocks, one of which was a flock well established as grazing on the Forest. When he retired in 1966, the flocks were sold, one by tender, and he (the witness) bought the other at the tender price.

Mr Derek Radmore who is aged 57 years and his son Mr Roy Radmore who is aged 25 years both of Hernspitt Farm gave evidence (20/x) by which the father confirmed the evidence of the son and added further information, all to this effect:- Mr J F Northmore in 1966 retired from Peekhill where he had been for about 20 years and sold up. While at Peekhill some of his Exmoor sheep were leared on Lynch Common, and he brought them there in the summer months; all his sheep were dipped at Peekhill (not at



the Lovaton fields). After 1966, Mr J F Northmore, who had by then more or less retired (from farming) retained some sheep (such as were not sold) and brought them to Lynch Common; they then split up some staying on Lynch and some going to the Fox Tor area (on the Unit Land). "We (Messrs Radmore) often looked after them for him during the last few years of his life, but he would gather them although "we" (at Hernspit) dipped them. Before Mr J F Northmore finally retired he let the fields to the "Skelleys".

Mr Henry Peter Legassick (19/x) who is 50 years of age has lived all his life at Collytown, Sheepstor said (in effect) He only remembered seeing a few of Mr J F Northmore's sheep in the Fox Tor area of the Forest; when questioned by Mr Harker he explained that this was in the 1950's and he agreed that there was no doubt in his mind that Mr J F Northmore was grazing sheep in that area.

Mr W J Edmunds in the course of his evidence above mentioned said he knew that Mr J F Northmore had a flock of sheep on the Forest and he assumed that they would not be there unless Mr Smith (the Agister) had been paid for them.

Mr E F Palmer continuing his evidence (20/x and 21/x) produced the documents specified in Part XXVIII of the Third Schedule hereto and said (in effect):- Until 1978 Sheepstor and Meavy had separate parish councils; the Venville payments made by Sheepstor Parish Council had nothing to do with Meavy. The documents he produced relating to Meavy contained no reference to Venville rights. While Mr James Northmore was at Goodameavy, he never saw any animals go to the Unit Land from the Lovaton fields; the sheep of Mr James Northmore were dipped and sheared at Goodameavy Farm. After 1946 Mr J F Northmore, having moved to Peekhill never put cattle on to the Fox Tor area of the Unit Land; he put his cattle on the Kingseat area on or near Walkhampton Common (CL 192) as he (the witness) knew because he was paying for the area and Mr J F Northmore's cattle were on the area so paid for. Any of the sheep of Mr J F Northmore which grazed on or near the Unit Land grazed on the area between Erlesbarrow and Nuns Cross (on or near a detached part of the West Quarter) and went back to Peekhill (not to the fields at Lovaton); some went on to Mr Coaker's Newtake (not part of the Unit Land), which was why Mr Coaker bought them when Mr J F Northmore sold up. He the witness thought that Mr J F Northmore never paid Mr George Smith after he went to Peekhill, but inquiries made of his executors showed they had no relevant documents. Apart from moorland disputes he (the witness) had been friendly with Mr J F Northmore and had been told by him that his rights as registered were "on his deeds". It was not until after 1966 that the Lovaton fields "went with" any grazing on the Unit Land. There was no connection between Mr E Northmore who is recorded as having made Venville payments (EXP/7), who did not apply for any registration, and who did not precede or succeed Mr J F Northmore of Goodameavy. I have been unable to trace any copy of the application dated 28 May 1968 which led to this registration at Entry No. 138, but I infer from the Register that it was of a right to graze over South Quarter of the Unit Land, Stall Moor (part of CL 112) and Lynch Common (part of CL 191) together with "straying rights" onto Ringmoor (part of CL 188). I do not overlook that the Duchy conceded this registration although not in Venville; but I do not regard the Objection of Mr E F Palmer as suspect as being by a person with no interest, because he has an interest in any grazing which would or might involve taking animals across CL 188 land; notwithstanding that there are public rights of way between the



Lovaton fields and the Unit Land along which animals could (in theory at least) be taken without exercising any grazing rights on the way.

I accept: (a) that Mr James Northmore had for many years before his death a flock of Scotch sheep grazing on the Unit Land and his agricultural unit included these Lovaton fields; (b) that his son Mr J F Northmore grazed a flock of Scotch sheep on the Unit Land from 1947 to 1966 and that his completely different agricultural unit also included these Lovaton fields; and (c) that from 1966 until the date of the Objection (31 July 1972) Mr J F Northmore grazed on the Unit Land and then owned these fields at Lovaton and neither owned or occupied any other land which could be relevant. In the agricultural unit of Mr James Northmore, these fields are about $\frac{1}{2}$ a mile from Goodameavy Farm the main part of it, and in the agricultural unit (1947-66) of Mr J F Northmore these fields are about 2 miles from the main part of it. So I must determine whether apart from the 6 years before the Objection, this before 1966 grazing can properly be regarded as being as of right appurtenant to these fields.

I thank Mr J W Northmore who as chairman of the Cornwood Commoners Association for 25 years had given much consideration to the problems, much discussed by others during the hearing, associated with the word "Venville" and particularly for the trouble he took to explain his views. But as I have said elsewhere in this decision, I do not regard payment of money to the Duchy as of itself establishing a right appurtenant to every piece of land owned and occupied by the payer.

I need only consider two possibilities: the flock of Mr James Northmore and after him of Mr J F Northmore before 1966 were on the Unit Land, either (i) in exercise of an ordinary right of common appurtenant to these Lovaton fields (19 $\frac{1}{2}$ acres); or (ii) in exercise of no permanent right but because having accepted payment Mr Smith and his successors as Agister of the West Quarter permitted it.

In favour of (i), I am not helped by the evidence of Mr J W Northmore because I infer that the West Quarter Agister would have thought much as Mr Edmunds and his father thought about allowing reputable farmers to graze on payment, even if their farms were not in Venville as they understood the expression, and I infer that Messrs James and J F Northmore may as regards Duchy notices have been treated like persons in Venville because the Agister having permitted this flock on the Forest, he was for grazing practically much the same. As to payments by Mr J F Northmore, I infer that either he continued to pay and continue to graze as Mr J W Northmore in effect suggested or that he neither paid nor in any significant way grazed on the Unit Land, as Mr E F Palmer suggested. I am puzzled by the registration being over "CL 164(S)", because all the witnesses seemed to assume that the only relevant grazing was on the West Quarter; perhaps the boundary of the Quarters drawn on my copy of the Register map is not generally known; Fox Tor itself is marked on the Unit Land boundary. The instant registration combining the "Lynch Common (part of CL 191) with straying rights over Ringmoor", area with the Unit Land (CL 164) and Stall Moor (part of CL 112) area, to me indicates that Mr J F Northmore was in one application combining two things essentially distinct, the distance between the two areas and the nature of the intervening land is not such as to allow intercommoning between adjoining commons such as for example, exists in respect of Moorgate Farm. To make the grazing of Messrs James and J F Northmore appurtenant to the Lovaton fields it is not enough that for many years when they successively owned the fields, they also had



sheep on the Unit Land, nor in my view is the possibility of an apportionment such as is mentioned in *White v Taylor* 1969 1Ch 160, evidence that the grazing was appurtenant to each and every piece of land owned or occupied by the grazier. Among these considerations, I regard what Mr J F Northmore did in 1966 as significant; although intending to retire more or less, he kept the Lovaton fields, himself residing elsewhere; but his retention of the fields did not prevent him selling his flock, indicating I think that his grazing of the Unit Land before 1966 was, as I think it obviously was, quite a different sort of grazing from what he intended to do after 1966. My decision is that before 1966 his grazing was within (ii), that is it was not appurtenant to the Lovaton fields. I incline to agree with Mr J W Northmore that as long as Mr J F Northmore was alive nobody would have objected to him putting sheep from the small numbers he contemplated onto the Unit Land if this was the sort of thing he wanted to do during retirement because he was the sort of person who during retirement people like Mr Radmore would like to help; but this does not necessarily mean that his after 1966 grazing can be reflected back to an earlier period. For these reasons I conclude that the registration was not (as regards the Unit Land) properly made.

Meavy Barton (Farm)

Entry No. 501 was made on the application of Mr W J and Mrs E M Vanstone as owners, being a right of turbary, taking stones, cutting bracken and rushes and to graze 20 ponies, 90 cattle, 315 sheep; see Part IV of the First Schedule hereto for details.

Mr Harker said (9 June) that turbary taking stones, cutting bracken and rushes was not now claimed.

In the course of his evidence (19/x) Mr W J Vanstone produced the conveyance mentioned in Part XXV of the Third Schedule hereto; Meavy Barton was conveyed in 1943 as containing about 169.887 acres. It is west and northwest of and adjoins Meavy (Village) and its south side is next to the River Meavy (except 13.043 acres on the opposite side of the River).

Mr Vanstone who is 75 years of age said (in effect):- He had lived in Meavy all his life. Before he (and his wife) bought Meavy Barton, he was living there with his father-in-law Mr Ernest Bowden who was tenant. As to cattle:- from about 1928 to 1940 they had cattle (Galloway bullocks) which he drove out in the summer (June to September) onto the Unit Land to graze just the other side of Broad Rock; in 1940 he (on behalf of his father-in-law I suppose) sold these bullocks; for the cattle on the Unit Land he paid Mr Tom Selleck who was a moorman; for looking after the cattle he paid Mr Palmer of Horseyeatt, Walkhampton and Mrs Ware of Ditsworthy Warren; as moorman, Mr Selleck looked after the cattle on the moors. As to sheep:- he never grazed sheep on the Unit Land. As to ponies:- he had ever since he had been at Meavy Barton and still had ponies on the Unit Land; over the years between 10 and 20; in winter with its rough weather they came down to Yennadon Common and Lynch Common, but for the rest of the time they were on the Forest; their lea was anywhere between "my place" (meaning Meavy Barton) and Fox Tor; he had other ponies apart from those mentioned grazing on the local commons



and Robrough Down. Mr E F Palmer against the right claimed said (in effect):- Mr Vanstone was present at meetings of commoners and of the Parish Council (of which he was chairman), and at these meetings he had never claimed that Meavy had Venville rights. He had seen ponies of Mr Vanstone straying down the road in other places at odd times, it was very little (numbers).

Towards the end of his evidence, Mr Vanstone said: "Today I am not asking for cattle and sheep on the Forest, I am only asking for 20 ponies", meaning as I understood him that he abandoned his claim for any right other than to graze ponies.

The situation of Meavy Barton Farm in relation to the Unit Land (about 2 miles away) is against there having been from time immemorial a grazing right appurtenant to it over the Unit Land either by the name of Venville or any other name. So even if Mr Vanstone had not expressly abandoned his claim to graze cattle and sheep, I should on his evidence about his grazing between 1928 and 1940 have found that it was not as of right so as to enable me to presume a lost modern grant such as was presumed in *Tehidy v Norman* 1971 2QB 528. And even if I accepted his grazing of ponies as being as of right, I would have refused to treat it as being an exercise of a general right to graze ponies and cattle and sheep.

So I must consider whether I should confirm the registration modified so as to limit it to grazing 20 ponies only. A person with land as far away as Meavy Barton is from the Unit Land, does not I think graze ponies as of right merely by allowing 12-20 ponies to wander where they will over the vast open space of which the Unit Land and the adjoining Register Units are part. Mr Vanstone in his evidence referred to the tendency of ponies straying and getting driven about and not keeping altogether. The circumstance that the registration for which he applied bears little relation to what at the hearing he was asking me to confirm is an indication that he had no clear idea of what was being done from his farm on the Unit Land; the description of his application for the land over which the right of common is exerciseable "Lynch Down and Yennadon Down Forest of Dartmoor (S)" is inconsistent in his evidence at the hearing that "their leas was anywhere between my place and Fox Tors". Mr Palmer having succeeded on practically whole of his Objection, cannot be expected to have been prepared to deal at the hearing with the very limited claim then made to graze 20 ponies and no more. My decision is that the grazing of ponies described by Mr Vanstone was not as regards the Unit Land as of right and accordingly the registration was not properly made not only as regards cattle and sheep and as regards turbarry etc abandoned at the hearing but also as regards ponies.

- (1) Glazecombe Farm and Newland Brakes,
 - (2) Treeland and part Merrifield;
 - (3) Corringdon Farm, and (4) Owley Farm,
- all in Ugborough and/or South Brent

Entry (1) No. 858, (2) No. 859, (3) No. 860 and (4) No. 876 were made on the application of Mr John Trevethen French as owner or one of the owners of



(1), (2) and (3) and as tenant of (4), the other applicants, for 585 being his uncle Mr H A French since deceased and his brother Mr G N French, for 860 the said Mr H A French and his aunt Mrs N H French since deceased, and for 876 Mr H G Hurrell since deceased as owner; see Part IV of the First Schedule hereto for details.

Mr J T French who was born in 1922, in the course of his oral evidence (19/x) produced the documents specified in Part XXVI of the Third Schedule hereto, and for the most part spoke about the grazing from Corringdon Farm.

Corringdon Farm (No. 860) comprises about $320\frac{1}{2}$ acres part in South Brent and part (comparatively very small) in Ugborough extending on the south to Owley Bridge (carrying a minor road from Owley to Aish over Glaze Brook) and on the north to the south boundary of Brent Moor (CL151). For the registration, the application (27 June 1968) was to graze Brent Moor (CL151) and Ugborough Moor (CL 161) with "pur cause de vicinage over" Dean Moor (CL 161) and the Forest of Dartmoor (the Unit Land CL 164)", and included turbary and estovers of **furze** and bracken. The Register relating to the Unit Land is only for a right "to stray". So having regard to what I say above under the heading "Straying", this registration must be avoided unless I can (as I understood Mr French was asking) modify it by substituting "graze" for "stray".

About this farm Mr French said (in effect):- It was purchased in 1920 by his grandfather, father and uncle; they moved from Spitchwick near Widdecombe, bringing with them a herd of South Devon cattle, some Dartmoor ponies and white faced Dartmoor sheep; after a few years they settled down during the summer period between Whitebarrows and the River Avon (that is on CL 161), going as far north as Red Lake (a river or brook along the south boundary of the Unit Land). In 1938 they purchased some Galloway cattle from a local herd which had already spent summer months on the Forest in the Green Hill area (just north of Red Lake and in the South Quarter); although the cattle had been in the habit of going to Green Hill, after the purchase they split off from the remainder (meaning so I understood their other cattle) going through Blacklane (partly mire out of which flows Blacklane Brook) to the Fox Tor area and as far north as Muns Cross (that is to the West Quarter). "From that day until the present time these cattle and their descendents have continued to graze this area; my brother and I have driven them through Blacklane many times". At one time Commander Davey (MFH) employed a man to keep Blacklane reasonably passable, now it is not very good at all. The cattle graze from 1st June to middle October. As the Galloway cattle increased Mr Wilfred Edmunds came to his (the witness') father and "asked us to make a small contribution to the cattle grazing on the Forest. I think Mr Edmunds book will confirm that this is so until 1955".

Glazecombe and Newland Brakes (No. 858) comprises about $41\frac{3}{4}$ acres in Ugborough and about $17\frac{1}{2}$ acres in South Brent; on their southeast side they adjoin the northwest boundary of Corringdon; on the north and the northwest they adjoin Ugborough Moor (CL 156) to which there is access. Of these lands Mr French said (in effect):- His father and uncle purchased Glazecombe in 1939; and in 1951 they purchased Newlands Brakes "to concentrate". Impliedly (if not expressly) he treated these lands as part of Corringdon Farm.



Owley Farm (No. 876) comprises about 92 acres part in Ugborough and part in South Brent; it is south of the Glazebrook and adjoins or is near to the southwest boundary of Corringdon (on the north side of Glazerook). About this Farm, Mr French said (in effect):- He in 1953 became and still is the tenant. His predecessor Mr Albert Andrews kept a herd of Galloway cattle which he in 1931 brought with him from Cutwell Walls, South Brent and which had grazed the Forest on Green Hill as far north as Plym Head until he (Mr Andrews) sold them in 1952. He (the witness) when he became tenant took over some of his fathers herd and such cattle grazed the Forest regularly in the area he had already stated.

Treeland and including part of Merrifield (No. 859) comprised about 109 acres in South Brent and is northeast of Corringdon Farm. Of it Mr French said (in effect):- He purchased it in 1962 and commenced to **graze** cattle on the Forest from there. On the death of Mr Wilfred Edmunds, he received a notice from Mr W J Edmunds to quit grazing the Forest, and he thought such notice referred to his grazing from Treeland. In 1964 he paid Mr W J Edmunds £4 for grazing on the Forest; that was the last payment he made to him; he received a demand for payment in 1965 which he did not pay; he had nevertheless continued to graze the Forest.

Mr French when questioned gave further evidence to this effect:- The payments made until 1955 were from 1949. Mr Wilfred Edmunds did not give a receipt and his (the witness') father paid £2.10.0 when he saw him or £5 for two years. Mr Wilfred Edmunds was not the **agister** for the Quarter where the cattle were grazing (Mr George Smith was agister for the West Quarter); so his father's payments were not (as the witness) emphatically insisted a payment for grazing; "the payments were for keeping an eye on the cattle which were on the Forest". He was not saying that these payments were Venville payments for his father's holdings in Ugborough. He agreed that in 1962 his father paid £10 to Mr Wilfred Edmunds but insisted that this payment was in respect of grazing from Treeland because at that time his South Devon cattle were in on Corringdon and Owley Farms.

Mr W J Edmunds while giving evidence (20/x) also said (in effect):- His father died in September 1963. Apart from his bank account, his father kept no regular books about his receipts as agister of the South Quarter. He had found a list of farmers and farms (Duchy/65) meaning a sheet of foolscap with about 25 names recording 7 payments one of which is dated 7.1.27: the list includes "French Corringdon £2.10.0 pd; Andrews Owley £2.10.0 pd "; the other payments so listed are all smaller. From his knowledge of his father affairs he could say that the £2.10.0 was for grazing of stock and the smaller sums of money would have been for overseeing stock; he considered that the payments described by Mr J F French as having been made between 1945 and 1955 were for grazing and not for keeping an eye on stock. At the end of November or the beginning of December 1962 he took his father to Owley Farm to see Mr French so that his father could request payment from Mr French for his stock grazing on the South Quarter and after considerable discussion he paid the sum of £10 to cover the years 1958 to 1962. He produced his father's bank paying in book (Duchy/66) the entry "Aldrieve (keep of Bullocks) £7.10.0 and on the next line "French ditto (5 yrs) £10.0.0"; as to the 1964 payment by Mr French this was recorded in his paying in book (Duchy/67) as "French Aldrieve/keep bullocks/£4—; £6—"; payment was made by Mr French not as he said in his evidence in respect of Treeland Farm but in respect of his cattle on the forest regardless of what farm that stock came from.



Mr Edmunds was asked a great many questions by (among others) Mr J F French, ^{from} ~~for~~ which I understood that the case put by Mr J T French to Mr Edmunds was that from 1938 to the present day there had been cattle grazing on the Forest from Corringdon and Glazebrook subject to no payment whatever. The contrary view of Mr Edmunds was that the only cattle on the Forest which before 1964 could in any way have anything to do with these registrations were those which his father and himself assumed belonged to, and to be the responsibility of, Mr J G French, and that the 1962 and 1964 payments about which Mr W J Edmunds had personal knowledge were made for these cattle, and that there were none other which could as regards the Forest be associated with any of the farms and lands mentioned in the registrations as belonging to Mr J T French or any of his relations.

On 8 November Mr J T French in a Land Rover took me from Owley Farm to Ugborough Moor (CL 156) by Owley Moor Gate and thence to the track (formerly a railway) which follows more or less the north-south ridge between Ugborough and Harford and then for about 4 miles to the nearest part of the Unit Land (I suppose from Corringdon Farm it may be possible to take cattle by route which might be $\frac{1}{2}$ to $\frac{3}{4}$ of a mile less). On the Unit Land, from the hillock (? mining waste) near to the now disused Red Lake China Clay Works, I viewed the part said by Mr J T French at the hearing to have been grazed. From the boundary between the Unit Land and Ugborough Moor, Nuns Cross and much of the West Quarter is at least 2 miles distant.

I find (as was not I think disputed) that in respect of the years 1949 to 1955 and of the years 1957 to 1964 payments were made as above described to Mr Wilfred Edmunds and (in 1962) to Mr W J Edmunds and that these payments were made in respect of cattle on the Unit Land belonging to Mr J T French or his brother father or other relations above mentioned, they being owners or occupiers of the farms and lands referred to in the registrations. Mr J T French did not produce any documents of title or give any detailed information as to how these farms and lands devolved on him and his brother from his father and uncle; so I am unable to say how this was save that I am left with the impression that his father died in about 1967 and was the Mr J G French referred to by Mr Edmunds; this inability does not affect my decision in this case, because it was I think implicit in the evidence of Mr J T French that I am only dealing with the grazing of "French cattle" meaning Galloway ~~cattle~~ cattle in some way owned by Mr J T French or by one or more of his relations and originating from all or one or more of the said farms and lands. I can therefore without injustice refer to all the relevant cattle as "French cattle".

Finding as I do that the said payments were made in respect of French cattle, I am concerned to apply the law as set out in *Gardner v Hodgson* 1903 AC 229: from payments for more than 40 years in the absence of any agreement in writing and with no conclusive evidence as to the origin or consideration for the payments the inference of fact should be drawn that the payment was made for the use of the land. Accordingly, the grazing of all or so many of the French cattle as were paid for was not as of right, and cannot be the basis of any presumed lost grant.

As to what was actually said when the payments were made, Mr J T French said nothing and Mr W J Edmunds merely mentioned a "considerable discussion". The



divergent views above summarised held by Mr J T French and Mr W J Edmunds as to the result of these payments were not, as I understand their evidence part of any contemporary discussion; so I infer that when the payments were made nothing relevant was said other than that Mr W J Edmunds or his father requested payment for French cattle on the Forest and that the payment claimed was made. So I must determine the legal result of the payments by considering what a supposed independent observer fully informed of all the relevant surrounding circumstances would have thought if he had been present.

As to the surrounding circumstances:- I do not accept the evidence of Mr J T French that his brother and he have from 1938 to the present day driven French cattle through Blacklane on many occasions, if by this evidence he wished me to infer (as I think he did) that French cattle have continuously during this period been intentionally grazed on the part of the Unit Land west of Blacklane in a way which would have been reasonably apparent as being an exercise of a right attached to Corringdon Farm or any other of the farms and lands mentioned in these registrations. Ugborough Common (CL 156) is about 6 miles long from north to south and comparatively very narrow, and is, notwithstanding that it would be easy for cattle to go from it onto the Unit Land, geographically distinct from the Unit Land. On appearance it is likely that cattle from Corringdon and the other farms and lands mentioned in these registrations have from time immemorial been grazed on one or both of the nearby register unit (CL 156 and CL 161); and also likely that any Galloway cattle would from time to time find their way onto the Unit Land and that Mr J T French and his brother may from time to time have had to go and collect them. But in my view any such cattle would have been the concern of Messrs Edmunds; and I reject the suggestion that Messrs Edmunds were not concerned because the French cattle when they got on to the Unit Land immediately either went on their own or were driven to the West Quarter and then became the concern of Mr George Smith as the agister there, and it would therefore be appropriate that he should demand any money payment for use of the Unit Land; as between him and Messrs Edmunds it would I think be reasonable for Mr George Smith knowing that any French cattle on the West Quarter must have originated from Corringdon Farm or one of the other farms and lands mentioned in the registrations, to treat them as being accidentally on the West Quarter and as being the concern of Messrs Edmunds as responsible for the South Quarter. My non acceptance of this part of Mr French's evidence is to some extent as a result of what I saw when viewing the part of the Unit Land visible from Red Lake China Clay Works hollock.

I do not accept that either Mr Wilfred Edmunds or Mr W J Edmunds ever had any reason to suppose that the payments they were receiving were in respect of cattle from Treeland and not in respect of any other French cattle, either because when the payments were made anything to this effect was said or for any other reason. If Mr J T French ever thought they were being paid for this reason, which I much doubt, I am not persuaded that he ever voiced this thought to anyone at any now relevant time; I think the idea probably first occurred



to him at the hearing when he somehow persuaded himself that he must have so thought in 1964.

I reject the contention that Messrs Edmunds either knew or ever had any reason for supposing that French cattle were divided between those that came from Corringdon and Glazecombe Farms and those which came from the other lands mentioned in registrations or indeed that they were ever so divided for purposes of grazing on the Unit Land. I think that any reasonably informed person would consider that all the French cattle were for the purposes of grazing on the Unit Land the responsibility of the member of the French family apparently concerned on their behalf with their grazing on Ugborough Moor and/or Brent Moor and conclude that payment made by him were for all cattle without any distinction. Generally I prefer the evidence of Mr W J Edmunds to that of Mr J T French on any matter about which they differ; but I record that the relevant fact is not what Mr Wilfred Edmunds or Mr W J Edmunds thought but did not express to anyone, when these payments were made; in applying *Gardner v Hodgson*, the test is I think objective: what would properly informed independent observer present at the relevant meeting at which the payments were made have concluded to have been their basis.

The historical documents referred to by Mr J T French do not I think provide any good reason for supposing (appearance and situation provide no such reason) that rights of common appurtenant to Corringdon or any other of the farms and lands mentioned in the registrations from time immemorial included a right to graze on the Unit Land; I accept the evidence of Mr W J Edmunds that he and his father did not regard such land as being in Venville and as therefore having some such immemorial right. In these circumstances the distinction made by Mr J T French between a payment for the use of the land and a payment for keeping an eye on the cattle becomes irrelevant, for Messrs Edmunds as agisters holding the views they did hold about immemorial rights, would certainly not accept a payment for keeping an eye on the French cattle unless they also received a payment for the use of the land by the French cattle. I attach no significance to the failure of the Duchy and of Mr W J Edmunds to take any action after 1964 when Mr J T French refused to make any further payments and then continued putting animals onto the Unit Land, because at about this time the Commons Registration Act 1965 would have been in force or contemplated and any questions could then be resolved under the Act.

Upon the above considerations I find that my supposed independent observer would have concluded that the payments made for the French cattle were on the basis that they were for the use of the Unit Land by all such cattle; and accordingly following *Gardner v Hodgson supra*, I find that such use by French cattle from Corringdon Farm and from all or any of the other farms and lands mentioned in the registrations was not during the years 1957 to 1964 as of right. And as a consequence my decision is if the registrations at Entry Nos. 859, 860 and 876 were modified by substituting "graze" for "stray" neither such registrations nor that at Entry No. 858 were properly made.



In case I am mistaken in thinking that a right per cause de vicinage such as is mentioned in the application for the registrations with which I am now concerned cannot properly be made under the Commons Registration Act 1965, I record that in my opinion no such rights from either Ugborough Moor or Brent Moor (CL 156 and CL 161) were established by the evidence, there being none such as was considered by the Court to be necessary in *Clarke v Tinker* (1847) 10QB 604.

Shooting, piscary, taking animals
and birds, and pannage

Mr Sturmer whose evidence about Venville I have summarised above, also gave evidence (21/x) about shooting, piscary, pannage, taking wild animals and birds, being the grounds of Objections Nos. 311, 312, 313, 314 and 1102 summarised in the Second Schedule hereto, saying (in effect):-

Only one person had by the Duchy been given permission to shoot on the Unit Land: a licence to shoot on an area called Riddon Ridge for which he pays £5 per annum. No other person had been given permission. Occasionally the Duchy have reports of people shooting and they are investigated; if people are caught, they are immediately stopped and asked to leave. None have claimed to shoot as of right and all have desisted from shooting when asked.

The only persons who have a right to fish are people who have permission from the Duchy; such permission is available to all members of the public on payment. They also have to have a licence from the South West Water Authority; they under an arrangement between the Authority and the Duchy their co-operates with the Duchy.

As to taking wild animals and birds:- There are three hunts who hunt over part of the Unit Land with the permission of the Duchy. He was not aware that any other rights of sporting having been exercised over the Unit Land.

Pigs do not root for acorns because there are no oak trees on the Unit Land. He could think of no place where rights of pannage could be exercised.

In the absence of any evidence in support of the registrations of these rights, my decision is that the said Objections all succeed.

Turbary, taking stone or sand,
estovers, cutting bracken etc

Lady Sayer mentioned she used vags for heating in her house cut from nearby, and described how she had on one occasion (with some publicity) cut them from further away. Nobody else gave any evidence of exercise of the right of turbary. During one of my inspections it was said that the peat deposits I



saw had been cut within living memory. I infer that this right is now not much if at all exercised. Nevertheless if alternative forms of fuel become expensive the right might become important.

No evidence was offered about taking stones or sand, although I inferred from what I saw during my inspections that stone and possibly sand too is often taken for local purposes.

I saw a good deal of bracken. During my inspection some complained about it interfering with grazing and explained how it could be kept down by beating or mechanical means without using objectionable chemicals. It was also said that it is still much used for bedding for animals, particularly when straw is expensive.

At the hearing as above recorded some claimants expressly withdrew their claims to some or all of these rights.

Lacking cogent evidence, for the reasons set out under the heading "as of right" particularly the first paragraph, I am in this decision treating any registration of these rights as being properly or improperly made in accordance as near as made with the principles I am applying in relation to grazing rights about which I have little or no evidence.

OTHERS

Objection No. 523 by North Devon Water Board, summarised in the Second Schedule hereto, was, as Mrs F G Canning (20/iv) explained to make it clear that any right to dig stone did not extend to the water apparatus mentioned in the Objection. Nobody contended against effect being given to the Objection to this extent. Accordingly my decision is that every registration which now contains words such as "take stones" or "dig sand stones and gravel" or similar words shall include at the end of column 4 "subject as regards taking or digging stone sand and or gravel to the Water Authority Provision in this Rights Section defined"; such definition to be as stated in paragraph 2 of the Fourth (and last) Schedule hereto.

Entry No. 374:- Mr R H Jane said (20/iv) that he would be giving evidence against Objection No. 981. However when I was able to hear his evidence he was not present, and I understood from others that he had indicated to them that he would not be proceeding. His registration being of a right to stray, for reasons under heading "Straying", my decision is that it should not have been made.

Entry No. 463:- The grounds of Objection No. 1088 (summarised in the Second Schedule hereto) are to the effect that this registration should be enlarged from "stray" to "graze". Mr Edmunds said (20/iv) he had spoken to Mrs Crowther and she agreed. Nobody at the hearing disagreeing and the Objection being in



accordance with the concession recorded in Part II of the First Schedule hereto, my decision is accordingly.

Entry Nos. 564 and 565:- When Mr P W and Mrs E Coaker on whose application these registrations were made, attended (20/iv), nobody disputed them. The Duchy agreed and conceded that the right should not be restricted to the East Quarter. My decision is therefore as recorded in Part IV of the First Schedule hereto.

Entry Nos 993 and 1024:- Mr E F Palmer on whose application No. 993 was made, conceded*Objection No. 1084 made by Mr W J Edmunds. But I have no note or recollection of Mr J G S Coaker on whose application No. 1024 was made or of Mr E F Palmer saying anything about the conflict between their registrations. But I must resolve the conflict; on the little information I have about Whiteworks and Sherberton Farm, my decision is in favour of No. 1024, this being likely to be the more sensible answer, and therefore the registration at No. 993 will be modified accordingly. But because this decision may be upon a mistaken understanding of the position between Mr E F Palmer and Messrs Coaker, and I know of no reason why I should not give effect to whatever is agreeable to all of them, I give to each of them LIBERTY TO APPLY to me to set aside this decision and (in the absence of agreement by those concerned) to hold a further hearing; about this see paragraph 12 of the Fourth (and last) Schedule hereto.

Entry Nos 123, 124 and 766:- These registrations are those at length dealt with particularly under the heading "Veniville". They were not in relation to the Unit Land challenged at the hearing, except by Mrs Canning to the very small extent mentioned in the first paragraph under this heading. Lady Sayer agreed the Water Authority Provision as it did not affect grazing; Mrs Canning's description of the water apparatus is I think evidence enough against the other applicants. Subject thereto, for the reasons stated in the first paragraph under heading "as of right", my decision is that the rights are established.

No. 520:- Mr R J Keast on behalf of Messrs Mortimore (20/iv) conceded various Objections including No. 523 and referred to his firm's letter of 19 April 1982 then handed in. My decision is subject to effect being given to such Objection by inserting the Water Authority provision, the registration was properly made.

Entry Nos 171, 172, 173 and 174:- Mr P J R Michelmore on behalf of Bennah Ltd agreed (20/iv) the modifications consequential on the effect being given to the Land Section Objections nobody subsequently at the hearing suggesting that the registrations were not in other respects in order, and having regard to the concession made by the Duchy as mentioned in Part II of the First Schedule hereto my decision is accordingly.

Entry Nos. 199, 200 and 201:- Mr Michelmore on behalf of Mr K S Fox agreed (20/iv) the Land Section Objections, so the position being essentially the same as mentioned in the preceding paragraph, my decision is the same.

*He also agreed (paper dated 19 April) to reduce headage to 400 sheep and 95 cattle.



Entry No. 466:- Mr Michelmore on behalf of Mrs P M Belsey made statements (20/iv) essentially the same as those mentioned in the two preceding paragraphs, so my decision is the same.

Entry Nos 365, 366, 367, 368, 369 and 370:- Although Dr Burrows on whose application these registrations were made attended in person for some of the hearing, he was not on 19, 20 and 21 October present when I was ready to hear him. Mr J W Northmore said (19/x) that Dr Burrows was his landlord (Entry No. 365) and had left his case to him. In the absence of any evidence that the rights could be other than by reason of vicinage, for the reasons under the heading "Straying", my decision is that these registrations should not have been made.

Entry Nos 504, 567, and 994:- Mr Harker after saying (9/vi) that no evidence would be offered in support of these registrations, contended that in view of the concession made by the Duchy (see Part II of the First Schedule hereto) and the absence of any Objection, I ought to confirm the registration. I accept this contention as being within the first paragraph under heading "As of right", and my decision is accordingly.

Entry No 992:- Mr Harker (9/vi) asked that the registration be treated as modified by substituting "graze" for "stray". Mr Etherton opposed this modification, thus indicating that the Duchy concession in Part III of the First Schedule hereto could not be applied to this Entry on the basis that it had always been "graze". In the absence of evidence about this registration, I refuse to modify the registration as asked, and my decision is therefore that it should not have been made.

Entry Nos 103, 104, 105, 505, 508, 509, 869, 895, 990 and 991:- Mr Harker said (9/vi) that no evidence would be offered in support of 509, 869, 990 and 991 and none was offered in support of 103, 104, 105, 505, 508 and 895. Mr E F Palmer said (21/x) that the rights at 505, 508, 509, 869 and 991 (to which he had objected) did not exist. The rights at 103, 104, 105, 895 to which the Duchy objected are within the general evidence given by Mr Sturmer mentioned in the last paragraph under this heading. The absence of any evidence in support of these registrations my decision is that they should not have been made.

Entry Nos 510, 511, 512, 813 and 1018:- Mr Harker said (9/vi), correctly, that the registrations at Nos 510 and 511 were only in dispute by reason of their conflict with that at Entry No. 813 and that this conflict could be sorted out later. I have no note or recollection of being told how this had been agreed; nevertheless because I must resolve the conflict, I conclude as being likely to be more convenient, that the registrations at Nos 510 and 511 were properly made and that that at No. 813 should be avoided. But realizing this is somewhat arbitrary, I give to Roborough Estate Trustees, to Mr I J Wakeham and to any other person concerned with these registrations LIBERTY TO APPLY to me to set aside this decision (and in the absence of agreement by those concerned) to hold a further hearing;



as to this see paragraph 11 of the Fourth (and last) Schedule hereto. Different considerations are applicable to the registration at Entry No. 512; about this Mr Palmer said (21/x) that he now occupied the fields at Kingsett and he withdrew the registration; in the absence of any evidence in support of it, I conclude that it should not have been made. Mr Palmer did not seek to support the registration at Entry No. 1018, and in accordance with the reasons under the heading "Straying", I conclude that it should not have been made.

Entry Nos. 500, 502, 503, 513, 758 and 760:- When Mr H P Legassick and Mr E F Palmer claimed these registrations, subject to Objection No. 523, nobody disputed them. So in accordance with the Duchy concessions, and the first paragraphs under heading "As of right", I conclude that they were properly made.

Entry No. 570:- Mr S R Sykes said (20/iv) that he did not wish to contest the Land Section Objections. Mr Etherton said the Duchy did not insist on the limitation of the registration to the South Quarter and agreed the registration. Later during the hearing Mrs Canning supported Objection No 523 and I consider I should give effect to it. Subject to this my decision is favourable to the registration. Nevertheless Mr Sykes contended that the description in the Register of the land to which the right is attached as "land known as Well Lucky comprising OS Nos 584, 591 and 592" should be altered by substituting "Sunnyside" for "Well Lucky"; if the description identifies land which is different from what is now called Sunnyside, I reject the contention because I cannot now make the registration different from what it was when originally made; if the description identifies the same land no decision by me is needed to enable the County Council as registration authority to update the description.

Entry Nos 38, 42, 49, 55, 57, 59, 85, 86, 111, 192, 439, 724, 946, 947, 948, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 976 and 977. Mr Hastings on behalf of Lt Col V W Calmady-Hamlyn on whose application the registrations at Entry Nos from 946 onwards above enumerated were made said (20/iv) in effect:- Nos 192 and 969 both relate to Fernworthy Down of which his client is the owner and Messrs Gloyn were formerly tenants having been succeeded by Mr Chapman; Nos 724 and 972 both relate to Newtakes Farm of which his client is the owner and Mrs Lake is the tenant; as to these conflicts he was agreeable to the tenant's registration being avoided in favour of the owner's registration remaining. He thought the position of Entry Nos 946, 947, 948 and 951 to 957 inclusive were the same. On behalf of his client he accepted the Duchy objections to piscary and shooting. He was trying to get the tenants to write to the Commons Commissioners agreeing to the cancellation of the tenant registrations. I have a letter dated 21 April 1982 from Mr L G Gloyn withdrawing the application made by his brother (meaning I suppose Mr C C Gloyn) who is now deceased. I also have a letter dated 6 May 1982 signed by Colonel Calmady-Hamlyn and Mr B W J Laves as owner and tenant of Great Crandford agreeing to the ownership registration No. 961 should stand and the tenant registration No. 86 be withdrawn. And also a letter dated 21 April 1982 signed by Mrs Joyce Lake explaining that she signed her application in the name of Mrs Joyce Friend and had since remarried and that she wished to withdraw her application in favour of Lt Col Calmady-Hamlyn's application with which it is in conflict.



My record of what Mr Hastings said (20/iv) is not satisfactory in that I have nothing about the conflicts arising out of the registrations at Entry Nos 951, 953, 954, 957, 960 and 962. This defect has been removed by documents (VWC-H/1) which Mr Hastings handed to me on 8 March 1983 at a hearing about Register Unit No. CL 96 and which related to both CL 96 land and to the Unit Land (CL 164), signed by Mr G R Alford (as successor of Mr G W Alford), Mrs J Lake (formerly Mrs Friend), Mr M G Roberts (as successor of Messrs C & C Gloyn), Mr J P W Garvey, Mr G J Horn (as successor of Mr C Horn), Mr W P Fogerty, Mrs P Reeder (as successor of Mr C Heathman), Mr S E Daniel (as successor of Mr A S G Daniel), Mr W J L Heard (as successor of Mr E W Alford) and Mr R J Jury (as successor of Messrs O M Jury & Sons), by which they all as tenants withdraw their registrations in favour of those made by Col Calmady-Hamlyn as owner. But I have no note or recollection of anything being said at the hearing by Mr Hastings or anyone else about Duchy Objection No. 381 to the registration at Entry No. 958 on the grounds that some of it related to land in Thrushelton. From such maps as I have, I deduce that all Combebow Hams is in Thrushelton and that it is unlikely that there is attached to it any right of grazing over the Unit Land. So my decision is that the registration was not properly made. But realising that I am acting arbitrarily, and that there may be some mistake either by myself or by others concerned, I give to Lt Col V W Calmady-Hamlyn, to the Duchy, and to any other persons concerned with the registration at Entry No. 958 LIBERTY TO APPLY to me to set aside this decision and (in the absence of agreement by those concerned) to hold a further hearing; as to this see paragraph 11 of the Fourth (and last) Schedule hereto.

Entry Nos 101, 102, 106 and 107. On behalf of Mr A J Wotton, Mr Harker early in the hearing said (9/vi) that in support of the registrations at Entry No. 100 evidence would, but in support of the registrations at Entry Nos 102, 106 and 107 would not be, offered. During the hearing witnesses other than Mr Wotton gave evidence relating to these registrations and were questioned by Mr Harker. Unfortunately when I was ready to hear the evidence of Mr Wotton himself he was temporarily indisposed; so I adjourned the proceedings as far as they related to Entry No. 101. Since I have a letter dated 11 November 1962 from Bellingham & Crocker written on behalf of Mr Wotton withdrawing all claims under these Entry Nos but not so as to affect any claims he might have against any units of common land other than the Unit Land. In these circumstances my decision is accordingly and the adjourned hearing as regards Entry No. 101 will not take place. Because of this withdrawal I have not in this decision mentioned the evidence given during the hearing either for or against these registrations.

Entry Nos 129, 157, 185, 389, 407, 672, 896, 923, 988 and 989:- Each of these registrations appear in the Register to be in conflict with one (or two) of the others. They are all conceded by the Duchy as being in Venville or valid although not in Venville, see Parts II and III above; but no person appeared before me as concerned with any of them, so apart from the registration, I have no evidence of the circumstances. The conflict between 129 and 157 appears to be in column 5; I shall prefer 157 because the land there described includes all described in 129. The conflict between 185, 389 and 923 also appears to be in column 5; I shall prefer 923 because the land there described includes all in 185 and 389. The conflict between 407 and 896 appears to arise because they are almost but not quite identical; there being little obvious difference, I shall prefer 896. The conflict between 672, 988 and 989 appears to be in column 5, and I prefer 672 to 989 because 672 includes 989; so far as 672 includes 988,



I prefer it, but what is left of 988 should I think remain with a suitable deduction in the number of animals. All these registrations should be subject to the Water Authority Provision. My decision therefore is as set out in Part III of the First Schedule hereto.

Entry Nos 674, 917, 950, 979 and 982:- These registrations were subject to Objections Nos 321 and 381, in effect challenging them as regards Sampford Courtenay and Okehampton Hamlets. At the hearing the Duchy conceded (Duchy/43) that they (except No. 674) were as regards Belstone and Sourton in Venville, see Part II of the First Schedule hereto. For the reasons given in the first paragraphs under heading "As of right", I consider I ought to give those concerned the benefit of the concession, but in the absence of any evidence avoid the registrations as regards all parishes not within the Duchy concession and reduce the number of animals appropriately. As to these numbers, I can only act on what I can deduce from the registrations. No. 917 (Mr G Littlejohn): it seems to me appropriate to reduce the number to approximately two thirds. No. 950 (Mr T G G Dawe): it seems to me appropriate to reduce the number to approximately three sevenths. No. 979 (Public Trustee and Mr W G Voad): it seems to me appropriate (because as I read the map annexed to the application only a very small part of the land is in Sourton) to reduce the number to approximately one twentieth. No. 982 (Mr H Littlejohn): it seems to me appropriate (because I guess that OS 168 in Belstone is a very small part of the whole) to reduce the number to one seventeenth. But because I may be mistaken in my reading of the maps, I give as regards numbers to those concerned LIBERTY TO APPLY. No. 674 (F W Green), is objected to as regards Okehampton and Sampford Courtenay; in the absence of any evidence my decision is that this registration should be avoided at least as regards these lands, and as regards piscary and so as to give effect to the Water Authority Provision; as regards part Moor View, in the absence of any evidence or concession my decision is that as regards this land too registration should be avoided (so there will be nothing left). But because there may be a mistake in the conclusions I am drawing from the registrations, I give to those concerned LIBERTY TO APPLY. As to such liberty see paragraph 11 of the Fourth (and last) Schedule hereto.

As to registrations expressed to be limited or restricted one Quarter (rather than the whole) of the Unit Land, on behalf of the Duchy, during the hearing it was indicated that they did not object to these limitations or restrictions being removed as regards any registrations mentioned in Parts II and III of the First Schedule by enlarging the registration to the whole of the Unit Land. Nobody at the hearing suggested that there was any reason why I should not do this. By so doing I shall be giving the effect to the Duchy's withdrawal of Objections Nos 316, 317, 318, 319, 478 and 982; so my decision is accordingly.

As to the registrations specified in Duchy Objections Nos 315, 380 and 981 (right does not exist) Mr Sturmer in the course of his evidence said that these Objections were made on the advice of Mr Toms who thought that the rights did not exist; they had not, as far as he Mr Sturmer knew ever been exercised. In the absence of any evidence in support of the registrations and on the evidence of Mr Sturmer, my decision is that none of these registrations should have been made except so far as I have for reasons appearing elsewhere in this decision, in Part III of the First Schedule hereto said that they should be confirmed in whole or in part.



Final

During the preparation of the Fourth (and last) Schedule hereto I discovered that my various decisions herein before set out did not cover the registrations at Entry Nos 387 (Leslie Archibald Roger Huggins in respect of land at Lydford), 476 (Lily Russell in respect of Taviton, Tavistock Hamlets), 483 (Alice May Wakeham, OS pt 383, Petertavy), 553 (Price Norman Smith in respect of land adjoining Beechlands, Chagford), 907 (John A T Hodge and Jack W Reddaway in respect of Beardon Farm, Princetown), 1043 (replacing part of 130, Mary Louise Legassick in respect of part of Taviton Farm, Tavistock) and 1044 (replacing remainder of 130, Ivy Alford in respect of another part of Taviton Farm, Tavistock). I cannot find any of these expressly mentioned in any Objection or concession, and I consider that I should not give a decision about them until those concerned have had an opportunity of making representations to me for which purpose I give LIBERTY TO APPLY for an adjourned hearing. But because it is possible no person will apply, to save the expense of an adjourned hearing at which nobody attends, I now state that unless I am before the expiration of four months from when notice of this decision is sent out, satisfied that I ought to hold a further hearing I shall publish a second supplementary decision by which I shall CONFIRM the registration at No. 907 WITH MODIFICATION in column 4, delete "the Western Quarter of" and delete "together with straying rights on the Northern Quarter" and my reasons for so doing are that I think it likely that one of the figures "906" in Duchy/43 (see part II of the First Schedule hereto) is a mistake for 907 and if this figure had been so written I would in this decision have given this confirmation; and by which I shall REFUSE CONFIRMATION of the registrations at Nos 387, 476, 553, 1043 and 1044 and my reasons for so doing are that these registrations are in question by the operation of subsection (7) of section 5 of the Commons Registration Act 1965 and on the information available to me I think it unlikely that they could be established.

Having regard to the length of the hearings and the complexity of the proceedings I realise that this decision may contain not only clerical errors but also errors due to my incorrectly recording agreements and concessions made to me and possibly other errors which I ought to correct without putting the parties to the expense of an appeal. Accordingly I give all persons who attended or were represented at the hearing or were entitled to be heard at it LIBERTY TO APPLY to me to alter this decision and, as far as I am unable in the absence of an agreement to make such an alteration to re-open the hearing. Such liberty should be exercised in accordance with the last paragraph of the Fourth (and last) Schedule hereto.

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

(CL 164: Rights Section)

Part I: Nos of Registrations

Nos mentioned in references by Registration Authority to Commons Commissioner	Nos. of replacements of Registrations in Column 1, or of 1971/72 amendments	Nos cancelled or otherwise not relevant
1-73	No. 29 replaced by Nos 1061 and 1062	74
75-79	No. 33 replaced by Nos 1028 and 1029	
100-199	No. 130 replaced by Nos 1043 and 1044 No. 132 replaced by Nos 1083 and 1084 No. 166 replaced by Nos 1046 and 1047	
200-298	No. 212 replaced by Nos 1031 and 1032	
300-399	No. 345 replaced by Nos 1130 and 1131 No. 375 replaced by Nos 1092 and 1093	
400-446	No. 403 replaced by Nos 1106, 1107 and 1108	
448-494	No. 411 replaced by Nos 1117 and 1118	447
	No. 412 modified 29/4/71	
	No. 471 replaced by Nos 1114 and 1115	
	No. 484 replaced by Nos 1098 and 1099	495
496-499		
500-554	No. 516 replaced by Nos 1120 and 1121	
556	No. 521 replaced by Nos 1052 and 1053	555
558-559	Amended 7/12/72 No. 582 replaced by Nos 1080 and 1081	557
600-676	No. 610 replaced by Nos 1055 and 1056	
678-699	No. 633 replaced by Nos 1058 and 1059	677
700-749	No. 714 replaced by Nos 1071 and 1072 No. 720 replaced by Nos 1034 and 1035 No. 721 replaced by Nos 1037 and 1038 No. 722 replaced by Nos 1110, 1111 and 1112	750
751-768	No. 757 replaced by Nos 1101 and 1102	769
770-799		
800-817		818
819-824	No. 824 replaced by Nos 1123 and 1124	825
827-863	No. 839 amended 25/6/73 No. 845 replaced by Nos 1126, 1127 and 1128	826



865-867	No. 846 replaced by Nos 1095 and 1096	864
869-899	No. 873 replaced by Nos 1104 and 1105	868
	No. 888 replaced by Nos 1040 and 1041	
900-929		930
931-999	No. 938 replaced by Nos 1068 and 1069	
1000-1018		1019
		1020
		1021
		1022
		1023
1024-1027		

Part II Replacement Registrations

1028-1029		1030
1031-1032	No. 1031 replaced by Nos 1049 and 1050	1033
1034-1035		1036
1037-1038		1039
1040-1041		1042
1043-1044		1045
1046-1047	No. 1046 replaced by Nos 1114 and 1115	1048
1049-1050		1051
1052-1053		1054
1055-1056		1057
1058-1059	No. 1059 replaced by Nos 1064, 1065 and 1066	1060
1061-1062	No. 1061 replaced by Nos 1086 and 1087 No. 1062 replaced by Nos 1074 and 1075	1063
1064-1066		1067
1068-1069	No. 1069 replaced by Nos 1077 and 1078	1070
1071-1072		1073
1074-1075		1076
1077-1078		1079
1080-1081		1082
1083-1084		1085
1086-1087	No. 1086 replaced by Nos 1089 and 1090	1088
1089-1090		1091
1092-1093		1094
1095-1096		1097
1098-1099		1100
1101-1102		1103
1104-1105		1106
1107-1108		1109
1110-1112		1113
1114-1115		1116
1117-1118		1119
1120-1121		1122



1123-1124
1126-1127
1130-1131

1125
1129

Part II: Venville registrations
which Duchy concede are valid

Notes:- "Venville" was used as meaning that payments have been made to the Duchy either in respect of the "attached" land mentioned in the registration or in respect of the parish in which the attached land is situated, and in this list are included registrations in respect of attached land believed to be "ancient tenements", therefore are not within such meaning. The Duchy are agreeable that all the registrations below mentioned which contain the words "to stray" be modified by substituting for such words: "to graze". The concession does NOT extend to shooting, piscary, pannage, taking animals and birds, or taking minerals.

1, 4, 5, 6, 7, 22, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41,
42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60,
61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 78, 79, 80, 82, 83, 84,
85, 86, 92, 95, 96, 97, 98, 99
100, 108, 110, 111, 114, 115, 116, 118, 119, 120, 122, 123, 124, 125, 126, 131,
134, 135, 136, 137, 139, 140, 141, 142, 143, 144, 145, 147, 148, 149, 156, 158,
159, 161, 164, 165, 167, 168, 169, 171, 172, 173, 174, 176, 177, 178, 179, 180,
181, 182, 183, 185, 190, 191, 192, 193, 195, 199,
200, 201
392, 393, 394, 395, 396, 397, 398, 399
400, 401, 402, 404, 405, 407, 408, 414, 416, 417, 418, 434, 436, 437, 438, 439,
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500, 502, 503, 504, 510, 511, 513, 514, 515, 517, 518, 519, 520, 522, 524, 525,
526, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 543, 547, 549,
550, 552, 554, 559, 560, 561, 562, 563, 565, 567, 569, 575, 577, 579, 580, 583,
584, 585, 586, 587, 591, 592, 594, 595, 596, 597, 598, 599
600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 611, 612, 613, 614, 615, 616,
617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632
634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649,
650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665,
666, 667, 668, 669, 670, 671, 672, 678, 679, 680, 681, 682, 683, 684, 685, 686,
687, 691, 692, 693, 694, 695
701, 704, 705, 706, 710, 712, 713, 716, 717, 724, 725, 730, 735, 737, 738, 739,
742, 743, 744, 748, 758, 760, 761, 766, 767, 770, 771, 772, 777, 778, 779, 780,
781, 782, 783, 784, 787, 788, 790, 792, 793, 794, 795, 796, 798, 799
800, 801, 802, 803, 804, 805, 809, 810, 811, 812, 813, 815, 817, 819, 821, 828,
829, 830, 832, 836, 845, 863, 865, 872, 874, 875, 878, 879, 882, 890, 891, 892,
893, 894, 896, 899
902, 903, 905, 906, 909, 910, 913, 915, 920, 925, 927, 928, 931, 932, 933, 935,
937, 939, 941, 945, 946, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 959,
960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975,
976, 977, 978, 980, 983, 985, 988, 989, 993, 994, 995, 996



1013, 1016, 1017, 1024, 1028, 1029, 1047, 1052, 1053, 1055, 1056, 1058, 1064,
1065, 1066, 1071, 1072, 1074, 1075, 1077, 1078, 1083, 1084, 1087, 1089, 1090,
1098, 1099
1101, 1102, 1106, 1107, 1108, 1110, 1111, 1112, 1114, 1115, 1120, 1121, 1123,
1124

**Part III: Valid not
in Venville registrations
conceded by Duchy**

Notes: "Not in Venville" was used as meaning that no payments have been made to the Duchy in respect of the attached land mentioned in the registrations and that the concession was made either because the attached land is situated in a reputed Venville parish or because it was thought that a prescriptive right could be proved in respect of the attached land. The Duchy are not agreeable that any registration containing "to stray" be modified by substituting for such words "to graze". The concession does not extend to shooting, piscary, pannage, or taking animals and birds.

63, 74, 75, 78, 81, 93, 94
109, 112, 113, 117, 121, 127, 128, 129, 138, 157, 162, 163, 184, 186, 187, 188,
189, 194, 195, 196
384, 385, 386, 388, 389, 390
406, 409, 410, 412, 413, 415, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428,
429, 430, 432, 450, 477, 479, 480
501, 505, 506, 507, 508, 509, 512, 523, 527, 528, 529, 542, 544, 545, 546, 548,
551, 556, 558, 564, 566, 568, 570, 588, 589, 590, 593
702, 703, 711, 718, 719, 723, 728, 734, 736, 747, 755, 759, 773, 774, 785, 786,
789, 791, 797
806, 807, 808, 814, 820, 823, 831, 833, 834, 835, 837, 838, 839, 840, 841, 842,
843, 844, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 861, 862, 867, 869,
871, 883, 884, 885, 886, 887
900, 901, 904, 911, 918, 919, 921, 922, 923, 929, 940, 943, 944, 947, 991, 992,
999
1001, 1003, 1004, 1014, 1015, 1018, 1025, 1026, 1027, 1034, 1035, 1037, 1038,
1040, 1041, 1042, 1043, 1044, 1068
1104, 1105, 1117, 1118

Notes to Parts II and III above:- 74 was cancelled 30/7/73. 75, 78 and 195 appear in both lists. At hearing Duchy when withdrawing Objection 981 as regards Nos 215, 688, 689, 690 and 1016 conceded they were in Venville or a Duchy holding. It being of no practical consequence for the purpose of this decision whether these numbers 75, 78, 195, 215, 688, 689, 690 and 1016 are in Part II or Part III, I have in the Fourth (and last) Schedule hereto treated them as all being in Part II. In Duchy/43, No. 906 appears twice, perhaps one is a mistake for 907?



Part IV: Registrations particularly
mentioned at hearing

No. 38

Charles Heathman; Higher Worden and Alice Ford, Sourton; tenant; turbary, cut rushes and bracken, take stone, graze 24 cattle; over "whole of the land comprised in register unit number CL 164(N) CL 96 .."

Representation: none.

Duchy agreed registration as being in Venville, see Part II above. Registration is in conflict with that at No. 956.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 42

Edgar Walter Alford; Woodgates Farm, Sourton; tenant; turbary, cut rushes and bracken, graze 24 cattle, 2 ponies, 140 sheep; over "the whole of the land comprised in this register unit".

Representation: none.

Duchy conceded registration as being in Venville, see Part II above. Registration is in conflict with that at No. 951.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 49

Albert Stephen George Daniel; land being OS Nos 566 etc in Sourton; tenant; turbary, cut rushes and bracken, take stone, graze 6 cattle and 30 sheep; over "whole of land comprised in register unit number 164(N)".

Representation: none.

Duchy conceded registration as being in Venville, see Part II above. The registration is in conflict with that at No. 953.

For reasons under heading "Others",
CONFIRMATION REFUSED



No. 55

William Patrick Fogerty; part Collavenn and Ball Park, Sourton; tenant; turbary, cut rushes and bracken, take stone, graze 18 cattle, 100 sheep; over "whole" of land comprised in register unit number CL 164(N) CL 96 .."

Representation: none.

Duchy conceded registration as being in Venville, see Part II above. The registration is in conflict with that at No. 957.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 57

Clifford Horn; Coombe Farm, Sourton; tenant; turbary, cut rushes and bracken, take stone, graze 50 cattle, 480 sheep; over "whole of the land comprised in register unit numbers CL 164(N) .."

Representation: none.

Duchy conceded registration as being in Venville, see Part II above. Registration is in conflict with that at No. 960.

For reasons under heading "Others",
CONFIRMATION REFUSED



No. 59

Geoffrey William Alford; part Hall Farm, Sourton; tenant; turbary, cut rushes and bracken, take stone, graze 10 cattle 50 sheep; over "whole of the land comprised in register unit numbers CL 164(N) CL 96 .."

Representation: none.

Duchy conceded registration is in Venville, see Part II above. The registration and No. 85 conflicts with that at No. 954.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 85

Edward Fred Curren; Palmers, Sourton; owner; graze 10 cattle, 22 sheep, cut rushes and bracken, take stone, turbary; over "the whole of the land comprised in register unit numbers CL 164(N), CL 96 .."

Representation: none.

Duchy conceded registration is in Venville, see Part II above. The registration is in conflict with that at No. 954.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 86

Brian William John Lavis; Great Cranford Farm, Bridestowe; tenant, graze 100 cattle, 620 sheep, take stone, cut bracken and rushes, turbary; over "the whole of the land comprised in register unit numbers CL 164(N) and CL 96 ..."

Representation: none.

Duchy conceded registration is in Venville, see Part II above. The registration is in conflict with that at No. 961.

For reasons under heading "Others",
CONFIRMATION REFUSED



No. 89

Herbert Hugh Whitley; Moorgate Farm Okehampton; owner; graze 500 breeding ewes and their followers; "over the whole of the land comprised in register unit number CL 164(N), CL 135 and CL 195.

Representation:- Mr H H Whitley was represented by Mr F J Woodward

Objection No. 315 (Duchy) "do not exist at all".

For reasons under heading "Moorgate Farm, Okehampton, CONFIRM WITH MODIFICATION in column 4 for "in register unit number CL 164(N)" substitute "in this register unit and register unit numbers".

No. 101

Andrew John Wotton: Great Stert, Sparkwell; tenant; cut bracken and rushes, graze 120 cattle 400 sheep; "over the whole of the land comprised in register unit CL 164(S) and ..."

Representation:- Mr A J Wotton was represented by Mr P W Harker

Objection No. 545 (Duchy) a grazing right on the South Quarter does not exist.

For reasons given under heading "Others",
CONFIRMATION REFUSED

No. 102

Andrew John Wotton; Part Great Stert Farm; tenant; cut bracken and rushes, graze 360 sheep; "over the whole of the land comprised in register unit number CL 164(S) ..."

Representations:- Mr A J Wotton was represented by Mr P W Harker (see No. 101 above)

Objection No. 545 (Duchy), a grazing right on the South Quarter does not exist.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 103

Dennis Basil Haines Cannon, Mrs Elsie Mary Cannon; Part Hanger and Houndle Farm, Cornwood; tenants; cut bracken and ferns, graze 160 sheep, "over the whole of the land comprised in register unit CL 164(S) and ..."

Representations:- Mrs E M Cannon was represented by Mr P W Harker who said that Mr D B H Cannon is now deceased.

Objection No. 545 (Duchy), a grazing right on the South Quarter does not exist.

For reasons under heading "Others",
CONFIRMATION REFUSED



No. 104

Dennis Basil Haines Cannon and Elsie Mary Cannon; Uppaton; Cornwood; tenants; cut rushes and bracken; -graze 485 sheep; "over the whole of the land comprised in register unit CL 164(S) and ..."

Representation:- Mrs E M Cannon was represented by Mr P W Harker (see No. 103 above)

Objection No. 545 (Duchy), a grazing right over the South Quarter does not exist

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 105

Mrs Elsie Mary Cannon; land at Cornwood; OS No. 1051; owner; cut bracken and rushes, graze 45 sheep; "over the whole of the land comprised in register unit CL 164(S) and ..."

Representation:- Mrs E M Cannon was represented by Mr P W Harker (see No. 103 above)

Objection No. 545 (Duchy), a grazing right on the South Quarter does not exist

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 106

Andrew John Wotton; land in Cornwood OS Nos 158, 979, 915, 976, 977; tenant; cut bracken and rushes, graze 160 sheep; "over the whole of the land comprised in register units CL 164(S), CL 112 and ..."

Representation: Mr A J Wotton was represented by Mr P W Harker, see No. 101 above.

Objection No. 545 (Duchy), a grazing right on the South Quarter does not exist

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 107

Andrew John Wotton; Part Great Stert Farm OS Nos 1102 and 1309, Sparkwell; owner; cut bracken and rushes, graze 80 sheep; "over the whole of the land comprised in register unit numbers CL 164(S) and ..."

Representation: Mr A J Wotton was represented by Mr P W Harker (see No. 101 above)

Objection No. 525 (Duchy), a grazing right on the South Quarter does not exist.

For reasons under heading "Others",
CONFIRMATION REFUSED



No. 111

Olive Mary Jury and Sons; Lake Farm, Sourton; tenants; turbary, take stone, cut rushes and bracken, graze 50 cattle, 270 sheep; over "whole of the land comprised in register unit numbers CL 164(N) and CL 96 ..."

Representation: none.

Duchy conceded in Venville, see Part II above. The registration is in conflict with that at No. 959.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 123

Vice Admiral Sir Guy Bouchier Sayer and Lady Sylvia Rosalind Pleadwell Sayer; Old Middle Cator; Widecombe-in-the-Moor owners; cut peat and turves; take stone, sand and gravel and heath and fern; graze 2 cattle or ponies, 10 sheep; "over the whole of the land comprised in this register unit and ..."

Representation: Lady Sayer attended in person on her own behalf and as representative for Sir Guy B Sayer

No relevant Duchy Objection; Duchy at hearing agreed registration as being in Venville.

For reasons under heading "Others" CONFIRM WITH MODIFICATION in column 4 add at the end "subject as regards taking stone, sand and gravel to the Water Authority Provision in this Rights Section defined".

No. 124

David Miller Scott; The Village Farm, Holne; turbary, estovers, dig stone and sand, graze 52 bullocks or ponies, 208 sheep; "over the whole of the land comprised in this register unit and register unit Nos ..."

Representation:- Admiral Sir James H F Eberle of Village Farm as successor in title to Mr D M Scott (now deceased) attended in person

No relevant Duchy Objection; Duchy at hearing agreed registration as being in Venville.

For reasons under heading "Others" CONFIRM WITH MODIFICATION in column 4 add at the end "subject as regards digging stone and sand to the Water Authority Provision in this Rights Section defined".



No. 129

Mrs Hilda Emily Heathman Glass; Town Farm, Lydford; owner; turnary, take stone, cut rushes and bracken, graze 15 cattle 80 sheep; over the whole of the land in register unit number CL 164(N) and CL 64 together with straying right on ... CL 164(W).

Representation: none

Duchy conceded as being in Venville, see Part II above. This registration is in conflict with that at No. 157.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 183

John Ford Northmore; OS Nos 748, 749, 732, 742, 741, 743 at Lovaton, Meavy; owner; graze 10 cattle, 30 sheep; "over the whole of the land comprised in register unit number CL 164(S) and ..." Stall Moor (part CL 112) and Lynch Common (part CL 191) together with straying rights on to Ringmoor (part CL 188).

Representation:- Mr Norman Kenneth Skelley as successor in title with his wife Mrs Ethel Mary Skelley to OS Nos 742, 741 and 743 (lot 2) under a conveyance dated 3 January 1977 made by the personal representative of Mr J F Northmore (he died 8 April 1977) to him and a conveyance dated 24 May 1979 made by himself, was represented by Mr P W Barker; Mr Arnold Henry Cole as successor in title with his wife Mrs Bridget Elizabeth Cole to OS Nos 748 and 749 (north 6.1 acres of lot 1) under a conveyance dated 3 January 1978 made by the said personal representatives to Mrs Frederick Ford Northmore and Mrs Rose Northmore and a conveyance dated 19 May 1982 and made by them to Mr A H and Mrs B E Cole, was also represented by Mr P W Barker; and Mr Reginald Hopkin Huxsey of Underhayes, Underhayes Lane, Launceston, as successor in title to OS No. 742 under the last mentioned 1978 conveyance, a contract dated 19 April 1982 (completed 19 May) and made by the said Mr F F and Mrs R Northmore, was also represented by Mr P W Barker.

Duchy conceded although not in Venville, see Part III. Objection No. 1096 (E F Palmer), no rights exist.

For reasons under heading "Fields at Lovaton (formerly owned by Mr J F Northmore)"
CONFIRMATION REFUSED



No. 157

Richard Peter Brendon; Town Farm and Mary Tavy Glebe; owner and tenant; turbary, piscary, estovers, take stone and gravel, graze 100 stock units with their young on the NFU scale of 24 July 1967; over the whole of the land comprised in this register unit.

Representation: none.

Duchy conceded as being in Venville, see Part II above. This registration is in conflict with that of No. 129.

For reasons under heading "Others", CONFIRM WITH MODIFICATION in column 4, delete "piscary", and add at end "subject as regards taking stone and gravel to the Water Authority Provision in this Rights Section defined".

No. 171

Bennah Ltd and Francis Arthur Perryman; Mill Leat Farm, Holne; owner/tenant; graze 78 bullocks or ponies 312 sheep or their equivalent on NFU scale; "over the whole of the land comprised in this register unit ..."

Representations:- Bennah Ltd was represented by Mr P J R Michelmore

Duchy conceded registration as being in Venville, see Part II above

For reasons under heading "Others",
CONFIRM WITHOUT ANY MODIFICATION



No. 172

Bennah Ltd and William Rodney Perkins; Shuttaford Farm, Holne; owner/tenant; graze 58 bullocks or ponies, 231 sheep or their equivalent on NFU scale; "over the whole of the land comprised in this register unit and ..."

Representation:- Bennah Ltd was represented by Mr P J R Michelmores

Duchy conceded registration as being in Venville, see Part II above

For the reasons under heading "Others",
CONFIRM WITHOUT ANY MODIFICATION

No. 173

Bennah Ltd and Arthur Henry Brown; Staddicombe Farm; owner/tenant; graze 106 bullocks or ponies, 424 sheep or their equivalent on NFU scale; "over the whole of the land comprised in this register unit and ..."

Representation:- Bennah Ltd was represented by Mr P J R Michelmores

Duchy conceded registration as being in Venville, see Part II above.

For the reasons under heading "Others",
CONFIRM WITHOUT ANY MODIFICATION

No. 174

Bennah Ltd and Lewis George Patterick; Chasegate Farm, Holne; owner/tenant; graze 70 bullocks or ponies, 280 sheep or their equivalent on NFU scale; "over the whole of the land comprised in this register unit ..."

Representation:- Bennah Ltd was represented by Mr P J R Michelmores

Duchy conceded registration as being in Venville, see Part II above

For reasons under heading "Others",
CONFIRM WITHOUT ANY MODIFICATION



No. 185

Thomas May; land at Lydford, OS Nos 191a, 190a (pt), 123; tenant; turbary, take stones, cut bracken and rushes, graze 20 sheep; over the whole of the land comprised in register unit numbers 164(S) and ... with straying rights on to ... CL 164(N).

Representation: none.

Duchy concedes although not in Venville, see Part III above. This registration is in conflict with that at No. 923.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 192

Clifford Charles Gloyn and Lionel George Gloyn; Fernworthy, Bridestowe; tenants; turbary, take stones, cut bracken and rushes; graze 20 cattle, 105 sheep; "over the whole of the land in register unit numbers CL 96 and CL 164(N) ..."

Representation: none, but Mr L G Gloyn wrote a letter dated 21 April 1982 saying his brother Mr C C Gloyn is deceased.

Duchy conceded registration as being in Venville, see Part II above. The registration conflicts with that at Entry No. 969.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 199

Keith Stephen Fox; Ley Farm, Widecombe-in-the-Moor; owner, graze 14 bullocks or ponies, 56 sheep or their equivalent on NFU scale; "over the whole of the land comprised in this register unit and ..."

Representation:- Mr K S Fox was represented by Mr P J R Michelmores

Duchy conceded registration as being in Venville, see Part II above.

For reasons under heading "Others",
CONFIRM WITHOUT ANY MODIFICATION



No. 200

Keith Stephen Fox; Lower Natsworthy Farm, Widecombe-in-the-Moor; owner; graze 59 bullocks or ponies, 236 sheep or their equivalent on NFU scale; "over the whole of the land comprised in this register unit and ..."

Representation:- Mr K S Fox was represented by Mr P J R Michelmore

Duchy conceded registration as being in Venville, see Part II above.

For reasons under heading "Others",
CONFIRM WITHOUT ANY MODIFICATION

No. 201

Keith Stephen Fox; Higher Natsworthy Farm, Widecombe-in-the-Moor; owner; graze 41 bullocks or ponies, 164 sheep or their equivalent on NFU scale; "over the whole of the land comprised in this register unit and ..."

Representation:- Mr K S Fox was represented by Mr P J R Michelmore

Duchy conceded registration as being in Venville, see Part II above.

For reasons under heading "Others",
CONFIRM WITHOUT ANY MODIFICATION

No. 202

Robert Edward Skelley and Robert Lewis Skelley; land comprising numerous OS numbers Ugborough; owners; graze 47 cattle 3 ponies 250 sheep (or any combination based on 5 sheep = 1 beast); "over the whole of the land comprised in register unit Nos CL 164(S) and CL 156 together ..."

Representation:- Mr R E Skelley and Mr R L Skelley were represented by Mr P W Harker

Duchy Objection No. 315 "not exist at all".

In the absence of any evidence in support of the registration, for reasons in last paragraph under heading "Other",
CONFIRMATION REFUSED

No. 204

Henry John Daniels; Yolland Brook Farm, Bittaford; owner; graze 15 cattle 50 sheep (or any combination based on 5 sheep = 1 beast); "over the whole of the land comprised in the register unit numbers CL 164(S) and ..."

Representation:- Mr H J Daniels was represented by Mr P W Harker

Duchy Objection No. 315, "not exist at all".

In the absence of any evidence in support of the registration, for reasons in last paragraph under heading "Others",
CONFIRMATION REFUSED



No. 218

Thomas Cole; West Peeke Farm, Bittaford; owner; stray 63 cattle or 63 ponies or 315 sheep with progeny under 12 months old; over "the whole of the land comprised in this register unit ... from CL 156".

Representation: Mr T Cole was represented by Mr P W Harker

No Duchy Objection or concession

Mr Harker said (9/vi) no evidence would be offered in support of this registration.

For reasons under heading "Straying",
CONFIRMATION REFUSED

No. 365

Dr Henry Parsons Burrows and James William Northmore; Lower Hale Farm and Ford Waste, Cornwood; owner/tenant; stray 120 cattle 5 ponies 500 sheep (or any combination based on 5 sheep = 1 beast) "onto the whole of the land comprised in register unit CL 164(S) and ... from CL 112"

Representation:- Dr H P Burrows and Mr J W Northmore attended in person

Duchy Objection No. 981, "right does not exist".

For reasons under heading "Straying" and "Others",
CONFIRMATION REFUSED

No. 366

Dr Henry Parsons Burrows and John Alfred Stranger Moysey; Higher Hale Farm, Cornwood; owner/tenant; stray 98 cattle 490 sheep (or any combination based on 5 sheep = 1 beast); "onto the whole of the land comprised in register unit CL 164(S) and ... from CL 112".

Representation:- Dr H P Burrows attended in person

Duchy Objection No. 981, "right does not exist".

For reasons under headings "Straying" and "Others",
CONFIRMATION REFUSED



No. 367

Dr Henry Parsons Burrows; land at Tor, Cornwood; stray 5 sheep 2 cattle (or any combination based on 5 sheep = 1 beast); "onto the whole of the land comprised in register unit CL 164(S) and ... from CL 112".

Representation:- Dr H P-Burrows attended in person

Duchy Objection No. 981, "right does not exist".

For reasons under headings "Straying" and "Others",
CONFIRMATION REFUSED

No. 368

Dr Henry Parsons Burrows; land at Stone, Cornwood; owner; stray 5 cattle 25 sheep (or any combination based on 5 sheep = 1 beast); "on the whole of the land comprised in register unit CL 164(S) and ... from CL 112".

Representation:- Dr H P Burrows attended in person

Duchy Objection No. 981, "right does not exist".

For reasons under headings "Straying" and "Others",
CONFIRMATION REFUSED

No. 369

Dr Henry Parsons Burrows; Coombe Farm with Coombe Waste and Narrowthorn Plantation in Cornwood; owner; stray 60 cattle 175 sheep (or any combination based on 5 sheep = 1 beast); "onto the whole of the land comprised in register unit CL 164(S) and ... from CL 112".

Representation:- Dr H P Burrows attended in person

Duchy Objection No. 981, "right does not exist".

For reasons under headings "Straying" and "Others",
CONFIRMATION REFUSED

No. 370

Dr Henry Parsons Burrows; Watercombe Farm, Cornwood; owner; stray 85 cattle 10 ponies 275 sheep (or any combination based on 5 sheep = 1 beast); "onto the whole of the land comprised in register unit CL 164(S) and ... from CL 112".

Representation:- Dr H P Burrows attended in person

Duchy Objection No. 981, "right does not exist".

For reasons under headings "Straying" and "Others",
CONFIRMATION REFUSED



No. 374

Robert Henry Jane; land at Monksmoor, Ugborough; stray 130 cattle, 30 ponies, 250 sheep; "onto the whole of the land comprised in this register unit and ... from CL 156".

Representation:- Mr R H Jane attended in person

Duchy Objection No. 981, "does not exist".

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 389

Leslie Archibald Roger Huggins; land at Lydford comprising OS Nos 39, 40 and 41; tenant; turbary, take stone, cut bracken and rushes; graze 42 sheep; over the whole of the land comprised in register unit number CL 164(N) ... with straying right on ... CL 164(W) ...

Representation: none

Duchy conceded although not in Venville, see Part III above. This registration conflicts with that at No. 923.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 407

George Thomas James Medland; Shillapark, Whitchurch as set out in column 5 of Entry No. 96 in CL 3 register; owner; turbary, take stones, cut bracken and rushes, graze 25 cattle 125 sheep; over the whole of the land comprised in register unit number CL 164(W) ...

Representation: none

Duchy concedes as being in Venville, see Part II above. The registration conflicts with that at No. 896.

For reasons under heading "Others",
CONFIRMATION REFUSED



No. 411 replaced by Nos 1117 and 1118

Timothy Francis Kirk and Stephance Elizabeth Kirk; Parktown Farm; owners; turbary, take stones, cut bracken and rushes, graze 6 cattle and 30 sheep; "over the whole of the land in this register unit ..."

Colin Mark Northmore; part of Parktown Farm, Walkhampton; owner; turbary, take stones, cut bracken and rushes, graze 64 cattle 270 sheep; over "the whole of the land comprised in this register unit and ..."

Representation:- none

No Duchy objection or concession. Objection No. 1096 (E F Palmer), "no rights exist".

Mr Palmer said (21/x) that this registration had been withdrawn by Maristow Estates, meaning I suppose that their Trustees had somehow become owners. However this may be in the absence of evidence in support of it, CONFIRMATION REFUSED

No. 430

Henry Harvie Cole; land at Greenwell and Lovaton, Meavy, set out in column 5, Entry No. 59 CL 112 being OS Nos 309, 310, 332, 333, 334, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 356, 355, 354, 374, 375, 376, 351, 352, 353, 304, 297, 296, pt 380, pt 448, 378, pt 377, 306, 308, 292, 387, 757, 756, 760, 762, 763, 764, 758 and 759; owner; stray 5 ponies, 100 cattle, 355 sheep; "on the whole of the land comprised in register unit CL 164(S) and CL 93 and CL 190 from CL 191".

Representation:- Mr H H Cole and his son Mr Arnold Henry Cole as the present owners were both represented by Mr P W Harker.

Duchy concede registration although not in Venville, see Part III above. Objection No. 1097 (E F Palmer), "no right to stray".

For reasons under heading "Greenwell Farm ..."
CONFIRMATION REFUSED

No. 431

Roborough Estate Trustees and Arthur William Kingwell; land at Cadworthy, Meavy; owner/tenant; stray 30 units on any NFU scale; "over the whole of the land comprised in register units CL 164(S) and (W) and CL 190 ... from CL 191".

Representation:- none

No Duchy objection or concession. Objection No. 1097 (E F Palmer), "no rights to stray".

Mr Palmer said (21/x) that he understood that the Maristow Estates had withdrawn the registration. For reasons under heading "Straying", CONFIRMATION REFUSED



No. 432

Roborough Estate Trustees, and Colin Mark Northmore; Gratton Farm, Meavy; owner/tenant; stray 125 units according to NFU scale; onto "the whole of the land comprised in register unit number CL 164(W) and (S) and ... from CL 37 and CL 191".

Representation: none

Objection No. 1097 (E F Palmer), "no right to stray".

Mr Palmer said (21/x) that he understood that Maristow Estates had withdrawn the registration. For reasons under heading "Straying", CONFIRMATION REFUSED

No. 439

Mrs Peggy Delphine Garvey; Vale Down, Bridestowe; owner and tenant; turbary, take stone, cut bracken and rushes, graze 25 ponies; over "whole of land comprised in register unit number CL 164(N) ..."

Representation: none

Duchy conceded registration as being in Venville, see Part II above. The registration is in conflict with that at Entry No. 962.

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 444

Phillip Ivan Pellow; Kerslake Farm, Meldon, Okehampton Hamlets; owner; turbary, piscary, estovers, take stones and gravel, graze 40 cattle, 300 sheep, 20 ponies "over the whole of the land comprised in this register unit and ..."

Representation: Mr P I Pellow was represented by Mr F J Woodward.

Duchy Objection No. 380, "right does not exist"; Duchy Objection No. 312, no piscary.

For reasons under heading "Kerslake Farm, Meldon, Okehampton Hamlets"
CONFIRM WITH MODIFICATION in column 4 delete "piscary" and add at the end as regards taking stones and gravel subject to the Water Authority Provision in this Rights Section defined.



No. 463

Mrs Kathleen Olive Mary Crowther; Warmacombe, West Buckfastleigh; owner; stray 35 cows or ponies or 175 sheep with progeny; "over the whole of the land comprised in this Register Unit ... from CL 146"

Duchy conceded registration as being in Venville, see Part II, above. Objection No. 1088 (W J Edmunds), should read "to graze 35 cows or 35 ponies or ... (as above)".

For reasons under heading "Others", CONFIRM WITH MODIFICATION in column 4, for "to stray" substitute "to graze", and delete "CL 162, CL 153 from CL 146".

No. 466

Major John David Cooke-Hurle; Coombestone Farm, Holne; owner; graze 118 bullocks, 472 sheep or their equivalent; "over the whole of the land comprised in this register unit and ..."

Representation:- Mrs P M Belsey of Coombestone Farm as successor in title to Major J D Cooke-Hurle was represented by Mr P J R Michelmores.

Duchy conceded registration as being in Venville, see Part II above.

For reasons under heading "Others", CONFIRM WITHOUT ANY MODIFICATION

No. 487

Herbert Edward Coles and Rosamond Isabel Coles; West Combeshead Farm, Harford; owners; stray 20 cattle 150 sheep (or equivalent 5 sheep = 1 beast); on "the whole of the land comprised in register unit numbers CL 164(S), CL 112 ... from CL 195".

Representation:- Mr John Thomas Cole of West Combeshead Farm as successor in title of Mr H E Coles and Mrs R I Coles was represented by Mr P W Harker.

Duchy Objection No 981, right does not exist at all.

Mr Harker said (9/vi) no evidence would be offered in support of this registration.

For reasons under heading "Straying", CONFIRMATION REFUSED

No. 488

Mrs Mary Louise Cole; Broomhill Farm, Harford; owner; stray 94 cattle or 94 ponies or 470 sheep (with followers); over "the whole of the land comprised in this register unit and ... from register unit number CL 195".

Representation:- Mr John Thomas Cole of West Combeshead Farm, as son of Mrs M L Cole now deceased, was represented by Mr P W Harker.

Duchy Objection No. 981, does not exist at all.

For reasons under heading "Broomhill Farm, Harford", CONFIRMATION REFUSED



No. 498

Sidney George Saunders; OS No. 20 at East Lake, Belstone; tenant; turbary, take stones, cut bracken and rushes, graze 32 cattle; over whole of land comprised in register unit No. CL 164(N) and (E).

Representation:- none.

Duchy conceded as being in Venville, see Part II above. The registration conflicts with that at Entry No. 673.

At hearing the conflict removed by agreement, see Entry No. 673 in this Part of this Schedule. CONFIRM WITH MODIFICATION in column 4, for "comprised in register unit No. CL 164(N) and (E)", substitute "comprised in this register unit and" and add at the end "subject as regards taking stones to the Water Authority Provision in this Rights Section defined".

No. 500

Russell Hamlyn Manning; Yellowmead Farm, Sheepstor; owner; turbary, take stones, cut bracken and rushes, graze 10 ponies, 40 cattle, 300 sheep; "over the whole of the land comprised in register unit numbers CL 164(S) and ..."

Representation:- Mr William Nelson Palmer of Hillington Farm, Sheepstor as successor in title of Mr R H Manning, was represented by his brother Mr E F Palmer.

Duchy conceded registration as being in Venville, see Part II above.

For the reasons under heading "Others", CONFIRM WITH MODIFICATION in column 4 for "register unit numbers CL 164(S) and" substitute "in this register unit and register unit number CL 188" and add at the end of the column, "subject as regards taking stones to the Water Authority Provision in this Rights Section defined".



No. 501

William John Vanstone and Mrs Emlen Mary Vanstone; of Meavy Barton, Meavy; owners; turbary, take stones, cut bracken and rushes, graze 20 ponies, 90 cattle, 315 sheep; "over the whole of the land comprised in register unit No. CL 164(S) and ..."

Representation:- Mr W J and Mrs E M Vanstone were represented by Mr P W Harker

Duchy conceded registration although not in Venville, see Part III above.
Objection No. 1096 (E F Palmer) no rights exist.

For the reasons under heading "Meavy Barton Farm, Meavy"
CONFIRMATION REFUSED

No. 502

William Henry Legassick; Collyton Farm, Sheepstor; owner; turbary, take stones, cut bracken and rushes, graze 30 cattle, 150 sheep; "over the whole of the land comprised in register unit Nos CL 164(S) and ..."

Representation:- Mr W H Legassick was represented by his son Mr Henry Peter Legassick

Duchy conceded registration as being in Venville, see Part II above.

For the reasons under heading "Others", CONFIRM WITH MODIFICATION in column 4 for "in register unit nos CL 164(S) and" substitute "in this register unit and in register unit no." and at the end of the column add "subject as regards taking stones to the Water Authority Provision in this Rights Section defined".



No. 503

William Henry Legassick; Tor Fields, Sheepstor; tenant; turbary, take stones, cut bracken and rushes, graze 60 sheep; "over the whole of the land comprised in register unit Nos CL 164(S) and ..."

Representation:- Mr W H Legassick was represented by his son Mr Henry Peter Legassick

Duchy conceded registration as being in Venville, see Part II above.

For the reasons under heading "Others", CONFIRM WITH MODIFICATION in column 4, for "register unit Nos CL 164(S) and" substitute "in this register unit and register unit no." and at the end of the column add "subject as regards taking stones to the Water Authority Provision in this Rights Section defined".

No. 504

Robert Edward Skelley and Robert Lewis Skelley; Wotter Farm, Shaugh Prior; owner/tenant; graze 72 cattle, 360 sheep (or any equivalent 5 sheep = 1 beast); "over the whole of the land comprised in register unit Nos CL 164(S) and ..."

Representation:- Mr R E Skelley and Mr R L Skelley were both represented by Mr P W Harker

No relevant Duchy Objection; Duchy at hearing agreed registration as being in Venville, see Part II above.

For reasons under heading "Others", CONFIRM WITH MODIFICATION in column 4 for "in register units CL 164(S) and" substitute "in this register unit and register units".

No. 505

Robert Edward Skelley and Robert Lewis Skelley; Olderwood Farm, Meavy; owner and tenant/tenant; stray 53 cattle, 265 sheep (or equivalent combination of 1 beast = 5 sheep); "onto the whole of the land comprised in register unit Nos CL 164(S) and CL 112 ..."

Representation:- Mr R E Skelley and Mr R L Skelley were both represented by Mr P W Harker

No relevant Duchy Objection; Duchy at hearing agreed registration although not in Venville, see Part III above. Objection No. 1097, no right to stray.

For reasons under headings "Straying" and "Others",
CONFIRMATION REFUSED



No. 506

Robert Edward Skelley and Robert Lewis Skelley; part of Durance Farm, Meavy; owner and tenant/tenant; stray 25 sheep; onto the whole of the land comprised in register unit CL 164(S) and ... from part of CL 191 known as Lynch Common"

Representation:- Mr R E Skelley and Mr R L Skelley were represented by Mr P W Harker who said that they no longer owned the land and were not therefore concerned with this registration

No relevant Duchy Objection; Duchy conceded registration although not in Venville, see Part III above. Objection No 1097 (E F Palmer) "no right to stray".

Mr Palmer said (21/x) no such right was used. For reasons under heading "straying"
CONFIRMATION REFUSED

No. 508

David John Skelley; land formerly part of Callisham Farm; owner; stray 10 cattle, 3 ponies, 65 sheep (or equivalent 5 sheep = 1 beast); "onto the whole of the land comprised in register unit Nos CL 164(W) and (S), CL 112 ... from CL 191"

Representation:- Mr P W Harker

Duchy conceded registration although not in Venville, see Part III above. Objection No 1097 (E F Palemr) "no right to stray"

The concession in Part III does not extend to straying. For reasons under heading "Straying" and "Others"
CONFIRMATION REFUSED



No. 509

Norman Kenneth Skelley; Callisham Farm, Meavy; owner; stray 100 cattle, 500 sheep (or equivalent 5 sheep = 1 beast); "onto the whole of the land comprised in register unit Nos CL 164(S) and (W), CL 112 ..."

Representation:- Mr N K Skelley was represented by Mr P W Harker

Duchy conceded although not in Venville, see Part III above. Objection No 1097 (E F Palmer) "no right to stray"

The concession in Part III does not extend to straying. For reasons under headings "Straying" and "Others"

CONFIRMATION REFUSED

No. 510

Ilbert James Wakeham; Burrator House, Sheepstor; tenant; cut bracken and rushes, graze 21 cattle and 100 sheep; over the whole of the land comprised in register unit numbers CL 164(S), CL 38, Yellowmead Down, Part CL 188 ..."

Representation:- Mr I J Wakeham was represented by Mr Harker who said that Burrator House had been sold to Mr E W F Webb.

Duchy concedes as being in Venville, see Part II above. The registration conflicts with that at No. 813.

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in Column 4, for "register unit numbers 164(S)" substitute "this register unit and register unit numbers".



No. 511

Ilbert James Wakeham; Nattor Farm, Sheepstor; tenant; cut bracken and rushes, graze 30 cattle 175 sheep; "over whole of the land comprised in register unit CL 164(S) and that part of CL 188 known as Yellowmead Down ..."

Representation:- Mr I J Wakeham was represented by Mr Harker

Duchy concedes as being in Venville, see Part II above. The registration conflicts with that at No. 813

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, for "register unit numbers CL 164(S)" substitute "this register unit and register unit numbers"

No. 512

Ilbert James Wakeham; Kingsett, Sheepstore; tenant; cut bracken and rushes, graze 4 cows and followers; over the whole of the land comprised in register unit No CL 164(S) and that part of CL 188 known as Yellowmead Down ..."

Representation:- Mr I J Wakeham was represented by Mr Harker

Duchy concedes the registration although not in Venville, see Part III above. The registration conflicts with that at No. 1018. Objection No. 1096 (E F Palmer) no rights exist

For reasons under heading "others",
CONFIRMATION REFUSED



No. 513

Ernest Frederick Palmer; Lambs Park, Sheepstor; turbary, take stones, cut bracken and rushes, graze 15 sheep, 50 cattle, 2 ponies; "over the whole of the land comprised in register unit Nos CL 164(S) and ..."

Representation:- Mr E F Palmer attended in person

Duchy concedes registration as being in Venville, see Part II above

For the reasons in the first paragraphs under headings "As of right" and "Others",

CONFIRM WITH MODIFICATION in column 4 for "register unit Nos CL 164(S) and" substitute "This register unit and register unit" and add at the end "subject as regards taking stones to the Water Authority Provision in this Rights Section defined."

No. 520

Arthur John Mortimore and Maurice John Mortimore; part of Collihole Farm, Chagford; owners; graze 20 cattle 100 sheep, 2 ponies, turbary, take sand, stone and gravel, cut bracken, rushes and ferns; "over the whole of the land comprised in this register unit and ..."

Representation:- Messrs A J and M H Mortimore were represented by Mr R J Keast

The Duchy conceded registration as being in Venville, see Part II above.

For the reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4 add "subject as regards taking sand, stone and gravel to the Water Authority Provision in this Rights Section defined".



No. 564

Patrick Wrayford Coaker and Edith Patricia Coaker; Rowden Farm, Widecombe-in-the Moor; owners; graze 40 units & followers (NFU scale); "over the whole of the land comprised in the eastern quarter of this register unit and register unit Nos ..."

Representation:- Mr P W and Mrs E P Coaker attended in person

Duchy conceded registration although not in Venville, see Part III above.

For reasons given under heading "Others"

CONFIRM WITH MODIFICATION in column 4 for "in the eastern quarter of this register unit" substitute "in this register unit"

No. 565

Patrick Wrayford Coaker and Edith Patricia Coaker; Bittleford Farm, Widecombe-in-the Moor; owners; graze 40 units & followers (NFU scale); "over the whole of the land comprised in the eastern quarter of this register unit and ..."

Representation:- Mr P W and Mrs E P Coaker attended in person

Duchy conceded registration as being Venville, see Part II above.

For reasons given under heading "Others"

CONFIRM WITH MODIFICATION in column 4, for "in the eastern quarter of this register unit" substitute "in this register unit"



No. 567

Norman Kenneth Skelley; Woodtown Farm, Whitchurch; owner; stray 46 cattle, 230 sheep (or equivalent: 1 beast = 5 sheep); "onto the whole of the land comprised in register unit No. CL 164(S) and (W) and register unit Nos ... from CL 83, CL 184, CL 85 and CL 66

Representation:- Mr N K Skelley was represented by Mr P W Harker

At hearing Duchy agreed registration as being in Venville, see Part II above

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4 for "stray" substitute "graze" for "register unit No CL 164(S) and (W)" ... and CL 66" substitute "this register unit"

No. 570

Valentine Graham Forder; Well Lucky, Walkhampton; owner; turbary, take stones, cut bracken and rushes, graze 20 ponies, 20 cattle; "over the whole of the land comprised in register unit Nos CL 164(S) and ..."

Representation:- Mr S R Sykes of Sunnyside, Princetown as successor in title to Mr V G Forder attended in person

At hearing Duchy agreed registration although not in Venville, see Part III above.

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4 for "register unit Nos CL 16(S) and" substitute "This register unit and register unit No." and add at the end "subject as regard taking stones to the Water Authority Provision in this Rights Section defined



No. 672

Peter John Leonard; OS Nos. 155, 161, 178 and 179 at Belstone; owner; turbary, piscary, shooting, estovers, take stone gravel and sand; graze 67 stock units (NFU Scale); "over the whole of the land comprised in this register unit ..."

Representation:- none

Duchy conceded as being in Venville, see Part II above: the registration conflicts with those at Nos. 988 and 989.

For reasons under heading "Others",
CONFIRM WITH MODIFICATION in column 4 delete "piscary, shooting" and add at the end "subject as regards taking stone gravel and sand to the Water Authority Provision in this Rights Section defined".

No. 673

Hetty Luxton; land at Northlake, Okehampton Hamlets and part of East Lake Farm, Belstone; owner; turbary, piscary, shooting, estovers, take stone, gravel and sand, graze 156 stock units (NFU scale); "over the whole of the land comprised in this register unit and register unit Nos ..."

Representation:- Mr Dudley Luxton, son of Mrs Hetty Luxton now deceased, was represented by Mr F J Woodward

Duchy Objection No. 312, "right of piscary does not exist", Duchy Objection No. 381, "no right exists for the parish of Okehampton Hamlets", Duchy Objection No. 311, "right of shooting does not exist". Registration conflicts with that at No. 498, see Part V of this Schedule.

For reasons under heading "(1) Northlake ..."
CONFIRM WITH MODIFICATION for all words in column 5 substitute "Part of East Lake Farm comprising OS Nos 1, 2, 3, 4 and 6 (2nd Edition 1908) for the parish of Belstone.", and in column 4 delete "Turbary, Piscary, Shooting, Estovers, To take stone, gravel and sand."



No. 674

Fleetwood William Green; land at Alfordon and Corscombe Down, Okehampton Hamlets and Sampford Courtenay, part Moor View in South Tawton, Caerlan Stockley in Okehampton Hamlets; owner/tenant; turbary, piscary, estovers, take stone and gravel, graze 40 stock units (NFU Scale); over the whole of the land in this register unit.

Representation:- None

Duchy Objection No. 674, no piscary. Duchy Objection No. 321, no right for Okehampton Hamlets and Sampford Courtenay. No Duchy concession.

For reasons under heading "Others"

CONFIRMATION REFUSED but liberty to apply as to part Moor View in South Tawton.

No. 675

Mrs Grace Elizabeth Hodge; East Bowden in Okehampton Hamlets and the dwelling-house in Okehampton; owner; turbary, piscary, estovers, take stone, gravel and sand, graze 10 cows, 5 ponies, 50 sheep and their followers; "over the whole of the land comprised in this register unit and register unit Nos ..."

Representation:- Mrs G E Hodge was represented by Mr F J Woodward

Duchy Objection No. 315 does not exist at all

For reasons under heading "(1) East Bowden ...",

CONFIRM WITH MODIFICATION in column 5 delete "and the dwellinghouse in the parish of Okehampton", and correct supplemental map in such column referred to accordingly and in column 4 delete "turbary, piscary, estovers to take stone gravel and sand".



No. 676

John Albert Thomas Hodge; Park and Lower Halstock Farms; tenant; turbary, piscary, estovers, take stone, gravel and sand, graze 135 cows, 30 ponies, 760 sheep and their followers; "over the whole of the land comprised in this register unit and register unit Nos ..."

Representation:- Mr J A T Hodge was represented by Mr F J Woodward. The below mentioned Mr R A Bacon was also represented by Mr F J Woodward.

Duchy Objection No. 380 "right does not exist".

In a letter dated 21 April 1982 (JATH/1), Stratton & Holborrow said that to Okehampton Park Estate is now owned by Mr Richard A Bacon of Beks Lane, Uralba, via Alstonville, New South Wales, Australia.

For reasons under heading "(1) East Bowden ...",
CONFIRM WITH MODIFICATION in column 4 delete "turbary, piscary, estovers, to take stone gravel and sand".

No. 711

Jack Worth Reddaway; Tors Hotel, Belstone, Town Living Farmhouse and land in Belstone and South Tawton; part owner part tenant; turbary, piscary, shooting, estovers, take gravel, sand and stone, graze 200 cows and followers, 850 ewes and followers; "over the whole of the land comprised in this register unit and register unit Nos ..."

Representation:- Mr J W Reddaway was represented by Mr F J Woodward who said that he was tenant for life of Town Living Farm and owner of the Hotel and that he also represented Mr M J Reddaway who was the remainderman under the settlement of the Farm

Duchy Objection No. 311, "right of shooting does not exist"; Duchy Objection No. 312, "right of piscary does not exist"; at hearing Duchy conditional on said Objections agreed registration although not in Venville, see Part III above

For reasons under heading "(1) Tors Hotel ..."
CONFIRM WITH MODIFICATION in column 4 delete "piscary, shooting" and add at end "Subject as taking gravel, sand and stone to the Water Authority Provision as in this Rights Section defined"



No. 712

Mrs Grace Elizabeth Hodge; land in Belstone; owner; turbary, piscary, estovers, shooting, take stone, gravel and sand, graze 5 ponies, 5 cows, 30 sheep and their followers; "over the whole of the land comprised in this register unit and register unit Nos ..."

Representation:- Mrs G E Hodge was represented by Mr F J Woodward

Duchy Objection No. 311, "right of shooting does not exist"; Duchy Objection No. 312, "right of piscary does not exist"; at hearing Duchy conditionally on said objections agreed registration as being in Venville, see Part II above

For reasons in first paragraphs under headings, "As of right" and "Others" CONFIRM WITH MODIFICATION in column 4 delete "piscary" and "shooting" and add at end: "subject as regards taking stone, gravel and sand to the Water Authority Provision in this Rights Section defined."

No. 713

John Albert Thomas Hodge; land in Belstone; owner; turbary, piscary, estovers, shooting, take stone, gravel and sand, graze 10 cows, 5 ponies, 60 sheep and their followers; "over the whole of the land comprised in this register unit and register unit Nos ..."

Representation:- Mr J A T Hodge was represented by Mr F J Woodward

Duchy Objection No. 311, "Right of shooting does not exist"; Duchy Objection No. 312, "right of piscary does not exist"; at hearing Duchy agreed registration conditionally on said objection as being in Venville, see Part II above

For reasons in first paragraphs under headings "As of right" and "Others" CONFIRM WITH MODIFICATION in column 4 delete "piscary" and "shooting" and add at end "Subject as regards taking stone gravel and sand to the Water Authority Provision in this Rights Section defined"



No. 715

Jack Worth Reddaway; Pikes Moors and Restland Farm and Ratcombe Farm and marsh and woodland in Sampford Courtenay; owner and tenant; stray 75 cows and followers, 200 ewes and followers; "over the whole of the land comprised in this register unit ... and CL 73 from CL 40 and CL 53"

Representation:- Mr J W Reddaway was represented by Mr F J Woodward

Duchy Objection No. 315, "not exist at all".

For reasons under heading "(1) Tors Hotel ...",
CONFIRMATION REFUSED

No. 724

Mrs Joyce Lake; Newtakes Farm, Bridestowe; tenant; turbary, take stones, cut bracken and rushes, graze 120 sheep; over the whole of the land comprised in register unit No. CL 164(N) and ..."

Representation:- None

Duchy conceded registration as being in Venville, see Part II above.

For the reasons given under heading "Others"
CONFIRMATION REFUSED



No. 738

William Richard Luscombe; Brixton Barton; Shaugh Prior; tenant; graze 20 cattle 100 sheep; "over the whole of the land comprised in this register unit and register unit No. CL 190"

Representation:- Mr W R Luscombe was represented by his daughter-in-law Mrs E Felicity Luscombe

Duchy conceded registration as being in Venville, see Part II above

For the reasons under first paragraphs under heading "as of right"
CONFIRM WITHOUT ANY MODIFICATION

No. 758

William Nelson Palmer; Hollingtown Farm, Sheepstor; owner; turbary, cut bracken and rushes, take stones, graze 150 sheep, 40 cattle, 6 ponies; "over the whole of the land comprised in register unit numbers CL 164(S) and CL 188 ..."

Representation:- Mr W N Palmer was represented by his brother Mr E F Palmer

Duchy conceded registration as being in Venville, see Part II above

For the reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4 for "in register unit numbers CL 164(S) and" substitute "in this register unit and in register unit number", and add at the end of the column "subject as regards taking stones to the Water Authority Provision in this Rights Section defined"



No. 760

Ernest Fredrick Palmer; Nuns Cross Farm, Lydford; tenant; graze 10 cattle, 100 sheep, 2 ponies; "over the southern quarter of this register unit with straying rights onto CL 192"

Representation:- Mr E F Palmer attended in person

Duchy concedes registration as being in Venville, see Part II above

For the reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "the southern quarter of"

No. 766

Eleanor Nancy Smallwood; Holne Court Farm, Holne; owner, turbary, estovers, take stone and sand, graze 106 bullocks or ponies, 426 sheep; "over the whole of the land comprised in this register unit and register unit Nos ..."

Representation:- Mrs E N Smallwood was represented by Admiral Sir James H F Eberle of Village Farm, Holne

At hearing Duchy agreed registration as being in Venville, see Part II above

For reasons under heading "Rights Section

CONFIRM WITH MODIFICATION in column 4 add at the end "Subject as to taking stone and sand to the Water Authority Provision in this Rights Section defined"



No. 775

Mrs Phyllis Phillips; OS Nos. 9832 etc, Sparkwell; owner; turbary, estovers, graze 40 cattle, 20 ponies, 100 sheep; over the whole of the land in this register unit

Representation:- Mr R T Blackie and Mr F J W Hodgson as trustees of the will of Mrs P C Phillips deceased were represented by Mr M Baldwin.

Duchy Objection No. 315, rights do not exist.

Mr Baldwin said (19/x) that his clients were agreeable to my refusing to confirm the registration, in the absence of evidence,
CONFIRMATION REFUSED

No. 813

Roborough Estate Trustees and Ilbert Hames Wakeham; Nattor Farm, Sheepstore; owner/tenant; graze 170 units (NFU Scale); over the whole of the land comprised in this register unit

Representation:- Mr I J Wakeham was represented by Mr Harker

Duchy conceded as being in Venville, see Part II above. The registration conflicts with those at Nos. 510 and 511

For reasons under heading "Others",
CONFIRMATION REFUSED



No. 835

Dudley Luxton and Frances Margaret Luxton; North Alfordon, Okehampton; owners; stray 50 cattle or 300 sheep; on the whole of the land comprised in this register unit, CL 96 and ... from CL 135 and CL 155"

Representation:- Mr D and Mrs F M Luxton were represented by Mr F J Woodward

At hearing Duchy agreed registration although not in Venville, see Part III above

For reasons under heading "Northlake ..."

CONFIRMATION REFUSED

No. 837

Dudley Luxton; Fatherford, Okehampton; owner; stray 50 cattle or 300 sheep; "on the whole of the land in this register unit and CL 96 and from CL 135 and CL 155

Representation:- Mr D Luxton was represented by Mr F J Woodward

At hearing Duchy agreed registration although not in Venville, see Part III above

For reasons under heading "Northlake ..."

CONFIRMATION REFUSED



No. 858

Herbert Alfred French, John Trevarthen French, and Geoffrey Herman French; Glazecombe Farm and Newland Brakes, Ugborough and South Brent; owners; estovers, turbary, graze 59 cattle or 59 horses or 295 sheep; "over the whole of the land comprised in CL 164(S) & CL 156 together ..."

Representation:- Mr J T French attended in person; he said that Mr H A French, his uncle, died 4 or 5 years ago and that he and his brother Mr G H French are now the beneficial owners.

Duchy Objection No. 315, "does not exist at all"

For reasons under heading "Glazecombe ..."
CONFIRMATION REFUSED

No. 859

John Trevarthen French; Treeland and part Merrifield Farm, South Brent; owner; stray 109 cattle or 109 horses & ponies or 545 sheep; "onto the whole of the land comprised in CL 164(S) and ... from CL 161"

Representation:- Mr J T French attended in person

Duchy Objection No. 981, "right does not exist".

For reasons under heading "Glazecombe ..."
CONFIRMATION REFUSED



No. 860

Herbert Alfred French, Nancy Harriet French, John Trevarthen French, Geoffrey Herman French; Corringdon Farm, South Brent and Ugborough; owners, stray 320 cattle or 320 horses and ponies or 1,600 sheep; "onto the whole of the land comprised in this register unit and register unit CL 162 from register unit Nos 156 and 161"

Representation:- Mr J T French attended in person; he said Mr H A French, his uncle, died 4 or 5 years ago and Mrs N H French, his aunt, died in 1981; Mr G H French, his brother, and he are beneficial owners.

Duchy Objection No. 981, "right does not exist".

For reasons under heading "Glazecombe ..."
CONFIRMATION REFUSED

No. 869

Sidney Bickell; Longash Farm, Merrivale, Walkhampton; owner; turbary, cut bracken and rushes; take stone, graze 40 cows and 150 ewes over the whole of the land in this register unit.

Representation:- Mr G Medland of Wilminstone Farm, Tavistock as successor of Mr S Bickell was represented by Mr P W Harker.

Duchy conceded registration although not in Venville see Part III.
Objection No. 1096 (E F Palmer), no rights exist.

For reasons under heading "Others",
CONFIRMATION REFUSED



No. 870

Courtenay John Heard; Meldon Farm, Okehampton and East Bowerland and Higher West Bowden and land comprising OS No. 798 etc in Okehampton Hamlets; owner/tenant; turbary, piscary, estovers, take stone and gravel, graze 650 sheep, 290 cattle and 120 ponies; "over the whole of the land comprised in this register unit and ..."

Representation:- Mr C J Heard was represented by Mr F J Woodward

Duchy Objection No. 312, "right of piscary does not exist"; Duchy Objection No. 380 "right does not exist".

For reasons under heading "Meldon Farm ...",
CONFIRM WITH MODIFICATION in column 5 delete from "and East Bowerland ..."
to ... "of Okehampton Hamlets"; and in column 4 delete "turbary, piscary,
estovers, to take stone and gravel", and for "650 sheep, 290 cattle and
120 ponies" substitute "630 sheep, 260 cattle, 110 ponies".

No. 876

Henry George Hurrell and John Trevarthen French; Owley Farm in Ugborough and South Brent; owner/tenant; stray 92 cattle or 92 horses or ponies or 460 sheep; "onto the whole of the land comprised in CL 164(S) CL 161 and CL 195 from CL 156 ..."

Representation:- Mr J T French attended in person on his own behalf and as representing Dr Leonard Hurrell and Miss Lilian Elain Hurrell executors of Mr H G Hurrell who died last year.

Duchy Objection No. 981, "right does not exist".

For reasons under heading "Glazecombe ...",
CONFIRMATION REFUSED



No. 895

Dennis Basil Haines Cannon and Mrs Elsie Mary Cannon; Uppatown Farm, Cornwood; tenants; cut bracken and rushes, graze 485 sheep; "over the whole of the land in CL 164(S) and Stall Moor, part CL 112 and ..."

Representation:- Mrs E M Cannon was represented by Mr P W Harker who said that Mr D B H Cannon is now deceased; see Entry Nos 103, 104 and 105 above

Duchy Objection No. 981, "right does not exist".

For reasons under heading "Others"
CONFIRMATION REFUSED

No. 896

George Thomas James Redland; Shillaparks, Merrivale, OS Nos. 967, etc; owner; turbary, take stones, cut bracken and rushes, graze 35 cattle or ponies or 125 sheep; on the whole of the land comprised in CL 164(W) ..."

Representation:- None

Duchy conceded as being in Venville, see Part II above. The registration conflicts with that at No. 407

For reasons under heading "Others"
CONFIRM WITH MODIFICATION in column 4 for "LC 164(W)" substitute "This register unit and in register unit numbers" and add at the end "Subject as regards taking stones to the Water Authority Provision in this Rights Section defined".

No. 907

John A T Hodge and Jack W Reddaway; Beardon Farm, Princetown, Lydford; tenants; graze 125 cattle, 275 sheep over the whole of the land comprised in the West Quarter of this register unit together with straying rights on the Northern Quarter

Representation:- Mr J A T Hodge and Mr W Reddaway were represented by Mr F J Woodward

No Duchy Objection or concession

For reasons under heading "Final", I ADJOURN all questions relating to this registration, so that in the absence of an application I may give a supplemental decision without notice to anyone.



No. 908

Kenneth Cyril Heard; Hughslade, Place, Fowley, part East Bowerland, all in Okehampton Hamlets; owner/owner/tenant; estovers, turbary, piscary, take sand and gravel, graze 200 cattle, 1,200 ewes and 150 ponies with progeny; "over the whole of the land comprised in this register unit CL 96 ..."

Representation:- Mr K C Heard was represented by Mr F J Woodward

Duchy Objection No. 312, "right of piscary does not exist"; Duchy Objection No. 380, "right does not exist".

For reasons under heading "Meldon Farm ...",
CONFIRM WITH MODIFICATION in column 5 delete from "Place, comprising OS No. 809 ..." to "... 1337, 1338" and from "Part East Bowerland ..." to "... of Okehampton Hamlets"; and in column 4, delete "Estovers, Turbary, Piscary, To take sand and gravel", and for "200 cattle 1200 ewes and 150 ponies with progeny" substitute "143 cattle, 855 ewes 107 ponies".

No. 911

Ivor Phillips: Ash Mill and part Ash Lands, Grenofen, Whitchurch, 8 Beechfield Avenue, Yelverton, Buckland Monachorum, The Corner, Yelverton, Buckland Monachorum, and 1 and 1A Weston Park Road, Plymouth; owner, Turbary, estovers, piscary, take stone, graze 68 stock units (NFU Scale); over the whole of the land comprised in this register unit ...

Representation:- Mr Ivor Phillips attended in person

Duchy Objection No. 312 (piscary).

Duchy conceded registration although not in Venville, see Part III above, but Mr Etherton explained that such concession was subject as below mentioned.

Mr Phillips and Mr Etherton said (10/vi) they were agreed that the registration should be confirmed with the modification below set out. For this reason and the reasons under the first paragraph under heading "Others"
CONFIRM WITH MODIFICATION in column 4, delete "piscary" and add at the end "Subject as to taking stone to the Water Authority Provision in this Rights Section defined" and in column 5 delete from "8 Beechfield Avenue ..." to end (thereby also excluding The Corner Yelverton and 1 and 1A Weston Park Road).

No. 912

Ivor Phillips: in gross; turbary, estovers, piscary, take stone, graze 68 stock units (NFU Scale) over whole of land in this register unit.

Representation:- Mr I Phillips attended in person

Duchy Objection No. 312 (no piscary)

Mr Phillips said (10/vi) that he was agreeable to my refusing to confirm the registration; accordingly CONFIRMATION REFUSED



No. 914

Robert Edwin Skelley and Robert Lewis Skelley; Broomage Farm, Sparkwell; owners; stray 12 cattle or 60 sheep or any combination (1 cattle beast = 5 sheep) on the whole of the land comprised in CL 164(S) from CL 189, CL 190 and CL 205

Representation:- Mr R E Skelley and Mr R L Skelley were represented by Mr P W Harker

Duchy Objection No. 981, rights do not exist

In the basence of any evidence, for reasons under heading "Straying" and the last paragraph under heading "Others",
CONFIRMATION REFUSED

No. 917

George Littlejohns; Cleave Mills OS 5825 and 9324 in Belstone and Sampford Courtenay; owner; turbary, piscary, shooting, estovers, take gravel sand and stone, graze 6 cattle or ponies or 35 sheep; over the whole of the land in this register unit.

Representation:- None

Duchy Objection No. 311, no shooting. Duchy Objection No. 312, no piscary. Duchy Objection No. 381, no right exists for Sampford Courtenay. At hearing Duchy conceded in Venville for Belstone.

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 5 delete "and 9324" and delete "and Sampford Courtenay" and amend Supplemental map therein referred to appropriately, and in column 4 delete "piscary shooting", for "6 cattle or ponies or 35 sheep substitute "4 cattle or ponies or 24 sheep" and add at the end "subject as regards taking sand and gravel to the Water Authority Provision in this Rights Section defined"



No. 923

William Arthur Roy Pearse; Oatenhill and land at Lydford comprising OS Nos. 191A, part 190A, 123, 39 and 40; owner as trustee of the estate of William Samuel Yeo; estovers, turbary, piscary, take sand gravel & stone, graze 15 cattle, 75 ewes, 8 ponies with their progeny; over the whole of the land in this register unit.

Representation:- None

Duchy Objection No. 312, no piscary. Duchy conceded although not in Venville, see Part III above. The registration is in conflict with those at Nos. 185 and 389.

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4 delete "piscary" and add at end "subject as regards taking sand gravel & stone to the Water Authority Provision in this Rights Section defined."

No. 938, replaced by Nos. 1068, 1077 and 1078

Ross Ian Gray: Hill Farm, Holme; owner; stray 8 ponies or cattle or 32 sheep and their progeny onto the whole of the land comprised in this register unit CL 146 and CL 33 from CL 153.

Group Houses Ltd: OS Nos. 6473 and 6580 are part of Cottlands, Holme; owners; stray 3 ponies or cattle or 12 sheep and their progeny over the whole of the land comprised in this register unit No. CL 146 and CL 33 from CL 153.

Ernest Edgar French and Henry James French; Michelcombe, Dodbrooke, Ingletts, part Cottlands, Glebeland and Great Coombe, Holme; owner/tenants; stray 179 ponies or cattle or 716 sheep and their progeny over the whole of the land comprised in this register unit No. CL 146 and CL 33 from CL 153.

Representation:- None

Duchy concede registrations at Nos. 1077 and 1078 as being in Venville, see Part II above, and concede registration at Entry No. 1068 although not in Venville, see Part III above. Objection No. 1087 (W J Edmunds) "right is incorrectly claimed, the entry (meaning No. 938) should read "to graze over CL 164(S) and to stray etc"". "

For the reasons given under heading "Others"

CONFIRM NOS. 1077 AND 1078 WITH MODIFICATION in column 4 for "stray" substitute "graze" and delete "CL 146 and CL 33 from CL 153", and
CONFIRMATION NO. 1068 REFUSED



No. 946

Lt Col Vincent Warwick Calmady-Hamlyn; Collaven Moor, Sourton; owner, turbary, piscary, estovers, take stone, sand & gravel, graze 20 stock units (NFU Scale); over "whole of the land comprised in CL 164(N) ... together with straying rights ... and CL 164(W)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312 "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration in Venville, see Part II above.

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined.

No. 947

Lt Col Vincent Warwick Calmady-Hamlyn; Beara Farm, Bridestowe; owner; turbary, piscary, estovers, take sand, stone & gravel, graze 80 stock units (NFU Scale); over "the whole of the land comprised in CL 164(N) ... together with straying rights ... and CL 164(W)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above. The registration is in conflict with that at Entry No. 57.

For the reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined".



No. 948

Lt Col Vincent Warwick Calmady-Hamlyn and Frank Richard Hill; Watergate Farm, Bridestowe; owner/tenant; turbary, piscary, estovers, take stone, gravel and sand, graze 90 stock units (NFU Scale); "over the whole of the land comprised in CL 164(N), CL 96 ..."

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 948, "right of piscary does not exist"; Duchy conditionally on said Objection concede registration as being in Venville, see Part II above.

For reasons under heading "Others" and CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", and add at the end "subject as regards taking stone gravel and sand to the Water Authority Provision in this Rights Section defined".

No. 950

Thomas George Files Dawe; Foxcombe comprising OS Nos. 435 etc. etc. in Lewtrenchard and OS 337 in Thrushelton and Slyers Hill comprising OS Nos. 149 etc in Bridestowe; owner; turbary, cut rushes & bracken, graze 70 cattle 380 sheep; over whole of land comprised in CL 164(N) ... together with straying rights on to ... CL 164(N)

Representation:- None

Duchy Objection No. 381, no rights for Lewtrenchard and Thrushelton. At hearing Duchy conceded in Venville for Bridestowe.

For reasons under heading "Others" CONFIRM WITH MODIFICATION in column 5 delete all except "Slyers Hill comprising OS Nos. 149, 159, 157, 152, 153, 158, 151A, 151B, 151, 150, 117 in the Parish of Bridestowe (2nd edition 1906), and in column 4 for 70 cattle 380 sheep "substitute" 20 cattle, 130 sheep", for "in CL 164(N)" substitute "in this register unit and register units", and for "CL 155 and CL 164(N)" substitute "and CL 155".



No. 951

Lt Col Vincent Warwick Calmady-Hamlyn; Woodgate Farm, Sourton; owner, turbary, piscary, estovers, take stone gravel & sand, graze 24 cattle, 2 ponies 140 sheep; "over the whole of the land comprised in CL 164(N), CL 96 ..."

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No 312, right of piscary does not exist. Duchy conditionally on said objection conceded registration as being Venville, see Part II above. The registration is in conflict with that at No. 42

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", and add at the end "subject as regards taking stone gravel & sand to the Water Authority Provision in this Rights Section defined".

No. 952

Lt Col Vincent Warwick Calmady-Hamlyn; East Tor Farm, Sourton; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 70 stock units (NFU Scale); "over the whole of the land comprised in CL 164(N), CL 96 ..."

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312 "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above.

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4 delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units" and add at the end "as regard taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined".



No. 953

Lt Col Vincent Warwick Calmady-Hamlyn; Hall, Shute and Tinnawayn, Sourton; owner; turbary, piscary, estovers, take stone, gravel & sand, graze 6 cattle or 30 sheep; over "the whole of the land comprised in CL 164(N) ... and CL 164(W)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above. The registration conflicts with that at Entry No. 49.

For reasons under heading "Others",
CONFIRM WITH MODIFICATION in column 4 delete "piscary", for "in CL 164(N)" substitute in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking stone, gravel and sand subject to the Water Authority Provision in this Rights Section defined."

No. 954

Lt Col Vincent Warwick Calmady-Hamlyn; Palmers Meadow and Part Hall, Sourton; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 10 cattle, 50 sheep; over "the whole of the land comprised in CL 164(N) CL 96 ... together with straying rights ... and CL 164(W)".

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings.

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above. The registration conflicts with those at Entry Nos. 59 and 85.

For the reasons under heading "Others"
CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units," delete "and CL 164(W)" and add at the end "as regards taking stone, sand and gravel subject to the Water Authority Provision in this Rights Section defined"



No. 955

Lt Col Vincent Warwick Calmady-Hamlyn; Minehouse Farm, Sourton; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 15 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ... with straying rights ... CL 164(W)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above.

For reasons under heading "Others",

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units" and delete "and CL 164(W)", and add at the end "as regards taking stone, sand and gravel subject to the Water Authority Provision in this Rights Section defined".

No. 956

Lt Col Vincent Warwick Calmady-Hamlyn; Higher Wordens and Alice Ford, Sourton; owner, turbary, piscary, estovers, take stone, gravel & sand, over "the whole of the land comprised in CL 164(N) ... together with straying rights ... and CL 164(W)"

Representation:- Lt Col C W Calmady-Hamlyn was represented by Mr P Hastings.

Duchy Objection No. 312, right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II. The registration is in conflict with that at Entry No. 38.

For the reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking stone, gravel and sand subject to the Water Authority Provision in this Rights Section defined".



No. 957

Lt Col Vincent Warwick Calmady-Hamlyn; Broad Park, Sourton; owner; turbary, piscary, estovers, take stone, gravel & sand, graze 18 cattle, 100 sheep; over "the whole of the land comprised in CL 164(N) ... together with straying rights ... and CL 164(W)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "Right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above. The registration conflicts with that at Entry No. 55

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units" delete and "and CL 164(W)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined".

No. 958

Lt Col Vincent Warwick Calmady-Hamlyn; part Combebow Hams in Bridestowe and Thrushelton; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 10 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ..." straying ... and CL 164(W).

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy Objection No. 381, "no right exists for the parish of Thrushelton". No Duchy concession in Parts II and III above.

For reasons under heading "Others"

CONFIRMATION REFUSED but subject to the liberty to apply in such heading mentioned.



No. 959

Lt Col Vincent Warwick Calmady-Hamlyn; Lake Farm, Sourton; owner, turbary, piscary, estovers, take sand, stone & gravel, graze 50 cattle, 270 sheep; over "the whole of the land comprised in CL 164(N) ... together with straying rights ... and CL 164(W)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312 "rights of piscary do not exist"; Duchy conditionally on said Objection conceded registration is in Venville, see Part II above. The registration is in conflict with that at No. 111.

For reasons under heading "Others",
CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", and delete "and CL 164(W)", and add at the end "as regards taking sand, stone & gravel subject to the Water Authority Provision in this Rights Section defined".

No. 960

Lt Col Vincent Warwick Calmady-Hamlyn; East and West Coombe, Sourton; owner; turbary, piscary, estovers, take sand, stone & gravel, graze 50 cattle 480 sheep; over "the whole of the land comprised in CL 164(N) ... together with straying rights ... and CL 164(W)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above. The registration is in conflict with that at Entry No. 57.

For the reasons under heading "Others"
CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined.



No. 961

Lt Col Vincent Warwick Calmady-Hamlyn; Great Grandford, and part Blackbroom; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 100 cattle 620 sheep; over "whole of the land comprised in CL 164(N) ... together with straying rights ... and CL 164(N)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312 "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration in Venville, see Part II above. The registration is in conflict with that at Entry No. 86.

For reasons under heading "Others",

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(N)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined."

No. 962

Lt Col Vincent Warwick Calmady-Hamlyn; Vale Down, Bridestowe and Lydford; owner, turbary, piscary, estovers, take stone, sand & gravel, graze 30 stock units (NFU Scale); over "the whole of the land comprised in CL 164(N) ... together with straying rights ... and CL 164(N)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville. The registration is in conflict with that at Entry No. 439

For reasons under heading "Others",

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(N)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined."



No. 963

Lt Col Vincent Warwick Calmady-Hamlyn; Great Close Farm, Bridestowe; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 180 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ... together with straying rights ... and CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above.

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined".

No. 964

Lt Col Vincent Warwick Calmady-Hamlyn; Cocks Heath Field, in Bridestowe; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 1 stock unit (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ... with straying rights ... and CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined"



No. 965

Lt Col Vincent Warwick Calmady-Hamlyn; Majors Tenement and Woodfordham, in Bridestowe; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 6 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ... with straying rights ... and CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined".

No. 966

Lt Col Vincent Warwick Calmady-Hamlyn; Bar Coombsbow Hams in Bridestowe; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 15 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ... with straying rights ... and CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined".



No. 967

Lt Col Vincent Warwick Calmady-Hamlyn; Fernsworthy Farm, in Bridestowe; owner, turbary, piscary, estovers, take stone, sand & gravel, graze 75 stock units (NFU scale); "over the whole of the land comprised in register unit CL 164(N), CL 96 ... with straying rights ... and CL 164(W)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above

For reasons under heading "Others",
CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in register unit CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking sand, gravel & stone subject to the Water Authority Provision in this Rights Section defined"

No. 968

Lt Col Vincent Warwick Calmady-Hamlyn; Backbabroom Farm in Bridestowe; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 150 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ... with straying rights ... CL 164(W)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above

For reasons under heading "Others"
CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "register unit CL 164(N)" substitute "this register unit and register units" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined"



No. 969

Lt Col Vincent Warwick Calmady-Hamlyn; Fernworthy Down, Bridestowe; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 20 cattle 105 sheep; "over the whole of the land comprised in CL 164(N) ... together with straying rights ... and CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above. The registration conflicts with that at No. 192

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined"

No. 970

Lt Col Vincent Warwick Calmady-Hamlyn; Sourton Cross Fields, in Sourton; owner, turbary, piscary, estovers, take stone, sand & gravel, graze 5 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ... with straying rights ... CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection, conceded registration as being in Venville, see Part II above

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "register unit CL 164(N)" substitute "this register unit and register units" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined"



No. 971

Lt Col Vincent Warwick Calmady-Hamlyn; Fox & Hounds Inn, in Bridestowe; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 7 stock units (MFU scale); "over the whole of the land comprised in CL 164(N) and ... straying rights ... CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville.

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in register unit CL 164(N)2 substitute "in this register unit and in register units" delete "and CL 164(W)" and add at the end "as regards taking sand, gravel & stone subject to the Water Authority Provision in this Rights Section defined"

No. 972

Lt Col Vincent Warwick Calmady-Hamlyn; Newtakes Farm, Bridestowe; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 20 stock units (NFU scale); "over the whole of the land comprised in register unit CL 164(N) ..."

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above. The registration conflicts with that at No. 724

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "register unit CL 164(N)" substitute "this register unit and register units" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined"



No. 973

Lt Col Vincent Warwick Calmady-Hamlyn; Marsh and Great Meadow, Bridestowe; owner; turbary, piscary, estovers, take sand, gravel & stone, graze 7 stock units (NFU scale) "over the whole of the land comprised in CL 164(N) ... with straying rights ... CL 164(W)"

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in register unit CL 164(N)" substitute "in this register unit and in register units" delete "and CL 164(W)" and add at the end "as regards taking sand, gravel & stone subject to the Water Authority Provision in this Rights Section defined

No. 974

Lt Col Vincent Warwick Calmady-Hamlyn; Leawood Mill, part Digsport and part Little Cramford in Bridestowe and Sourton; owner; turbary, piscary, estovers, take stone, sand & gravel, graze 150 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ... with straying rights ... and CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "register unit CL 164(N)" substitute "this register unit and register units" and add at the end "as regards taking stone, sand & gravel subject to the Water Authority Provision in this Rights Section defined"



No. 975

Lt Col Vincent Warwick Calmady-Hamlyn; part Little Cradford Farm, in Bridestowe; owner, turbary, piscary, estovers, take sand, stone & gravel, graze 15 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 and ... with straying rights ... and CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said objection conceded registration as being in Venville, see Part II above

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in register unit CL 164(N)" substitute "in this register unit and in register units" delete "and CL 164(W)" and add at the end "as regards taking sand, gravel & stone subject to the Water Authority Provision in this Rights Section defined"

No. 976

Lt Col Vincent Warwick Calmady-Hamlyn; Higher Collaven Tenement, Sourton; owner, turbary, piscary, estovers, take sand, stone & gravel, graze 3 stock units (NFU scale); over "the whole of the land comprised in CL 164(N) ... together with straying rights ... and CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312 "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above

The reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4 delete "piscary", for "in CL 164(N)" substitute "in this register unit and in register units", delete "CL 164(W)" and add at the end "as regards taking sand, stone & gravel subject to the Water Authority Provision in this Rights Section defined"



No. 977

Lt Col Vincent Warwick Calmady-Hamlyn; Bearslake in Sourton; owner; turbary, piscary, estovers, take sand, stone & gravel, graze 7 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ... with straying rights ... and CL 164(W)

Representation:- Lt Col V W Calmady-Hamlyn was represented by Mr P J Hastings

Duchy Objection No. 312, "right of piscary does not exist"; Duchy conditionally on said Objection conceded registration as being in Venville, see Part II above

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4, delete "piscary", for "in register unit CL 164(N)" substitute "in this register unit and in register units", delete "and CL 164(W)" and add at the end "as regards taking sand, gravel & stone subject to the Water Authority Provision in this Rights Section defined

No. 979

Public Trustee (for Trustees of the Miss Marion Luxmoore Settlement) and William Gunn Voaden; Okehampton Park Estate, and Youlditch Farm in Okehampton Hamlets and Sourton; owner/tenant; turbary, piscary, estovers, take stone, gravel & sand, graze 210 stock units (NFU scale); "over the whole of the land comprised in CL 164(N), CL 96 ..."

Representation:- Mr W G Voaden was represented by Mr F J Woodward

Duchy Objection No. 312, "right of piscary does not exist"; Duchy Objection No. 321, "the right does not exist in the parish of Okehampton Hamlets".

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 5 remove all the land not in Sourton, and in column 4 delete "piscary", for "210 stock units" substitute "10 stock units", for "in CL 164(N)" substitute "in this register unit and in register unit", and add at end "subject as regards taking sand and gravel to the Water Authority Provision in this Rights Section defined"



No. 982

Henry Littlejohns; OS No. 737, South Tawton, OS 168 Belstone, Bude Farm comprising OS Nos. 97 etc in Sampford Courtenay; owner; turbary, estovers, piscary, shooting, take sand, gravel & stone, graze 85 stock units (NFU Scale); over the whole of the land in this register unit.

Representation:- None

Duchy No. 311, right of shooting does not exist. Duchy Objection No. 312, right of piscary does not exist. Duchy Objection No. 381, no rights exist for Sampford Courtenay. At hearing Duchy conceded (Duchy/43) conceded in Venville for Belstone, but not for South Tawton or Sampford Courtenay.

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 5 delete all except "land comprising OS 168 (2nd Edition 1905) for the parish of Belstone, and in column 4 delete "piscary, shooting", for "85 stock units" substitute "5 stock units" and add at the end "subject as regards taking sand, gravel & stone to the Water Authority Provision in this Rights Section defined"

No. 988

Ray Robert Kelly; OS Nos. 233, 153, 162, 179, 178 and 161 at Belstone; part owner, part tenant; turbary, estovers, piscary, shooting, take stone, sand & gravel, graze 83 cattle or 83 ponies or 328 sheep & their followers; "over the whole of the land comprised in CL 164(N) and ... "

Representation:- None

Duchy conceded as being in Venville, see Part II above. The registration and that at No. 989 conflict with that at No. 672.

For reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 5 delete "179, 178 and 161" and in column 4 delete "piscary, shooting", and for 83 cattle or 83 ponies or 328 sheep substitute "16 cattle or 16 ponies or 64 sheep", for "in CL 164(N)" substitute "this register unit, and add at the end "subject as regards taking stone, sand & gravel to the Water Authority Provision in this Rights Section defined.



No. 989

Joseph Henry Clark; OS No. 155, Belstone; tenant; graze 25 cows or 25 ponies or 130 sheep & their followers; over the whole of the land comprised in CL 164(N)

Representation:- None

Duchy conceded as being in Venville, see Part II above. This registration and that at No. 988 conflicts with that at No. 672

For reasons under heading "Others"
CONFIRMATION REFUSED

No. 990

Edward William Mudge; Cholwichtown Farm, Cornwood; tenant; graze 280 cattle or 280 ponies or 1,400 sheep (or a proportionate combination); "over the whole of the land comprised in register unit CL 164(S), CL 115 ..."

Representation:- Mr E W Mudge was represented by Mr P W Harker

Duchy Objection No. 315, "not exist at all".

For reasons under heading "Others"
CONFIRMATION REFUSED



No. 991

Robert Edwin Skelley, Robert Lewis Skelley and Winifred Bullerd Skelley; part Staddons Farm in Walkhampton; owners; stray 15 cattle or 75 sheep (or any combination 1 beast = 5 sheep); "onto the whole of the land comprised in CL 164(S) and (W), CL 188 ..."

Representation:- Mr R E Skelley and Mr R L Skelley were represented by Mr P W Harker

At hearing Duchy agreed registration although not in Venville, see Part III above
Objection No. 1097 (E F Palmer) "no right to stray"

For reasons under heading "Others",
CONFIRMATION REFUSED

No. 992

Roger Hill; Luxmoor Farm, Braisworthy; tenant; stray 49 cattle or 49 ponies or 244 sheep or any proportionate combination; "over the whole of the land comprised in CL 164(S), CL 188 and CL 190 from CL 27 and that part of CL 191 known as Wigford Down"

Representation:- Mr R Hill was represented by Mr P W Harker

At hearing Duchy agreed registration although not in Venville, see Part III above

For reasons under heading "Others"
CONFIRMATION REFUSED



No. 993

Ernest Frederick Palmer; land at Whiteworks and Peat Cot, Lydford; tenant; graze 500 sheep 100 cattle; "over the whole of the land comprised in CL 164(S) ..."

Representation:- Mr E F Palmer attended in person.

Objection No. 1084 (W J Edmunds), no rights exist in respect of part of land at Peat Cot shown hatched on plan A. Duchy conceded registration as being in Venville, see Part II above. The registration is in conflict with that at No. 1024.

For the reasons under heading "Others" CONFIRM WITH MODIFICATION in column 4 for "500 sheep 100 cattle" substitute "400 sheep 95 cattle" and for "comprised in CL 164(S)" substitute "in this register unit" and in column 5 remove from the land therein described (a) the land at Peat Cot shown hatched on plan A annexed to Objection No. 1084 made by Mr W H Edmunds and (b) so much of the land so described as is also described in column 5 of the registration at Entry No. 1024.

No. 994

Robert Lewis Skelley; Lee Moor Farm, in Shaugh Prior; tenant; stray 35 cattle and 175 sheep or any combination (1 beast = 5 sheep); "onto the whole of the land comprised in CL 164(S) and CL 188 from CL 112 and CL 190"

Representation:- Mr R L Skelley was represented by Mr P W Harker

At hearing Duchy agreed registration as being in Venville, see Part II above

For reasons under heading "Others"
CONFIRM WITH MODIFICATION in column 4, for "in CL 164(S) ... and CL 190"
substitute "this register unit"



No. 997

Wesley James Leonard Heard; part Fowley Farm, East Bowerland Farm, Yelland Farm, all in Okehampton Hamlets and part Oatmeal in Sourton; owner/owner/tenant; estovers, turbary, piscary, take sand & gravel, graze 100 cattle, 950 ewes, 75 ponies and their progeny; "over the whole of the land comprised in this register unit and CL 96 ..."

Representation:- Mr W J L Heard represented by Mr F J Woodward

Duchy Objection 312, "right of piscary does not exist"; Duchy Objection No. 321, "right does not exist for the parish of Okehampton Hamlets".

For reasons under heading "Meldon Farm ..."
CONFIRMATION REFUSED

No. 1,000

Public Trustee (for the trustees of the Miss Marion Luxmoore Settlement) for John Albert Thomas Hodge; Okehampton Park Estate in Okehampton Hamlets and Okehampton; owner/tenant; turbary, piscary, estovers, take stone, gravel & sand, graze 60 cows and followers, 150 ewes and followers, 10 ponies; "over the whole of the land comprised in this register unit and ..."

Representation:- Mr J A T Hodge was represented by Mr F J Woodward

Duchy Objection No. 312, "right of piscary does not exist"; Duchy Objection No. 380, "right does not exist".

For reasons under heading "(1) East Bowden/ ..."
CONFIRMATION REFUSED



No. 1,017

Minister of Agriculture, Fisheries and Food; Soussons Farm, Manaton; tenant; graze 14 ponies; "over that part of the land comprised in the eastern quarter of this register unit adjacent to Merripit Hill";

Representation:- The Minister was represented by Mr R J Turner

Duchy conceded registration as being in Venville, see Part II above

For the reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4 for all words after "over that part of the land" ... substitute "over the whole of the land comprised in this register unit"

No. 1,018

Ernest Frederick Palmer; land at Coombeshead, Deacombe, Middleworth, Nosworthy, Lowery, Leathertor, Stanlake, Crazwell, Newlycombe and Kingset; tenant; stray 500 cattle, 4,000 sheep; on the whole of the land in this register unit.

Representation:- Mr E F Palmer attended in person

Duchy conceded registration although not in Venville, see Part III above. The registration is in conflict with that at Entry No. 512

For reasons under headings "Straying" and "Others"
CONFIRMATION REFUSED



No. 1,024

John Gordon Stanley Coaker and Diana Gertrude Coaker; Sherbarton Farm, Lydford; tenants; graze 100 cattle, 200 sheep, 50 ponies; over "the whole of the land comprised in the southern quarter of this register unit ..."

Representation:- Mr J G S Coaker attended in person

Duchy conceded registration as being in Venville, see Part II above
The registration is in conflict with that at Entry No. 993

For the reasons under heading "Others"

CONFIRM WITH MODIFICATION in column 4 delete "the southern quarter of"

No. 1,027

John Albert Thomas Hodge; Higher Halstock and at Stony Park Lane; owner; estovers, turbary, piscary, take sand, gravel and stone, graze 75 cattle, 375 sheep, 10 ponies and their progeny; over the whole of the land in this register unit

Representation:- Mr J A T Hodge was represented by Mr F J Woodward

Duchy Objection No. 380, the right does not exist.

For reasons under heading "(1) East Bowden ..."

CONFIRM WITH MODIFICATION in column 4 delete "estovers, turbary, piscary, take sand, gravel and stone" and for "75 cattle, 375 sheep, 10 ponies" substitute "58 cattle, 282 sheep, 8 ponies"



Part V: Conflicting registrations

Notes

- (1) This Part includes all registrations in respect of which in the Register a possible conflict is noted.
- (2) Each is treated as an objection to the other, see regulation 7 of the Commons Commissioners Regulation 1971 (SI No. 1,727). As to these treated Objections, I have formal references by the County Council relating to Nos. 510, 511, 813, 986, 993, 1,018 and 1,024.
- (3) All the registrations in this Part listed except Nos. 343, 353, 382, 880, 986 and 1,007 are included in Part IV above and my decision about them therein appears. As to Nos. 343, 353, 382, 880, 986 and 1,007 my decision about them appears in paragraph 8 of the Fourth (and last) Schedule hereto.

No. 38

Charles Heathman; Higher Worden and Alice Ford; tenant
Conflicts with No. 956

No. 42

Edgar Walton Alford; Woodgates Farm, Sourton; tenant
Conflicts with No. 951

No. 49

Albert Stephen George Daniel; land being OS Nos 566 etc in Sourton; tenant
Conflicts with No. 953

No. 55

William Patric Fogerty; part Collavenn and Ball Park, Sourton; tenant
conflicts with No. 957

No. 57

Clifford Horn; Coombe Farm, Sourton; tenant
Conflicts with No. 960



No. 59

Geoffrey William Alford; part Hall Farm, Sourton; tenant
This No. and also No. 85 conflicts with No. 954

No. 85

Edward Fred Cullen; Palmers, Sourton; owner
This No. and also No. 59 conflicts with No. 954

No. 86

Brian William John Lavis; Great Cranford Farm, Bridestowe; tenant
Conflicts with No. 961

No. 111

Olive Mary Jury and Sons; Lake Farm, Sourton; tenant
Conflicts with No. 959

No. 129

Mrs Hilda Emily Heathman Glass; Town Farm, Lydford; owner
Conflicts with No. 157

No. 157

Richard Peter Brendon; Town Farm and Mary Tavy Glebe, in Lydford; owner/tenant
Conflicts with No. 129

No. 185

Thomas May; land at Lydford comprising OS Nos 191a etc; tenant
This No. and also No. 389 conflicts with No. 923

No. 192

Clifford Charles Gloyn and Lionel George Gloyn; Fernworthy, Bridestowe
Conflicts with No. 969



No. 343

Rev Arthur John Radford; Vicarage and adjacent to All Saints Church; incumbent
This No. and also No. 880 conflicts with No. 353
Duchy Objection No. 315, "not exist at all".

No. 353

Darrell Oliver Soby; Higher Upcott Farm, in Okehampton Hamlets and part-Glebe in
Okehampton; tenant
Conflicts with Nos. 343 and 880
Duchy Objection No. 315, "not exist at all".

No. 382

Dr Esmond Marshall Kingston Jellicoe; part Thynscombe, South Brent; tenant
Conflicts with No. 1,007
Duchy Objection No. 981, "right does not exist".

No. 389

Leslie Archibald Roger Hugins; land at Lydford comprising OS Nos. 39 etc; tenant;
This No. and also No. 185 conflicts with No. 923

No. 407

George Thomas James Medland; Shills Park, Whitchurch; owner
Conflicts with No. 896

No. 439

Mrs Peggy Delphine Garvey; Vale Dean, Bridestowe; owner and tenant
Conflicts with No. 962

No. 498

Sidney George Saunders; OS No. 20 at Eastlake, Belstone; tenant
Conflicts with No. 673

No. 510

Ilbert James Wakaham; Burrator House, Sheepstor; tenant
Conflicts with No. 813



No. 511

Ilbert James Wakeham; Matter Farm, Sheepstor; tenant
This No. and No. 510 conflicts with No. 813

No. 512

Ilbert James Wakeham; Kingsett, Sheepstor; tenant
Conflicts with No. 1,018

No. 672

Peter John Leonard; OS Nos. 155 etc Belstone; owner
Conflicts with No. 988 and No. 989

No. 673

Hetty Luxton; Northlake, Okehampton Hamlets and part Eastlake Farm in Belstone;
owner
Conflicts with No. 498

No. 724

Mrs Joyce Friend; Newtake Farm, Bridestowe; tenant
Conflicts with No. 972

No. 813

Roborough Estate Trustees and Ilbert James Wakeham; Nattor Farm and Burrator Lane,
Sheepstor; owner/tenant
Conflicts with Entry No. 510 and 511

No. 880

Jeffrey Gratton Wooldridge; Oaklands Farm, Okehampton, Higher Upcott Farm, Lower
Upcott Farm, and part of Old Vicarage Farm, Okehampton Hamlets; owner
This number and also No. 343 conflicts with No. 353
Duchy Objection No. 315, "does not exist at all".

No. 896

George Thomas James Medland; Shilspark, Merryvale, Whitchurch; owner
Conflicts with No. 407



No. 923

William Arthur Roy Pearse, Oaten Hill and land at Lydford; owner
Conflicts with Nos. 185 and 389

No. 951

Lt Col Vincent Warwick Calmady-Hamlyn; Woodgate Farm, Sourton; owner
Conflicts with No. 42

No. 953

Lt Col Vincent Warwick Calmady-Hamlyn; Hall Schute and Tingways, in Sourton; owner
Conflicts with No. 49

No. 954

Lt Col Vincent Warwick Calmady-Hamlyn; Palmer's Meadow and Part Hall in Sourton;
owner
Conflicts with Nos. 59 and 85

No. 956

Lt Col Vincent Warwick Calmady-Hamlyn; Higher Wordons and Alice Ford, in Sourton;
owner
Conflicts with No. 38

No. 957

Lt Col Vincent Warwick Calmady-Hamlyn; Board Park in Sourton; owner
Conflicts with No. 55

No. 959

Lt Col Vincent Warwick Calmady-Hamlyn; Lake Farm in Sourton; owner
Conflicts with No. 111

No. 960

Lt Col Vincent Warwick Calmady-Hamlyn; land at East and West Coombe, in Sourton;
owner
Conflicts with No. 57



No. 961

Lt Col Vincent Warwick Calmady-Hamlyn; Great Crandford and part Blackabroom Farm, in Bridestowe; owner
Conflicts with No. 86

No. 962

Lt Col Vincent Warwick Calmady-Hamlyn; Vale Down, in Bridestowe and Lydford; owner
Conflicts with No. 439

No. 969

Lt Col Vincent Warwick Calmady-Hamlyn; Fernworthy Down, in Bridestowe; owner
Conflicts with No. 192

No. 972

Lt Col Vincent Warwick Calmady-Hamlyn; Newtakes Farm, in Bridestowe; owner
Conflicts with No. 724



SECOND SCHEDULE
(Objections)

Part I: to Land Section

Note:- By subsection (7) of section 5 of the 1965 Act, all Objections mentioned in this Part must be treated as an objection to all the registration in the Rights Section.

Objection No. 8

By South West Devon Water Board; noted in the Register on 28 July 1969; grounds, land in Swincombe ("the Swincombe WA Land"; a strip a little over 1 mile long on both sides of the River Swincombe down stream from Fox Mires) was not common land at the date of registration.

Mrs F G Canning at the beginning of the hearing said that South West Water Authority withdraw the Objection, being content that the land referred to should remain in the Land Section.

Objection No. 65

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 21 July 1970; grounds Huntingdon Warren in the Manor of Lydford (609 acres approximately) was not common land at the date of registration.

Objection No. 193

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 9 December 1970; grounds; (a) that land at Pizwell ("the Pizwell Duchy Land"; edged red on one of the plans attached to the Objection, being the northern two-thirds of the below mentioned Pizwell Sturgess Land); and (b) land ("the Warren House Land"; mostly south of the Warren House Inn on the B3212 road) being let on lease were not common land at the date of registration.

Objection No. 194

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 9 December 1970; grounds, that land at Huccaby ("the Huccaby Land"; 6 or 7 pieces near Huccaby Bridge, by the side of the B3357 road, and by the side of the road through Huccaby) was not common land at the date of registration.



Objection No. 299

By Mr A E Sturges; noted in the Register on 9 December 1970; grounds, land at Pizwell ("the Sturges Pizwell Land"; extending from and including the above mentioned Duchy Pizwell land southwards to Riddon Brake) was not common land at the date of registration, it being then and now tenanted land in the ownership of the Duchy.

Objection No. 506

By North Devon Water Board; noted in the Register on 29 December 1970; grounds, (a) one well near the Red-a-ven Brook and (b) five wells near the River Taw, were not common land at the date of registration.

Objection No. 649

By Mrs F Wilkinson; noted in the Register on 29 December 1970; grounds, land ("the Babeny Land; near Babeny Farm, north of Dartmeet) was not common land at the date of registration.

Part II: to Rights Section

Note:- Not included are the objections which must be treated as having been made by reason of the Objections mentioned in Part I above.

Objection No. 311

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 12 November 1970; grounds, that the right of shooting does not exist; applicable to the registrations at Entry Nos.

159,
421, 422, 424, 428, 434,
542, 546, 583, 584, 585, 586, 587, 594, 595, 596, 597, 598, 599,
600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615,
616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631,
632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647,
648, 649, 650, 651, 652, 653, 654, 655, 657, 658, 660, 663, 665, 666, 667, 669,
670, 671, 672, 673,
701, 703, 704, 705, 706, 710, 711, 712, 713, 716, 717, 723, 725, 730,
829, 830, 831, 845, 862, 873, 887, 899,
900, 901, 902, 904, 906, 910, 917, 928, 944, 945, 982, 988,
1001, 1003, 1004.



Objections No. 312 and No. 1102

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 4 November 1970 and 11 September 1972; grounds, that a right of piscary does not exist; applicable (No. 312) to the registrations at Entry Nos.

22, 63,
119, 120, 121, 157, 158, 159, 196,
405, 406, 420, 421, 422, 424, 425, 427, 428, 434, 441, 444, 445, 446, 461, 475,
481, 482,
514, 517, 523, 542, 546, 577, 583, 584, 585, 586, 587, 592, 594, 595, 596, 597,
598, 599,
600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615,
616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631,
632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647,
648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 660, 662, 663, 664, 665,
666, 667, 669, 670, 671, 672, 673, 674, 676,
701, 702, 703, 704, 705, 706, 710, 711, 712, 713, 716, 717, 721, 723, 725, 730,
771, 773, 774, 795,
806, 814, 815, 817, 829, 830, 831, 833, 834, 838, 845, 861, 862, 870, 873, 887,
890, 898, 899,
900, 901, 902, 904, 906, 908, 910, 911, 917, 923, 925, 927, 928, 944, 945, 946,
947, 948, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964,
965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 979, 980, 982,
983, 988, 997,
1000, 1003, 1004, 1027;

and applicable (No. 1102) to the registration at Entry No. 720.

Objection No. 313

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 10 November 1970; grounds, that a right of pannage does not exist; applicable to the registration at Entry Nos.

475, 577, 771, 797, 798, 806, 817, 829, 830, 845, 906, 943.

Objection No. 314

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 10 November 1970; grounds, that the right to take wild animals and birds does not exist; applicable to the registrations at Entry Nos 833, 834 and 861.



Objections No. 315, No. 380 and No. 981

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 6 and 10 November 1970 and ; grounds that the right does not exist at all; applicable (No. 315) to the registrations at Entry Nos.

2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 76, 77,
87, 88, 89, 90, 91,
150, 151, 152, 153, 154, 155, 160,
202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 220, 223, 224,
225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240,
241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256,
257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272,
273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288,
289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299,
300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315,
316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331,
332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347,
348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363,
391,
435, 442, 443,
581, 582,
675, 696, 697, 698, 699,
700, 707, 708, 709, 715, 726, 727, 729, 731, 732, 733, 768, 775, 776, 756,
816, 822, 858, 880, 881, 889,
912, 916, 924, 926, 936, 986, 987, 990, 998,
1002, 1005, 1006,

applicable (No. 380) to the registrations at Entry Nos 444, 676, 870, 898, 908,
984, 1000 and 1027

applicable (No. 981) to the registrations at Entry Nos.

170, 175, 197, 198,
215, 216, 217, 218, 219, 221, 222,
364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379,
380, 381, 382, 383,
433, 467, 470, 475, 486, 487, 488, 489, 490, 491, 492, 493, 494,
571, 572, 573, 574, 576, 578,
688, 689, 690,
740, 741, 745, 746, 749, 751, 752, 753, 754, 762, 763, 764, 765,
827, 857, 859, 860, 876, 877, 895, 897,
914, 934,
1007, 1008, 1009, 1010, 1011, 1012, 1016.

Note: at hearing Objection No. 981 withdrawn (see Duchy/43) as regards Entry
Nos 215, 688, 689 and 1016.



Objections No. 316, No. 317, No. 318, No. 319, No. 478, No. 982 and No. 984

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 13, 11, 9 and 10 November 1970, 23 June 1972 and 23 June 1972; grounds, the rights are restricted to the South/West/North/East/Quarter of The Forest of Dartmoor CL163(S)/CL164(W)/CL164(N)/CL164(E) only.

At the hearing Mr Etherton said that these Objections were withdrawn.

Objection No. 320

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 10 November 1970; grounds, that the right to take minerals does not exist; applicable to the registration at Entry No. 829.

Objection No. 321

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 10 November 1970; grounds, (a) to the registration at Entry No. 674 that a right does not exist for the parishes of Okehampton Hamlets and Sampford Courtenay; and (b) to the registrations at Entry No. 979 and No. 997 that the right does not exist for the parish of Okehampton Hamlets.

Objection No. 381

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 31 March 1971; (a) as to registration at Entry No. 673, no right exists for the parish of Okehampton Hamlets; (b) as to the registration at Entry No. 917 and No. 982, no right exists for the parish of Sampford Courtenay; (c) as to the registration at Entry No. 950, no right exists for the parishes of Lewtrenchard and Thrushelton; and (d) as to the registration at Entry No. 958, no right exists for the parish of Thrushelton.

Objection No. 523

By North Devon Water Board; noted in the Register on 29 January 1971; grounds, rights do not extend over land coloured green on plans (a pipe in the Black-a-ven Brook area and 4 or 5 pipes in the Taw Marsh area), or should be modified to enable the Board to exercise their easements and rights.



Objection No. 545

By HRH Charles Prince of Wales, Duke of Cornwall: noted in the Register on 31 March 1971; grounds, a grazing right on the South Quarter does not exist; applicable to Entry Nos 101, 102, 103, 104, 105, 106 and 107.

Objection No. 546

By HRH Charles Prince of Wales, Duke of Cornwall; noted in the Register on 31 March 1971; grounds, straying rights on the South Quarter do not exist; applicable to Entry Nos 26, 27, 28, 29, 30, 31, 32, 33, 35, 37, 64, 66, 67 and 70.

Objection No. 1030

By Minister of Agriculture, Fisheries and Food; noted in the Register on 11 September 1972; grounds, no common rights exist on "This land ... plan attached ..." (plan shows 4.307 acres between Bellever and the nearby Bridge over East Dart River).

Objection No. 1084, No. 1087, No. 1088 and No. 1089

By Mr W J Edmunds; noted in the Register on 11 September 1972; grounds, (1084) applicable to the registration at Entry No. 993, no rights exist in respect of part of land at Peat Cot as shown on plan (? an area of about 4 acres); grounds (1087) applicable to the registration at Entry No. 938, should read "to graze over CL 164(S) and to stray etc."; grounds (1088), applicable to the registration at Entry No. 463, should read "to graze 35 cows or 35 ponies or 175 sheep with progeny over the whole of the land comprised in register unit CL164(S)"; and grounds (1089) applicable to the registrations at Entry No. 747, No. 1025, No. 1026 and No. 1027, "rights claimed do not exist over CL164(S)".

Note: On 21 April Mr Edmunds said that he withdraws Objection No. 1089.

Objections No. 1096 and No. 1097

By Mr Ernest Frederick Palmer; noted in the Register on 11 September 1972; grounds (1096) applicable to the registrations at Entry Nos 138, 411, 501, 512 and 869, "no rights exist" and grounds (1097) applicable to the registrations at Entry Nos 430, 431, 432, 505, 506, 507, 508, 509, and 991 "no right to stray".



THIRD SCHEDULE
(Documents produced)

Part I: produced (20/iv) by South West Water Authority

--	20 April 1982	Summary of Authority's Case.
FGC/1	July 1973	South West Water Authority Constitution Order 1973: SI No. 1307.
FGC/2	8 August 1969	Vesting deed by which North Devon Water Board after reciting the North Devon Water Board Act 1945, reciting the North Devon Water Act 1959 authorising the purchase of about 1.387 acres in Belstone, South Tawton and Lydford together with certain easements, reciting a conveyance dated 14 January 1965 by which HRH Prince of Wales Duke of Cornwall conveyed such lands and easements to the Board and reciting that a committee of persons having commonable rights had been appointed under the Lands Clauses Consolidation Act 1845 and had agreed to accept £115, declared pursuant to such Acts the said land easements and rights were vested in themselves the said Board.
FGC/3	7 August 1969	Receipt for the said £115 signed by Messrs W J Wedlake and F J Woodward and T Marshall.
FGC/4	14 January 1965	The said recited conveyance.
FGC/5	9 May 1934	Deed being a licence by HRH Prince of Wales, Duke of Cornwall to the Mayor Aldermen and Burgesses of the Borough of Okehampton to maintain in perpetuity the dam therein mentioned and in perpetuity on the stream known as Blackaven Brook a weir and reservoir or intake chamber in the position indicated on the map by the letter C.



Part II: produced (20/iv) by the
Minister of Agriculture, Fisheries
and Food

RJT/1	15 April 1931	Conveyance by HRH Prince of Wales, Duke of Cornwall to The Forestry Commissioners of about 2,628,749 acres parts of Fernworthy, Bellever and Brimpts Estates in the Manor of Lydford and Forest of Dartmoor.
RJT/2	- -	Map (6" = 1 mile) showing the 1931 conveyance land around Bellever in relation to the Unit Land and a map (scale 1/2,500) showing OS No. 6535 containing 4.20 acres.
RJT/3	11 June 1945	Lease by the King's Most Excellent Majesty (by the advice etc of his Duchy of Cornwall) to the Forestry Commissioners of a dwelling house buildings and lands comprising Soussons Farm from 25 March 1945 for 999 years.

Part III: produced (21/iv) by the Duchy
of Cornwall as regards Pizwell Strip and
their position generally

Duchy/1	1905	Extract from OS map 1/2,500 showing Walla Brook by Pizwell and showing the Objection (Land Section) No. 19 land near Pizwell.
Duchy/2	- -	Map (1" = 1 mile) showing the Forest boundary, the Unit Land boundary the farm locations mentioned in the Objections (Land Section and the land (the Common of Devon) owned by the Duchy.
Duchy/3	17 February 1976	Decision of Chief Commons Commissioners relating to Register Unit No. CL 148 being Headland Warren, Combe Down and Hookney Down in North Bovey.
DPA/Pollock; DPA/Birkett; DPA/Moore	1890	A short history of the Rights of Common upon the Forest of Dartmoor and the Commons of Devon published by the Dartmoor Preservation Association (printed octavo): pages i to x, being introduction by Sir Frederick Pollock, pages xi to xxxii being a history by Mr P Birkett and pages 1 to 166 being a report by Mr Stuart A Moore with a summary of evidence and appendix of documents.



Worth	1967, 3rd imp. 1981	Worth's Dartmoor; edited from works of R Hansford Worth; octavo, David & Charles, 523 pages.
Duchy/4	- -	Pages 332 to 339 Worth.
Duchy/4(A)	17 March 1337	Charter (Latin) by K. Ed. III with assent of Parliament creating the honour of Duke of Cornwall.
Duchy/4(B)	1911	Manuscript translation of said Charter. Challis Real Property (3rd edition), see chapter V page 29.
Part IV: produced (21/iv) by County Council for the registration of the Huccaby Pieces		
- -	1840	Tithe map for the parish of Lydford: entitled "map of the enclosed lands": certified by Tithe Commissioners as being map referred to in Tithe Apportionment Award 1839.
Part V: produced 21/iv) by Duchy against the registration of the Huccaby Pieces		
Duchy/5	1805-1818	Plan by W Shillibeer of "Uninclosed parcels of land situated on the Forest of Dartmoor and Manor of Lydford agreed to be granted on Lease by His Royal Highness the Prince of Wales"; endorsed "map showing Customary Freeholds and early enclosures on Dartmoor ... yellow, Customary Freeholds; green, Enclosures as delineated on Plans in old Leases 1805-1818; map 12 feet long and 3 feet wide.
Duchy/6	1861	Extract from map of Forest of Dartmoor and Commons of Devon based on Tithe Apportionment map showing Huccaby Farm.
Duchy/7	1885	Extracts from OS map 1/2,500 of Huccaby.
Duchy/8	1954	Extract from OS map.
Duchy/9	-	Huccaby Farm OS 1487 and roadside waste. Summary of Documents showing letting of Huccaby Farm OS 1487 and roadside waste from 1887 to 1973.



A	year ending 31 December 1876	Rents and profits of Courts, County of Devon, Forest of Dartmoor, item 29 French, Mary, Mrs; 343 A.2R. 18P, Huccaby.																		
A1	24 June 1880	Lease of Huccaby Farm by HRH Prince of Wales to Richard Mallock about 339 a. 2 r. 36 p. (with tithe nos.) for 14 years.																		
A2	21 September 1894	Lease by HRH Prince of Wales to Richard Mallock of Huccaby Farm containing 363 a. 1 r. 14 p. to have on it with OS Nos. for 14 years.																		
A3	1907	Extract from rent book item "Captain Mallock 363. 1. 14. Huccaby Farm" (Discharge) "Lease given up at 25 March 1907 then let as under and with 4 a. 0 r. 8 p. late waste making 367 a. 1 r. 27 p.																		
B	year ended 31 December 1907	Rents and profits of Courts; item 113 Wilcocks A; 366 A. 1 R. 27 P; Huccaby Farm.																		
C	(?) after 25.3.1935	List of tenants: Smith A J and G H; 366.374 Huccaby Farm (com of tenancy) 25 March 1926.																		
D	1941	List of tenants: Stephens W J; 364.812 Huccaby Farm.																		
D	1948	List of tenants: Stephens W J, Huccaby Farm (terminated 25/3/48).																		
E	1948	List of Farms and Smallholdings: Chaffe H E & W Huccaby Farm.																		
F	1955	List of Farms and Smallholdings: Chaffe H E & W.																		
G	1973	Mudge Michael (formerly Messrs H & W Chaffe) from 25/3/73.																		
G	27 March 1973	Tenancy agreement by HRH Prince of Wales to Michael Henry Mudge of Huccaby Farm containing 363.91 acres including waste adjoining/by, road.																		
		<table> <tr> <th>OS No. 1905</th><th>OS Current</th><th>No/Acreage</th></tr> <tr> <td>1073</td><td>6471</td><td>4.23</td></tr> <tr> <td>1104</td><td>2644</td><td>1.35</td></tr> <tr> <td>1906</td><td>4121</td><td>1.25</td></tr> <tr> <td></td><td>4021</td><td>.43</td></tr> <tr> <td>1916</td><td>0994</td><td>Pt .49</td></tr> </table>	OS No. 1905	OS Current	No/Acreage	1073	6471	4.23	1104	2644	1.35	1906	4121	1.25		4021	.43	1916	0994	Pt .49
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	4021	.43																		
1916	0994	Pt .49																		



Duchy/10:
Nos. 1 to 23

—
Photographs 5" x 3½" coloured of
Huccaby Land with explanatory map
showing where each was taken.

Part IV: produced (21/iv) by
Mr D G H Cooper and the Duchy about
Nos 1 and 2 The Lodge

DGHC/1

—
Statement by Mr Cooper.

DGHC/2

Two plans of No. 2 The Lodge shown
as 8029 containing .16 acre.

Duchy/10 and 11

1978

Two plans of No. 1 The Lodge being
7832 containing .10 acre.

Part V: produced (21/iv) of
Lady Sayer

SRPS/1

17 April 1982

Statements relating to land at Pizwell
and Warren House in (Walna) included
with general statement about all these
proceedings and particularly
statements about the Huccaby Pieces
and Huntingdon Warren.

Part VIII: produced by (21/iv) by Duchy
registration of the Warren House land

Duchy/12

1805-1818

Another extract from Shillibeer, see
Duchy/5 above.

Duchy/13

11 October 1809

OS map.

Duchy/14

1861

Another extract from the said 1861 map,
see Duchy/6 above.

Duchy/15

1953

Map of Objection Land based on OS map
and 9 photographs taken from point
marked on map.

Duchy/16

—

Summary of Document 1918-1981 relating
to Warren House Inn and Walna Tenement.

A

12 February 1918

Deed of Surrender by Ann Eugenie
Hopkins and Clara Hopkins of Customary
Tenements known as Runnage Walna held
of the Manor of Lydford with plan and
OS and Tithe Nos.



B	Year ending 31 December 1919	Receipts of the Duchy of Cornwall, rents and profits of Court, County of Devon Forest of Dartmoor. Item "Hext, 115 a. 0 r. 4 p. Walna rent from 29 September 1918 to 29 September 1919".
B	Year ended 31 December 1920	Ditto
B	1921	Charges and discharges item "Stephens F". Mesne rent; Warren Inn: Walna Tenement.
C	1923, 1924, 1930	"Stephens William, Warren Inn, Walna", item Stephen Wm. ditto, item Stephen Wm. ditto; Stephens W T reps of.
D	26 February 1931	Lease by HRH Prince of Wales to Arthur James Hurn of "The Warren Inn" and lands known as Walna Tenement from 29 September 1930 for 14 years with plan and schedule.
D1	1944, 1945, 1946	Charge and discharges: item "Hurn A J"; item "Hurn A J and Warren Inn and Walna"; item Hurn A J.
E	24 September 1947	Lease by Kings Most Excellent Majesty (with the advice etc of Duchy) to Arthur James Hurn of The Warren Inn and Walna Tenement. 29 September 1947 for 14 years with plan and schedule.
F	25 August 1953	Assigned by Arthur James Hurn to Brian William Sillem.
G	2 May 1962	Lease by HRH Prince of Wales to Brian William Sillem of The Warren House Inn and the lands known as Walna Tenement from 29 September 1961 for 21 years, with plan and schedule.
H	7 November 1964	Assignment by B W Sillem to Douglas Charles Cocks.
J	21 October 1968	Assignment by E C Cocks to Goose and Gander (South Molton) Limited with Dennis Seaman as surety.
K	1 August 1973	Assignment by Meldon Lake Hotels Limited to Basil Richard Goad.



Part X: produced (22/iv) by the Duchy
against registration of Huntingdon Warren

Duchy/18	1954	Extract from OS map (6" = 1 mile) and 7 photographs taken from places indicated on such map.
- -	1722	Court Roll for the Manor of Lydford; about 15 feet long, and all in Latin.
Duchy/19	11 June 1722	Translation of entry in said Roll: "one parcel of the Forest on Huntingdon Down otherwise called a New take parcel of the Manor and Forest aforesaid containing by estimation 8 acres to John Beard his heirs and assigns in perpetuity by custom of the Manor and Forest aforesaid paying annually to the Prince 12 pence."
- -	1800-1809	Record of Surveyor General of the Duchy.
Duchy/20	18 April 1809	Petition for Lease of new take situate upon Huntingdon Down, new take called Huntingdon Warren about 320 acres and waste land altogether 586 a. 0 r. 37 p.
Duchy/21	1805-1818	Another extract from the Shillibeer map showing 586 a. 0 r. 37 p.
Duchy/22	26 May 1809	Lease by HRH Prince of Wales to Thomas Michelmore of enclosed new takes and an additional allotment of waste 586 a. 37 p. from 25 March last passed for 99 years.
B	7 July 1815	Assignment by T Michelmore to John Fox Smart.
C	11 June 1841	Assignment to Robert Tucker and John Prestwood Belew.
D	13 March 1882	Assignment by William Michelmore to Edmund Fearnley Tanner.
E	3 March 1910	Lease by HRH Prince of Wales to Charles Edward Collier and Harry Mallaby Deeley from 1908 for 38 years and 129 days expiring 1 August 1938 of "enclosed lands known as Huntingdon Warren ... with a dwelling house and outbuildings and the enclosed areas of land surrounding the said enclosures on the



north, west and south sides thereof (OS 1886) ... but without any right to turn stock on the Open Forest of Dartmoor or on the Commons belonging thereto.

F 27 April 1910

Assignment to China Clay Corporation Limited of 1908 lease (? Red Lake) and 1910 lease (Supra).

G 27 July 1921

Conveyance to Harry Mallaby-Deeley of numerous properties including (Fourth Schedule) Huntingdon Warren as shown on plan C.

H 1924-1933

Number of sheets of charge and discharge "tenant Waye, John of Huntingdon Warren".

J 1933-1950

Number of sheets of charge and discharge tenant Commander C H Davey of Huntingdon Warren.

K 1940-1957

Number of sheets of charge and discharge tenant John Waye.

J 26 March 1933

Proposal and agreement by Commander C H Davey to take a lease on Huntingdon Warren Farm containing about 609 acres.

L 10 February 1958

Tenancy agreement by HRH Duke of Cornwall to Mr Percy Waye of Huntingdon Warren containing about 609 acres with plan attached.

Duchy/23 1861

Map.

Duchy/24 1889

OS map.

Duchy/25 1954

Map.



**Part XI: produced (22/iv) by Mr P I Pellow in support
of Rights Section registration No. 444**

PIP/1	4 November 1960	Conveyance by Douglas Paterson Kroenig Ryan and Mary Mathilde Katherine Ryan to Philip Ivan Pellow of Kerslake Farm, Meldon comprising about 116.59 acres, with plan.
PIP/2	25 March 1893	Lease by Marion Luxmoore, Elizabeth Cunningham, Trevor Roper, George John Dumville Lees and Annie Dove Lees to Philip Pellow of farm and land called Kerslake and Outer Kerslake and other fields being 131 a. 5 p. from 25 March 1892 for 14 years.
PIP/3	19 March 1926	Statutory declaration by Claude Henry Trevor-Roper as to an undivided third share of the Okehampton Park Estate passing under the Will of Elizabeth Cunningham Trevor-Roper who died 12 December 1898.
PIP/4	1929	Pamphlet of Dartmoor Scotch Sheep Breeders Association containing Rules and 149 illustrated Earmarks of members No. 131 being of P J Pellow of Kerslake Farm.
PIP/5	19 March 1975	Probate of Will of Philip Ivan Pellow (he died 8 December 1974) granted to his widow Mrs Dorothy Ellen Pellow and his son Philip Ivor Pellow.

Part XIII: on behalf of Mr C J Heard,
Mr K C Heard and Mr W J L Heard in support of
Rights Section registration Nos 870, 908 and 997

--	15 April 1982	Medical certificate about Mr W J L Heard.
KCH/1 CHJ/1	1975	OS map (36" x 24") of 10 Tors, scale 1/50,000. Note: as stated under the heading "Meldon ... ", after the hearing copies of relevant conveyances were produced



Part XII: (23/iv) on behalf of Mrs G E Hodge and Mr J A T Hodge
in support of Rights Section registration → 676 and 1027

JATH/1	21 April 1982	Letter from Stratton & Holborow as agents for the Okahampton Park Estate now owned by Mr Richard A Bacon previously administered by the Public Trustee for the trustees of Miss M Luxmore Settlement.
JATH/2	27 June 1965	Copy application (CR Form 9) and the 1965 Act by Mr John Albert Thomas Hodge with a plan of Lower Halstock.
JATH/3	28.7.70	Copy supplemental map referred to in Rights Section Register being of Higher Halstock.
JATH/4	11 November 1937	Assent by Samuel Snell and John Snell as personal representatives of Mary Jane Brook (she died 12 February 1937) in favour of Albert George Hodge as devisee in remainder under the Will of Charles Finch Brook (he died 20 May 1926) of Higher Halstock containing 37 a. 1 r. 3 p. and also a new take containing 22 a. also plot part of Stennant containing 2 a.
JATH/5	10 August 1955	Assent by Eliza Emma Hodge as administratrix of the said A G Hodge (he died 1 May 1955) of the said premises.
JATH/6	11 August 1955	Conveyance by Mrs E E Hodge to Albert Southcombe Hodge of the same premises then known as Higher Halstock.
JATH/7	5 September 1960	Conveyance by A S Hodge to John Albert Thomas Hodge by way of gift of the said premises.
JATH/8	1929	Pamphlet of the Dartmoor Scotch Sheep Breeders Association above mentioned.



Part XIII: produced (? and 23/iv)

Duchy/30	7 August 1941	Requisition by Lord Warden and Master Forester to the Reeve to make a drift of colts in the North Quarter to Halstock Pound.
Duchy/31 Duchy/32	—	Form (blanks) by P L W Herbert, Bailiff of Dartmoor: Colt Drift: Bullock Drift: in sole interest of Venville tenants and parishes claiming to be in Venville: formerly "blowing horns".
Duchy/35	16 April 1982	Statement by Percy Wayne headed Huntingdon Warren.

Part XIV: produced (23/iv) by Devon County Council in support of registration Huntingdon Warren

County/10	23 April 1982	Statement as to case of County Council relating to Huntingdon Warren.
County/11	1912	Guide to Dartmoor by Crossing (printed octavo); page 372 relied on re Huntingdon Warren.
County/12	1839	Tithe Apportionment Award for Parish of Lydford; relied on as to quantity of common land.

Part XV: produced (23/iv) by Lady Sayer

Lady S/15	23 April 1982	Statement about Huntingdon Warren.
Lady S/16	23 April 1982	Observations on the purchase by the Duchy in 1918 of tenements of Runnage and Walna from Mrs Ann Hopkins and Clara Hopkins.
Lady S/17	—	Photograph of ruins of Huccaby House (unlike those at Walna).



Part XVI: produced (8/vi) by Duchy
as showing registrations conceded

Duchy /41	7 June 1982	Duchy letter dealing with Objections Nos. 321, 381, 380 and 981.
Duchy /42	7 June 1982	Duchy letter withdrawing Objections Nos. 316, 317, 318, 319, 546, 982, 894 and 478.
Duchy /43	—	Duchy list of holdings in Venville (including ancient tenements).
Duchy /44	—	Duchy list of holdings not in Venville and (nevertheless) not objected to.
Duchy /45	—	Duchy list explaining Duchy /41 above.

Part XVII: produced (8/vi) by
Mr J A T Hodge (in support of
Entry No. 675)

JATH/11	5 March 1932	Deed of partition between George William Hodge and Thomas Hodge.
JATH/12	1929	Extracts from said pamphlet of Dartmoor Scotch Sheep Breeders Association (PIP/4 supra).
JATH/13	30 October 1950	Conveyance by George William Hodge to Albert Southcombe Hodge of field known as Bowden, otherwise East Bowden otherwise Holdstock containing 14 a. 2 r. 14 p.
JATH/14	24 June 1949	Assent by Annie Hodge in favour of herself as executrix to Thomas Hodge (he died 10 May 1948) of East Bowden.
JATH/15	23 December 1950	Conveyance by Annie Hodge to Albert Southcombe Hodge of East Bowden.



Part XVIII: produced (8/vi) by
Mr J W Reddaway

JWR/1	22 March 1972	Declaration by Miss Catherine Anne Brock as to purchase in 1860 of Restland 118.495 acres by John Brock (he died intestate 22 January 1911).
JWR/2	25 March 1952	Conveyance by Miss C A Brock and Miss H J Brock of Restland to Mr William Reddaway.
JWR/3	15 August 1961	Probate of his will (he died 18 February 1961).
JWR/4	17 January 1973	Certificate of death of Mrs Elizabeth Ann Reddaway (widow of said William Reddaway).
JWR/5	20 May 1976	Assent in favour of Mr J W Reddaway on trusts of will of said William Reddaway.
JWR/6	1929	Extract from said pamphlet of Dartmoor Scotch Sheep Breeders Association (PIP/4 supra).

Part XIX: produced (8/vi and 9/vi)
by Mr D Luxton

DL/1	1952	Abstract of title of T C Turl commencing with a conveyance dated 31 December 1920 to Frederick George Brendon of Fatherford in Okehampton Hamlets containing 153 a. 2 r. 29 p.
DL/2	29 September 1961	Conveyance by T C Turl to Mrs Hetty Luxton and Mr Colin Richard Luxton of 33.630 acres part of Fatherford Farm in trust for Dudley Luxton.
DL/3	23 November 1963	Conveyance by Mrs H Luxton and Mr C R Luxton to Mr D R Luxton (attained 21 years on 22 November 1963).
DL/4	21 April 1982	Letter by Mr A Brendon as to his father living at Fatherford and owning Alfordon Farm and grazing the Forest.



DL/5	1929	Extract from pamphlet of Dartmoor Scotch Sheep Breeders Association (No. 11 Mr F G Brendon of Fatherford Barton).
DL/6	1963	Abstract of title of A S Gage and A G Gage to North Alfordon commencing with a conveyance dated 5 November 1932 to Frederick George Brendon (he died 25 February 1940) of 44.526 acres part of North Alfordon and 11 a. 5 p. and 1 a. adjoining and including an assent by Mrs M S Brendon (she died 22 September 1953) in favour of Arthur Brendon.
DL/7	25 June 1956	Conveyance by Arthur Brendon to A S and A G Gage of North Alfordon containing 48.707 acres.
DL/8	—	Map.
DL/9	30 September 1963	Conveyance by A S and A G a B O Gage to Kenneth Bushby Young of North Alfordon containing 41.323 acres.
DL/10	31 May 1966	Conveyance by K B Young to Mr Dudley Luxton and Mrs Frances Margaret Luxton of North Alfordon containing 41.323 acres.

Part XX: referred to (8/vi)
by Mr J W Northmore

—	July 1958	Report of Royal Commission on Common Land 1955-1958 Appendix III: Legal Problem by Sir Ivor Jennings, paragraphs 12 et seq "pur cause de vicinage".
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Part XXI: produced (9/vi) by
Mr Arnold Henry Cole in support
of Entry Nos. 430 and 488

AHC/1	31 December 1942	Conveyance by Richard Owen Tapps Gervis Meyrick with concurrence of Trustees to Henry Harvie Cole of Greenwell Farm, Meavy containing 186.13 acres "together with all common rights on Wigford Down hatched in red on plan
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AHC/2	26 September 1946	Conveyance by Henry Harvie Cole to Gordon Preston Richards of part of Greenwell Farm OS No. 349 containing 4.504 acres in Meavy.
AHC/2 bis	5 October 1956	Conveyance by Gordon Preston Richards to Ann Burtenshaw of said OS No. 349 containing 4.504 acres.
AHC/3	23 October 1956	Conveyance by Ann Burtenshaw to Arthur Reginald Thomas Pegg of said OS No. 349.
AHC/4	24 October 1957	Conveyance by A R T Pegg to Henry Harvie Cole of said OS No. 349.
AHC/5	1 June 1981	Conveyance and deed of gift by Henry Harvie Cole to his son Arnold Henry Cole of land in conveyance of 31 December 1942 and 24 October 1957.
AHC/6	7 June 1982	Notice by Chilcotts, Solicitors of Tavistock that Greenwell Farm is now owned by Arnold Henry Cole.
AHC/7	15 November 1955	Conveyance by William Edwin Sherrell to Henry Harvie Cole of fields at Lovaton in Meavy containing 14.964 acres.
AHC/8	1981	Deed of gift by Henry Harvie Cole to his son Arnold Henry Cole of land in conveyance at 15 November 1955.

Part XXII: produced (10/vi)
to Mr H H Cole by Mr Etherton

Duchy/46	Xmas 1953	Manuscript statement of grazing rights on South Quarter.
Duchy/47	15 August 1931	Letter by Duchy to W Edmunds with pencil memoranda on back.
Duchy/48	1933	Pencil memoranda.
Duchy/49	16 September 1930	Letter about warrants for colt Drift and cattle Drift to W Edmunds with memoranda "impounded".
Duchy/50	22 August 1932	Similar letter with memorandum "impounded".



Duchy/51

24 August 1940

Similar letter to W Edmunds with memorandum.

Part XXIII: produced (10/vi)
by Mr John Thomas Cole,
Entry No. 488

JTC/1	11 November 1947	Conveyance by Mrs Noel Mabel Mackworth to Thomas Cole of Broomhill in Harford containing 94.826 acres together "with such rights of grazing over adjacent common land as have been hitherto enjoyed by the vendor or her predecessors in title".
JTC/2	29 September 1961	Conveyance by Thomas Cole to his wife Mary Louisa Cole of Broomhill by reference to said conveyance of 11 November 1947 together with as above "by donor and his predecessors in title".
JTC/3	23 October 1980	Assent by executors of Mary Louisa Cole (she died 8 April 1980) in favour of John Thomas Cole of Broomhill containing 73.82 acres.
JTC/4	3 March 1978	Deed of gift by Mrs Mary Louisa Cole to her son Mr John Thomas Cole of fields OS Nos. 138 and 143 containing 9.71 acres.
JTC/5	24 July 1978	Similar deed of gift of OS Nos. 142, 273, 274, 141, and 275) containing 10.11 acres.
JTC/6	12 December 1979	Similr deed of gift of field OS No. 130 containing 3.90 acres.

Part XXIV: produced (10/vi) by
Mr J W Northmore for Entry No. 138
made by Mr J F Northmore

JFN/1	1977	Abstract of title of Mrs E M Murrin as personal representative of John Ford Northmore including
A	4 October 1866	Abstract conveyance by John Gilbert Chilcott to John Northmore of Lovington Bastard, otherwise Loveton containing 19 a. 2 r. 14 p.



B	5 February 1893	Will specifically devising lands at Loveton to James Northmore and William Henry Northmore.
C	29 April 1901	Conveyance by Mrs M A Northmore Mr J Northmore and Mr W H Northmore as personal representatives of John Northmore (he died 2 April 1899) to James Northmore (devisee of a half of lands at Loveton) of fields at Loveton containing 19 a. 2 r. 14 p. (part of said lands).
D	9 January 1947	Assent by John Ford Northmore and James William Northmore as personal representatives of James Northmore (he died 26 September 1946) to vesting in John Ford Northmore of lands at Loveton containing 19 a. 2 r. 14 p.
JFN/2	3 January 1977	Conveyance by Ethelwyn Mary Murrin as personal representative of John Ford Northmore (he died 8 April 1977) to Norman Kenneth Skelley of part of a holding at Loveton containing OS Nos. 742, 741 and 743, Three Corners, Long Land, Port field 2.36, 2.71 and 3.78 (total 8.85) acres (lot 2).
JFN/3	3 January 1978	Conveyance by said Mrs E M Murrin as such personal representative to Frederick Ford Northmore and Rose Northmore of OS No. 7322, 7835 and 8542 (lot 1).
JFN/4	24 May 1979	Conveyance by Norman Kenneth Skelley to himself and his wife Ethel Mary Skelley of said Lovington Bastard 8.85 acres.
Part XXV: produced (19/x) by Mr W J Vanstone		
WJV/1	18 January 1943	Conveyance by Mr Richard Owen Tapps Gervis Meyrick in exercise of Settled Land Act power with concurrence of his trustee to Mr William John and Mrs Ellen Mary Vanstone of Meavy Barton Farm containing about 169.887 acres (with map).



Part XXVI: produced (19/x) by
Mr J T French

JTF/1

JTF/2

1205-1206

Extract from back of ancient map on which there are 1st half of 16th century extracts from documents including royal charter granting Hubert Vaus Lord of Ugborough commons and liberty in the Forest and to all his tenants.

JTF/3

1848

Extract from page 326 of Perambulation of Dartmoor by Samuel Rowe of Minister's accounts in 1502-63 including "vill of Ugborough 0.0.5."

Part XXVII: produced (20/x) by
Mr W J Edmunds

Duchy/46

Duchy/63

—

Notice of colt drift and bullock drift "in the sole interest of the Venville tenants and Parishes claiming to be in Venville" by P L W Herbert bailiff of Dartmoor.

Duchy/62

Duchy/63

27 March 1954

Letter to W E Edmunds from (?) Wotton with manuscript reply on back.

Duchy/64

1.4.54

Letter from E J Sercombe Hon. Sec. of Cornwood Commoners Association. with manuscript copy reply on back.

Duchy/65

—

List of payments.

Duchy/66

1 Oct 1962 to 30 May 1963

Barclays Bank Ltd paying in book.



Part XXVIII: produced (20/x) by
Mr E F Palmer

EEP/1	4 December 1894 to 19 January 1972	Minute book of Sheepstor Parish Meetings.
EEP/2	1872 etc	Tattered old abstract including will dated 5 April 1872 of Sir F G A F E Drake and of vesting assent in favour of R D T G Meyrick of Buckland Abbey to which was a map endorsed Entry No. 44 CL 191.
EEP/3	1942	Abstract of title commencing with indenture of 24 June 1871 by Sir F G A F E Drake and Dame E F E Drake and ending with a conveyance dated 23 December 1942 of Durrance Farm and Callisham Farm containing 325.773 acres.
EEP/4	11 June 1928	Copy demise by Rt Hon E B E D C Baroness Seaton to Ernest Richard Palmer (yearly) of Callisham 187.2.0. and Olderwood 53.1.14. then in occupation of John Healey Vanstone.
EEP/5	—	Extract from CL 188 (Nos. 7 and 8 and CL 191 (Nos. 42, 43, 44) Register (re Vanstone).
EEP/7	1935-36	List of Venville tenants North Quarter by Mr G Endacott; West Quarter by Messrs Mudge Bros; South Quarter Venville Estate; East Quarter recipients of notices.

Part XXIX: produced (21/x) by
Mr Woodward

Submissions (manuscript)



FOURTH SCHEDULE
(Decision Table)

1. For the reasons set out under the headings Huccaby Lands, Warren House Land, ^{Huntingdon Warren} and Noncontroversial Land Section questions, I CONFIRM the registrations at Entry No. 1 in the LAND SECTION with the MODIFICATION that there be removed from the Register: (a) the land being a well near Black-a-ven Brook shown coloured pink on one of the two plans annexed to Objection No. 506 made by North Devon Water Board; (b) the land being five wells by the River Taw coloured pink on the other of the said two plans; (c) the land being OS No. 1607 containing 4.307 acres situated east of Bellever and verged green on the plan attached to Objection No. 1030 made by Minister of Agriculture Fisheries & Food; (d) the land on both sides of the Walla Brook where it flows near Pizwell being that part of the land marked in red on the plan attached to Objection No. 299 made by Mr A E Sturges which is south of the now existing wall which on OS map 1/2,500 (1906 edition) for Pizwell is delineated as being a straight line which if produced westwards would pass through the middle point between the "p" of "Pizwell" and the "1" of OS No. "1257" and which if produced eastwards would pass just north of the "F" of "Foot Bridge"; (e) the lands held with the dwelling houses No. 1 and No. 2 The Lodge on the north and the south sides of and adjoining the road into Princetown from Yelverton, and being on the OS map numbered 7832 and 8029 and marked as containing ".10" and ".16" acres (? hectares); (f) the land being OS No. 320 containing 4.452 acres at Babeny hatched in blue on the plan attached to Objection No. 649 made by Mrs F Wilkinson; (g) the lands which under the heading Huccaby Land I have called the HH Piece, the HF West Piece and the HF East Piece, being 3 out of the 7 pieces with which I have under such heading divided the land on the plan attached to Objection No. 194 made by HRH Charles Prince of Wales, Duke of Cornwall and thereon edged red; (h) the land being that shown edged red on one of the plans attached to Objection No. 193 made by HRH Charles Prince of Wales, Duke of Cornwall, being that one on which is so edged the two pieces discussed under the heading Warren House Land; and (i) the land under heading "Huntingdon Warren" defined as being that herein meant by Huntingdon Warren.

2. For the reasons stated in the first paragraph under heading "Others" and for the purpose of enabling some of the modifications herein directed to be conveniently registrable, I direct Devon County Council as registration authority to make an entry in the Rights Section which by reference to such maps if any as they may think fit to provide, is to the following effect:- "In this Rights Section the Water Authority Provision means: Provided that the right to dig or take stone sand and ~~the~~ gravel and/or the right to dig or take any one or more of them shall not extend to, or so as to interfere with, any water pipes or water apparatus on the parts of the land in this Register Unit which are coloured green on the plans enclosed with Objection No. 523 made by North Devon Water Board (being parts of the Taw Marsh and Black-a-van Brook areas of such land)".

3. For the reasons stated or referred to in Part IV of the First Schedule hereto I REFUSE TO CONFIRM the registrations with the numbers next hereinafter set out:-

38, 42, 49, 55, 57, 59, 85, 86,
101, 102, 103, 104, 105, 106, 107, 111, 129, 138, 185, 192,
202, 204, 218,
365, 366, 367, 368, 369, 370, 374, 389,



407, 411, 430, 431, 432, 439, 487, 488,
501, 505, 506, 508, 509, 512,
674,
715, 724, 775,
813, 835, 837, 858, 859, 860, 869, 876, 895,
912, 914, 958, 989, 990, 991, 992, 997,
1000, 1018, 1068, 1117, 1118

Note: 411 replaced by 1117 and 1118.

4. For the reasons stated or referred to in Part IV of the First Schedule hereto I CONFIRM the registrations with the numbers next hereinafter set out with the MODIFICATIONS (if any) in such Part specified that is to say:-

89,
123, 124, 157, 171, 172, 173, 174, 199,
200, 201,
444, 463, 466, 498,
500, 502, 503, 504, 510, 511, 513, 520, 564, 565, 567, 570,
672, 673, 675, 676,
711, 712, 713, 738, 758, 760, 766,
870, 896,
908, 911, 917, 923, 946, 947, 948, 950, 951, 952, 953, 954, 955, 956, 957, 959,
960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975,
976, 977, 979, 982, 988, 993, 994,
1017, 1024, 1027, 1077 and 1078

5. For the reasons stated in the first paragraphs under the heading "As of right", I CONFIRM the registrations with the numbers next hereinafter set out, being those listed in Part II of the First Schedule hereto exclusive of the registrations specified in paragraphs 3 and 4 of this Schedule WITH THE MODIFICATIONS in column 4 following, so far as they are capable of having any effect on any registration, (a) delete all or any of the following words and all words having a like meaning: "shooting", "piscary", "pannage", "take wild animals and birds", "minerals"; (b) for the word "stray" substitute the word "graze" with consequential deletion of the relating words "from ... (some register unit) ..."; (c) for words and expressions apparently limiting the right to one or more Quarters of the Forest, such as "CL164(N)", "CL164(W)", "CL164(S)", and "CL164(E)", substitute words enlarging the right to all this register unit; and (d) where the registration includes a right to dig or take stones, sand and gravel or to dig or take any one or more of them, add at the end of the column "subject as regards digging or taking stones sand and gravel to the Water Authority Provision in this Rights Section defined", such said registrations being those bearing the following Nos:-



1, 4, 5, 6, 7, 22, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 39, 40, 41,
43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 56, 57, 58, 60,
61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 75, 78, 79, 80, 82, 83, 84,
85, 92, 95, 96, 97, 98, 99,
100, 108, 110, 114, 115, 116, 118, 119, 120, 122, 125, 126, 131,
134, 135, 136, 137, 139, 140, 141, 142, 143, 144, 145, 147, 148, 149, 156, 158,
159, 161, 164, 165, 167, 168, 169, 176, 177, 178, 179, 180,
181, 182, 183, 190, 191, 193, 195,
215,
392, 393, 394, 395, 396, 397, 398, 399,
400, 401, 402, 404, 405, 408, 414, 416, 417, 418, 434, 436, 437, 438,
440, 441, 445, 446, 448, 449, 451, 452, 453, 454, 456, 457, 458, 459, 460, 461,
462, 464, 465, 468, 469, 471, 472, 473, 474, 478, 481, 482, 485, 496,
497, 499,
514, 515, 517, 518, 519, 522, 524, 525,
526, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 543, 547, 549,
550, 552, 554, 559, 560, 561, 562, 563, 569, 575, 577, 579, 580, 583,
584, 585, 586, 587, 591, 592, 594, 595, 596, 597, 598, 599,
600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 611, 612, 613, 614, 615, 616,
617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632,
634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649,
650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665,
666, 667, 668, 669, 670, 671, 678, 679, 680, 681, 682, 683, 684, 685, 686,
687, 688, 689, 690, 691, 692, 693, 694, 695,
701, 704, 705, 706, 710, 716, 717, 725, 730, 735, 737, 738, 739,
742, 743, 744, 748, 761, 767, 770, 771, 772, 777, 778, 779, 780,
781, 782, 783, 784, 787, 788, 790, 792, 793, 794, 795, 796, 798, 799,
800, 801, 802, 803, 804, 805, 809, 810, 811, 812, 815, 817, 819, 821, 828,
829, 830, 832, 836, 845, 863, 865, 872, 874, 875, 878, 879, 882, 890, 891, 892,
893, 894, 899,
902, 903, 905, 906, 909, 910, 913, 915, 920, 925, 927, 928, 931, 932, 933, 935,
937, 939, 941, 945, 949,
978, 980, 983, 985,
993, 995, 996,
1013, 1016, 1024, 1028, 1029, 1047, 1052, 1053, 1055, 1056, 1058, 1064,
1065, 1066, 1071, 1072, 1074, 1075, 1083, 1084, 1087, 1089, 1090,
1098, 1099,
1101, 1102, 1106, 1107, 1108, 1110, 1111, 1112, 1114, 1115, 1120, 1121, 1123,
1124

Note: 29 replaced by 1074, 1075, 1087, 1089 and 1090; 471 replaced by 1114 and 1115;
845 replaced by 1126, 1127 and 1128.

6. For the reasons under heading "straying" I REFUSE TO CONFIRM the registrations with the numbers next hereinafter set out, such registrations being such of those specified in Part III of the First Schedule hereto as are rights expressed as "to stray", but exclusive of any registrations mentioned in paragraphs 3 and 4 above, but including Nos 981, 1040, 1041, 1095 and 1096 not elsewhere mentioned in this decision, that is to say:-



109,
415, 426, 429, 432,
507, 545, 551,
718, 719, 728, 747, 759,
840, 841, 842, 843, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 867,
918, 919, 940, 981, 999,
1015, 1026, 1040, 1041, 1095 and 1096.

Note: 1040 and 1041 replaced 888; 1095 and 1096 replaced 846.

7. For the reasons stated in the first paragraphs under the heading "As of right", I CONFIRM the registrations with the numbers next hereinafter set out, being those listed in Part III of the First Schedule hereto exclusive of the registrations specified in paragraphs 3, 4, 5 and 6 of this Schedule WITH THE MODIFICATIONS in column 4 following so far as they are capable of having any effect on any registration, (a) delete all or any of the following words, and all words having a like meaning, "shooting", "piscary", "parrage", "take wild animals and birds", "minerals"; (b) for words and expressions apparently limiting the right to one or more Quarters of the Forest, such as "CL164(N)", "CL164(W)", "CL164(S)", and "CL164(E)" substitute words enlarging the right to all this register unit, and (c) where the registration includes a right to dig or take stones, sand and gravel or to dig or take any one or more of them, add at the end of the column: "Subject as regards digging or taking stones, sand and gravel to the Water Authority Provision in this Rights Section defined", the said registrations being those bearing the following Nos:-

63,	81, 93, 94,	
112, 113, 117, 121, 127, 128,		162, 163, 184, 186, 187, 188,
189, 194, 196,		
384, 385, 386, 388, 390,		
406, 409, 410, 412, 413, 419, 420, 421, 422, 423, 424, 425,		427, 428,
450, 477, 479, 480,		
	523, 527, 528, 529, 542, 544,	546, 548,
556, 558, 566, 568,	588, 589, 590, 593,	
702, 703, 723,	734, 736,	755,
789, 791, 797,		773, 774, 785, 786,
806, 807, 808, 814, 820, 823, 831, 833, 834,		838, 839, 841,
844,		861, 862,
871, 883, 884, 885, 886, 887,		
900, 901, 904,	921, 922,	929,
1001, 1003, 1004, 1014,	1025,	943, 944,
1040, 1041, 1042, 1043, 1044, 1068,		1034, 1035, 1037, 1038,
1104, 1105,		

8. For the reasons stated in the last paragraph under the heading "Others", I REFUSE TO CONFIRM the registrations under the numbers next hereinafter set out being those specified in the grounds of Objections No. 315, No. 380 and No. 981, exclusive of the registrations specified in paragraphs 3, 4, 5, 6 and 7 above and exclusive of Nos 215, 688, 689, 690 and 1016 at the hearing (Duchy/43) withdrawn, the said registrations being those bearing the following numbers:-



2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 76, 77,
87, 88, 90, 91,
150, 151, 152, 153, 154, 155, 160,
203, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 220, 223, 224,
225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240,
241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256,
257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272,
273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288,
289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299,
300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315,
316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331,
332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347,
348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363,
391,
435, 442, 443,
581, 582,
696, 697, 698, 699,
700, 707, 708, 709, 726, 727, 729, 731, 732, 733, 768, 776, 756
816, 822, 880, 881, 889,
916, 924, 926, 936, 986, 987, 998,
1002, 1005, 1006

898,

984

170, 175, 197, 198,
216, 217, 219, 221, 222,
364, 365, 371, 372, 373, 374, 375, 376, 377, 378, 379,
380, 381, 382, 383,
433, 467, 470, 475, 486, 487, 489, 490, 491, 492, 493, 494,
571, 572, 573, 574, 576, 578,
740, 741, 745, 746, 749, 751, 752, 753, 754, 762, 763, 764, 765,
827, 857, 877, 897,
934,
1007, 1008, 1009, 1010, 1011, 1012

Note: 212 replaced by 1032, 1049 and 1050; 345 replaced by 1130 and 1131;
582 replaced by 1080 and 1081; 375 replaced by 1092 and 1093.

9. Where any registrations in the Rights Section are hereby CONFIRMED it must be understood that such confirmation is subject to the MODIFICATION necessarily consequential on the removal from the Register of the lands specified in paragraph 1 above.

10. Reference in this Schedule to any registration by number must be taken to include any registrations which have since replaced it and any registrations which it has replaced, see Part I of the First Schedule hereto; exceptionally No. 938 replaced as to part by 1068 confirmation of which has been refused and as to the remainder by 1077 and 1078 confirmed.

11. For the reasons stated under heading "Final", Entry Nos. 387, 476, 483, 553, 907 and 1043 are not elsewhere mentioned in this Schedule.



12. Wherever in this decision a LIBERTY TO APPLY is mentioned, such application should be made within THREE MONTHS of the date on which the applicant or his solicitor or agent has had notice of this decision but so that application may be made to a Commons Commissioner to enlarge this three month period. Any application under this liberty should be made in writing (it may be by letter) and should be sent to the Clerk of the Commons Commissioners in London. Except where the application relates solely to an obvious clerical error or similar mistake to which there could be no possible objection, the applicant should send a copy of his application to every person who might object to it and must in his application summarise the evidence (referring to any relevant documents) which would be produced by the Applicant at any hearing that may as a result be directed; and also send a copy of his application to Devon County Council as registration authority for their information. Applicants should realise that unless they can show that all who could possibly object to the application, agree to it being granted, the Commons Commissioners may direct a further hearing to be held, so that the application may be fully considered in the presence of all who may be concerned. Of such further hearing notice will be given only to the persons who on the information available to the Commons Commissioner appear to him to be concerned with the registrations in question. Any person who wishes to be given notice of any such further hearing should by letter inform the Clerk of the Commons Commissioners as soon as possible specifying the registration a further hearing about which he might wish to attend or be represented at.

13. As to an appeal to the High Court against this decision, attention is drawn to the last paragraph under heading "Final". It should be noted that the "6 weeks" therein mentioned is fixed by the Rules of the Supreme Court and that a Commons Commissioner cannot (although the High Court can) enlarge this 6 week period.

Dated the 30th — day of June — 1983.

a. a. Baden Fuller

Commons Commissioner