COMMONS REGISTRATION ACT 1965

Reference No. 25/D/105-111

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In the Matter of Creeks Foreshore and Salt Marshes, Burnham Overy, Burnham Norton and Brancaster, Norfolk

DECISION

These disputes relate to (a) the registration at Entry No. 1 in the Land section of Register Unit No. CL 65 in the Register of Common Land maintained by the Norfolk County Council occasioned by Objection No. 12B made by Crown Estate Commissioners and Objection No. 150 B made by Walters and Hart noted respectively in the Register on 26 March 1969 and 24 September 1970 (b) the registration at the Entries in the Rights Section of the same Register Unit occasioned by (i) the said Objections No. 12B and No. 150B (ii) Objections No. 149B and No. 151B both made by Walters and Hart and noted in the Register on 24 September 1970 (iii) Objection No. 186B made by Crown Estate Commissioners and noted in the Register on 31 November 1970.

I held a hearing for the purpose of inquiring into the disputes at Kings Lynn on 7 December 1979. At the hearing Mr P R Fitzgerald, Solicitor, of the firm of Walters Fladgate appeared on behalf of the Holkham Estate Trustees, the National Trust, the Nature Conservancy Council and Mr J Borthwick: Mr T Etherton of Counsel appeared on behalf of the Crown Estate Commissioners: and a number of applicants for Entries in the Rights Register appeared in person or by a representative - the names of these applicants are in Section III below (p.5).

The land comprised in this Register Unit ("the Unit land") is an extensive area of creeks foreshore and saltings on the north coast of Norfolk: it was registered as common land in consequence of an application to register rights of common, and the supporting applications to register as common land by Brancaster Parish Council is noted in the Register.

In this Decision I shall use the following abbreviations: "Holkham" to mean the Holkham Estate Trustees, "NT" to mean the National Trust, "NCC" to mean Nature Conservancy Council, "CEC" to mean the Crown Estate Commissioners, "O" to mean Objection and "R" to mean Entry in the Rights Section of the Register.

Section I

Objections No. 12B and 186B

O 12B affects the land shown on the plan attached to the Objection and is on the ground that the land which is foreshore, sea or river bed below the high water mark of medium tides as may be from time to time ("the foreshore land") was not common land at the date of registration. This constitutes an objection to all the registered rights over the foreshore land.

O 186B is an express objection to the rights over the foreshore land on (in effect) the same ground.

The foreshore land shown on the plan consists of areas around Burnham Harbour and creeks and inlets stretching south of the Harbour and then westwards beyond Deepdale Marsh. At the hearing however Mr Etherton appearing for CEC informed me that the

Objections now extend only to the two areas coloured pink on the plan (marked 'CC') which he produced. One of these areas ("the Harbour Area") is to the east of Burnham Harbour and the other ("the Deepdale area") a long strip to the north of Deepdale Marsh. I was informed that none of the rights holders present or represented in fact claimed rights over the Harbour area, in regard to which accordingly I shall uphold the Objection as regards all the registered rights. The upshot is that the live dispute between CEC and the rights holders relates only to the Deepdale area. As regards those holders not present or represented at the hearing Mr Etherton asked for the Objection to be upheld: and in the absence of evidence as to the origin and existence of their rights, I shall modify the rights so as to exclude their application to the foreshore land in the Deepdale area. I consider in Sections II and III below the cases of the rights holders who were present or represented.

Objections No. 150B 149B

O 150B affects the land shown on the plan attached to the Objection and this land ("the main area") comprises the greater part of the Unit land: the grounds for the Objection are that the land was not common land at the time of registration. This constitutes an Objection to all the registered rights: O 149B is an express objection to the rights over the main area on the ground that none of the rights claimed over that area were in existence at the time of the registration. As will be seen from what follows some rights of common over all parts of the main area are confirmed, and accordingly the registration of that area as common land will be confirmed.

For the purpose of considering these Objections as objections to Rights the main area has to be divided into two separate areas, which I will call respectively "the NCC Area" and "the Holkham Area".

(i) The NCC Area is the northern section of the main area and extends from Brancaster Bay on the west to Burnham Harbour on the east. I understand that the NCC Area is owned partly by NT and partly by Norfolk Naturalists Trust, the whole being leased to NCC. As regards the NCC Area the Objections are withdrawn as to the rights except those specified in parts I,III and VI of the First Schedule below. Of the applicants for those Rights none except Mr J Kendall (R 49) appeared or was represented at the hearing, and as regards the absentees Mr Fitzgerald asked for the Objection to be upheld. In the absence of evidence as to the origin and existence of those rights (other than R 49) I shall accede to this and modify the rights so as to exclude their application to the NCC area. This leaves as the only live dispute resulting from these Objections that involving Mr Kendall, and I consider this in Section III below.

(ii) The Holkham Area is the southern section of the main area and the greater part of it is the property of Holkham. Two relatively small areas one on the eastern side of Burnham Harbour and the other extending westwards from Trowland Creek are I understand owned by CEC. These two areas and also a third area, Overy Marsh, are hatched black on a Plan (Plan "F1") produced by Mr Fitzgerald and I will refer to the three areas as "the black parts". As regards the Holkham Area Objection 149B is withdrawn (1) as the black parts (2) as to the Rights except those specified in parts I, II,IV of the First Schedule. Of the applicants for those rights none except Mr J Kendall (R 49) appeared or was represented at the hearing and in the absence of evidence as to the origin and existence of those rights (other than R 49) I shall uphold the Objections and modify the Rights to exclude their application to the Holkham area (except the black parts). As in (i) above, this leaves as the only live dispute that involving Mr Kendall, as to which see Sections II and III below.

Objection No. 151B

This objection affects a substantial area ("the NT area") in the southern part of the unit land of which the NT claims ownership, and is on the ground that the rights claimed over the NT area so far as they relate to the taking of soil, sand, shingle, game, wildfowl, fish and shell fish did not exist at the time of registration.

This objection is withdrawn except as to the Rights specified in parts I, II, III and V of the First Schedule. Of the applicants for those Rights none except Mr J B Kendall (R 49) appeared or was represented at the hearing and as regards them Mr Fitzgerald asked for the Objection to be upheld. In the absence of evidence as to the origin and existence of these rights (other than R 49) over the NT area, I shall accede to this and modify them to exclude their application to that area so far as they relate to the taking of the produce referred to in the Objection. The only live dispute resulting from O 151B is that involving Mr Kendall and I consider this in Sections II and III below.

Section II

In all but one of the 164 Entries in the Rights Section the rights claimed is in substance the same viz. to take from the whole of the Unit Land herbage, estovers, samphire soil, fish, shellfish, bait and wildfowl, and I will refer to this as "the standard right". In only two cases (R 39 and R 164) is the right stated to be attached to property and accordingly all the other rights must be regarded as claims to rights in gross. That this is so was borne out by the evidence: of the ten claimants who gave evidence eight referred to their exercise by the local inhabitants generally: the eight were J B Kendall ("I think all parishioners within seven parishes of Burnham exercised the rights"), W E V King ("I exercised my rights believing I was an inhabitant - because I believed it to be a customary right"), C D Everitt ("I would exercise the right if I lived anywhere in locality - people of the parishes have always exercised these rights"), B E Everitt ("Rights exercisable by residents of not less than 12 months - it's a thing families do"), D W Billing ("I think only people born in Brancaster have the right - also people permanently residing there"), Cyril Southerland ("My family have taken rights as historical to which all local people entitled - people come from all over Norfolk and exercise these rights"), G E Snelling ("All the people of the older families have the right - people who have lived there for a long time"), J Snelling ("these are rights exercisable by people residing in Brancaster Staithe or Burnham Norton or their families, if long established").

The evidence given at the hearing by or on behalf of claimants present or represented was directed to the actual exercise of the rights, and there was no express formulation by any claimant, or on behalf of the claimants generally, of the basis for the right claimed eg. as a right granted by the owner of the Unit Land, as a customary right, or as a right acquired by any form of prescription. The evidence however gave the strong impression that the claims were for the most part being put on the basis of a customary right for local inhabitants.

Such a claim could not, in my opinion, succeed. A customary right of common for a fluctuating body of persons is not recognised by the law except in special circumstances namely (1) where the claimants are owners of copyhold tenements (See Halsbury's Laws of England 4th Ed. Vol 6 para 508) or (2) in the case of a grant - actual or presumed - by the Crown to the local inhabitants as a corporation or implying their incorporation (Willingale v Maitland 1866 3 Eq. 103, Lord Rivers v Adams 1878 Ex.D. 361) or (3) in the case of a grant to a corporation on trust for the fluctuating body (Goodman v Mayor of Saltash 1882 7 App. Cas 623). In the present case there are no grounds or evidence to support the existence of any such

special circumstances and if the rights are claimed on the basis of a customary right, the claim fails.

I proceed to consider whether the claim to any of the rights can be upheld on any other basis. There is no suggestion or evidence of any express grant of the right to any claimant, and there remains the question whether any of the rights have been acquired by prescription. The evidence given as to user of the rights is of course relevant to this question, but in no case was a claim to the right by prescription advanced in terms nor in all cases was the evidence always relevant to such a claim: this I think was because claimants were concerned to show a customary right in the local inhabitants, not an individual right in each claimant acquired by him by prescription independently of each of the others. If a right is claimed as a customary right of the local inhabitants but fails on that basis (as in this case I think it does), a claim to the right on the different basis of prescription may be upheld (Earl de la Warr v Miles 1881 17 Ch.D 535, though cf. Lord Rivers v Adams 1878 3 Ex.D. 361) and I think the question of acquisition by prescription of any of the disputed rights should be considered. Being rights in gross they are not capable of acquisition under the Prescription Act, but a claim by prescription at Common Law or under the doctrine of lost modern grant may be established.

The evidence given in the case of each right holder is summarised in Section III below. Although in some instances actual user can be found of a nature consistent with the possibility of a prescriptive right, in none are the legal requirements for such a right fully satisfied. There are two separate and distinct reasons for this view.

(1) Rights in gross being personal and not attached to a specified property must be shown to have been acquired by the claimant. This may be done by proof of exercise by the claimant (or joint claimants), or by him (or them) and his (their) ancestors for the requisite period. (See Welcome v Upton No. 1 1839, 5 M and W 398, No. 2 1840 M and W 536). In only two cases (R No. 26, R No. 129) did I find evidence of sufficient user by claimants themselves: and though in other cases there was some evidence of user by ancestors or forefathers, there was no evidence of acquisition (eg. by inheritance or assignment) from an ancester who had himself acquired the right. In the particular cases where it is relevant I will refer to this defect as "the acquisition point".

(2) To establish a right by presecription, the user must be "as of right", that is to say, neither forcible, nor secret nor by permission of the owner of the land: moreover prescription, whether at common law or under the doctrine of lost modern grant, is based on the presumption that at some time past there was a grant of the rights by the owner, and if on the facts there is some other reasonable explanation of enjoyment of the rights such a presumption will not readily be made.

Thus it is recognised that the true explanation may well be that the owner has tolerated the enjoyment of activities over his land by the public generally or by the local inhabitants, in which case they have had by his implied permission privileges, not rights enforceable at law: see Beckett v Lyons 1967 Ch. 449. As that case illustrates, this is especially so where the land is foreshore belonging to the Crown since it is of course the fact that the use of the foreshore by the public for purposes of recreation, bathing, fishing and the like is not a matter of right but of tolerance by the Crown.

If it is sought to establish the rights as rights by prescription then on my view of the evidence as a whole, and having regard to the situation and character of the

Unit Land and the normal activities of persons living on or near the sea coast, creeks and marshland, it seems to me that the enjoyment of these activities is more readily attributable to tolerance or tacit permission by the landowner, than to user as of right. On this ground (which I will refer to as "the toleration point"), I hold that the claims to rights if based on prescription fail.

If this is so, then the evidence as to actual user is largely irrelevant: nevertheless I should consider it and state my conclusions as to whether or not in each case, irrespective of the acquisition point and the toleration point, the actual user satisfied the requirements of presecription as to the period of continuous enjoyment of all or any of the rights claimed by the respective claimants.

Section III

I proceed then to consider the evidence in the case of each right holder who appeared or was represented at the hearing.

1 R No. 49,Mr J Kendall. This right - the standard right - is objected to by all the Objectors. Mr Kendall giving evidence, stated that he had used "these rights" since 1926 without hindrance and believed that his forefathers exercised them. In cross-examination he said that he came to Burnham Overy in 1926 when he was aged 6 and started wildfowling about 1936: he shot every year over parts of the Holkham area and the NT area though he could not remember wildfowling in the far (ie. the western) end, or ever taking soil. He was serving in the Royal Navy from 1935 to 1965 but came back on leave from time to time; during the war shooting rights were curtailed. As regards the Deepdale area he had exercised the rights by taking a bucket to collect samphire and had taken wood.

On this evidence the right claimed is not in my opinion established as a right by prescription. As regards wildfowl there was no evidence of shooting except over some parts of the Holkham area and the NT area: which were these parts, was not certain, though they did not include what Mr Kendall described as the far (or western) end. Nor do I think that the evidence showed a sufficiently continuous exercise of the right; having regard to his absence while serving in the Navy and what he described as the curtailment of the rights during the war, I do not accept his statement in his evidence in chief that he shot "every year". Apart from wildfowling, his only other positive evidence was as to taking samphire and wood from the Deepdale area which he may have done intermittently but was not shown to be continuous.

Mr Fitzgerald submitted (inter alia) that the claim if based on the doctrine of lost modern grant must fail for the following reason. By a Licence dated 1 August 1953, the Earl of Leicester, as beneficial owner of certain specified areas of land and water, granted to the Wells and District Wildfowlers Club a licence of facilities to wildfowl and sport, reserving for himself and friends or servants the right to sport over the entire area. The specified areas included two sections of the Holkham area and Mr Fitzgerald's submission was that the grant of this licence rebuts the presumption of a lost modern grant, since it was a grant of exclusive sporting rights over these two sections. I do not accept this: it may be unreasonable to presume a lost modern grant where a tenancy of the servient tenement is in existence at the beginning of the period of user (see Pugh v Savage 1970 2QB 373), but I do not think the same is true where, after the period of user has commenced, a licence of this kind is granted.

The claimants to rights present or represented at the hearing other than Mr Kendall were concerned to uphold their rights only against CEC and in relation to the Deepdale area.

(2) R No. 67, Mr W E V King. In his case the rights claimed are the standard right and also a right to graze 5 cattle and 10 geese over the whole of the Unit land. Giving evidence he said that he first collected samphire in 1951 and occasionally shot over the area. In cross-examination he could not say that he had exercised wildfowling rights or grazed cattle or geese over the Deepdale area: but he exercised the other rights at least once a year, more often for samphire. This evidence in my view, does not establish a prescriptive right over the Deepdale area.

(3) R No. 132, Mr R S Everitt. The right is the standard right and was claimed at the hearing by Mr C D Everitt as R S Everitt's successor. His evidence was to the effect that he had exercised the right without hindrance for some 16 years: that his grandparents had exercised them until their death 2 years ago and that (as he had been told) his forefathers had done so for some 150 years. In cross-examination he said that he would exercise the right if he lived anywhere in the locality as the people in the parishes have always exercised the right.

The evidence as to enjoyment of the right by Mr C D Everitt for some sixteen years is not sufficient to establish by itself a period of user to found a prescriptive claim, nor did his evidence as to user by his grandparents and forefathers enable me to identify an earlier acquirer of this right - a right in gross - or the acquisition of the right by Mr R S Everitt or Mr C D Everitt himself. The evidence supports a claim to the right by custom (which fails for the reasons I have mentioned) but not an alternative claim to acquisition by prescription.

Rs No. 131 Mr B E Everitt
28 Mr F I Southerland and others
126 Mr F I Southerland
59 Mr S A Everitt and others
121 Mr E E Loose
152 Mr P H Everitt

Mr B E Everitt gave evidence on behalf of himself and the other claimants listed above, whom he represented at the hearing. He said that the rights go back to time immemorial and have never been interfered with: that all the families go back well over 150 years, that he himself exercised the rights as and when he wished to do so, and that these facts also applied to those he represented whom he had seen exercise the rights.

Again this evidence supported the existence of a right by custom but was insufficient to establish in the case of any one right a claim to acquisition by prescription.

Mr F I Southerland has since the hearing submitted a copy of a Conveyance to him dated 3 June 1939 of freehold property at Brancaster Staithe "with the common right": these general words do not identify the right as the standard right over the Deepdale area and whilst they indicate the existence of some common right it is a right attached to the freehold property not a right in gross.

R No. 25, Mr D W Billing and 4 others. Mr Billing was born in Brancaster Staithe in 1925 and remembers gathering samphire with his father from 1931 onwards. He went away from the district in 1939 to work, was called up in the war, and returned in 1948. He said that he acquired the right by usage and inherited it from his father and that as regards the Deepdale area he probably exercised the rights in season, samphire regularly and wildfowling every year in the right season.

In my opinion this evidence fails to establish the acquisition by the five registered holders of the right by prescription.

R No. 164, Mr D M Cook. This right included a right to graze animals as well as the standard right and is claimed as attached to property (Ruscon Cottages) ie. not as a right in gross. Mr Cook was represented at the hearing by Mr J Borthwick, who gave evidence to the effect that he had seen Mr Cook taking samphire in the area, though he was not certain it was the Deepdale area. He had seen no grazing. Mr Borthwick produced Mr Cook's title deeds to Ruscon Cottages and these could as far as the evidence goes be the only basis for claiming the rights. There are three conveyances of 1966/1967 to Mr Cook, comprising Nos. 2, 3 and 4 Ruscon Cottages, Brancaster Staithe and the Conveyances of Nos. 2 and 3 include in the parcels "the common right in or over or upon the Highbarrow Common and also the right over the Low Common or Salt Marshes in Brancaster Staithe as heretofore used (enjoyed)." The earlier documents of title going back to an Indenture of 1862 all contain similar wording. Though this is clearly evidence of some common right over the Commons and Salt Marshes referred to, there is no evidence of the origin or nature of the right referred to or its application to the Deepdale area, so as to connect with the rights claimed by Mr Cook in respect of that area.

R No. 26, Mr Murray Southerland and five others. This is the standard right and there are six applicants registered jointly, all members of the Southerland family. One, Mr Cyril Southerland, gave evidence: his family has lived in Brancaster Staithe for over 100 years and he was born there in 1945 and had always lived there. Years ago they had fishing beds in Burnham Harbour and took flat fish there and other fish in the creek. As regards the Deepdale area he and his forefathers took samphire from where it grows, the family has collected estovers and he and his father and brother (two of the joint applicants) have exercised wildfowling rights. In cross-examination he said that he started exercising the rights when he was 5 or 6 years old, that he is about the marshes a lot and takes what is in season. No one takes sand or shingle from this area. He said that the family have taken the rights as historical to which all local people are entitled and nobody interferes.

Here again the evidence plainly indicated a belief in a customary right. The evidence of user by Mr Cyril Southerland could, I think (but for the toleration point), justify a claim by himself to some of the rights by prescription, but I would not have considered it appropriate to modify the right claimed and limit its enjoyment to him and thereby produce a right essentially different from that jointly claimed by the six. In any event I find against the claim, with or without modification, on the toleration point.

R No. 123, Mr C E Loose. Mr Cyril Southerland represented Mr Loose and gave evidence. He said that he had seen Mr Loose and his father exercising the rights, but in cross-examination said he had only seen Mr Loose once wildfowling and nothing else.

R No. 65, Mr M G Noyes. Mr Noyes's evidence was to the effect that he had fished in a pool on the Deepdale area since he was a boy but exercised no other rights there except that years ago he had done some shooting on the eastern part of that area. This does not establish a claim by prescription to the standard right.

R No. 129, Mr G E Snelling. As regards the Deepdale area Mr Snelling had over a period of 12 years exercised his fishing rights at least once a year, in some years more than once: shellfish perhaps once every 2 to 3 years, and samphire the same. Wildfowling was regular - he started when he was 12 years old with a 12 bore shotgun of his own and has been down the bank of the Deepdale area with a gun every year but one, and has shot all over it, if there was anything to shoot. He was not sure by what right he exercised the rights, which he had always looked on as common rights and he was an inhabitant.

On this evidence I find that the enjoyment requisite for a prescriptive right to wildfowl, shellfish and samphire is established, so that but for the toleration point, I would have confirmed the right modified to exclude produce other than these three items. As it is I find against this claim, with or without modification, on the toleration point.

R 93 Mr Everitt
R 128 Mrs Kendle
R 154 Mrs King

Mr G E Snelling represented and gave evidence on behalf of these three rights holders, but his knowledge as to the extent of enjoyment of the rights by any of the three was insufficient to found any case of a prescriptive right.

I should add that since the hearing, Mr B J Everitt (R No. 93), has submitted a copy of an abstract of a Mortgage of 1895 of a farm at Brancaster "together with all rights of common". I cannot regard this as any evidence of the existence of the standard right (in gross) which he has registered.

R No. 130, Mr J Snelling. Mr J Snelling said in evidence that he had exercised "these rights" all his life (42 years) as did his father (Mr G E Snelling) and grandfather, and he based his right on his own and his father's usage. The rights, he said, are common rights exercisable by people residing in Brancaster Staithe or Burnham Norton if long established, and their families. Bait and shellfish he had taken 10 or 12 times in his lifetime.

This evidence in my view fails to establish sufficient use in the Deepdale area to found the prescriptive right claimed. While consistent with a claim based on custom the evidence fell short of establishing continuous exercise of the right in respect of any of the items of produce claimed. In any event the claim would fail on the toleration point.

Conclusions

1 As regards the foreshore land in the Harbour Area and in the Deepdale area, I find that none of the common rights registered has been established. There was no suggestion that such foreshore land was waste land of a manor and if, as I find, it is not subject to rights of common 0.12B succeeds to the extent that such foreshore land should be excluded from the Unit land. As regards the remainder of the Unit land the registration of rights of common, modified or unmodified, will continue and accordingly the land itself will continue to be registered as common land. In the result therefore, as regards the registration at Entry No. 1 in the Land Section and Objections No. 12B and No. 150B, I confirm the registration with the modification that there be excluded from the land comprised in the Register Unit that part of the land in the Harbour area and the Deepdale area which is foreshore, sea or river bed below the high water mark of medium tides as may be from time to time.

2 The exclusion of the foreshore land from the land comprised in the Register Unit necessarily results in the registered rights of common ceasing to be exercisable over the land exlcuded, so that the Objections by CEC to the Rights (0.12B and 0.186B) succeed As regards the other Objections to Rights (0.150B, 0149B and 0.151B) they have been withdrawn as regards some, but not always the same, Rights, they affect different areas of the Unit land, and whilst 0150B and 0.149B (which affect the main area) are out right Objections to the Rights, 0.151B (which affects the NT area) is an Objection to the Rights so far as they relate to the taking of certain produce. In the cases where I have found that these Objections succeed, the Rights fall to be modified accordingly: and the detailed modifications are somewhat complex and I set them out in the Second Schedule to this Decision. In the result, following the exclusion of the foreshore land, I confirm the Rights specified in the First Schedule

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with the respective modifications indicated in the Second Schedule, and confirm all other Rights without modification. (except R. No 22 - M. H.G. Kemp - which has been withdrawn and I shall accordingly refuse to confirm)

First Schedule

Rights to which Objections Nos. 150B, 149B and 151B not all withdrawn

Part I

Rights to which no Objections withdrawn
5,6,12,13,14,27,29,33,34,35,36,37,41,42,43,49,51,58,60,61,70,75,76,82,83,84,95,101,113, 114,117,120,122,138,139,141,146,147,150,153,157,159

Part II

Rights to which Objections withdrawn except by Holkham and NT
17,18,19,20,30,32,40,48,73,94,97,99,100

Part III

Rights to which Objections withdrawn except by NCC and NT
15,91,116,142, 92.

Amended 4pms 25/3/81

Part IV

Rights to which Objections withdrawn except by Holkham
21,31,63,64,87,106,109,112,133,140,161

Part V

Rights to which Objections withdrawn except by NT
88,104,105

Part VI

Rights to which Objections withdrawn except by NCC
77,80,[redacted],107,108,[redacted],119,[redacted],137,145

Amended 4pms 25/3/81.

Second Schedule

Particulars of modifications to the Rights specified in Parts I to VI of the First Schedule

Note In this Schedule "the Holkham Area" does not included the black parts "the substituted right" means the right to take herbage, estovers and samphire from the NT Area.

1 Part I Rights: Modify (i) so that these Rights do not extend to the NCC Area or the Holkham Area or the NT Area
(ii) by adding the substituted right

2 Part II Rights: Modify (i) so that these Rights do not extend to the Holkham Area or the NT Area
(ii) by adding the substituted right

3 Part III Rights: Modify (i) so that these Rights do not extend to the NCC Area or the NT Area

4 Part IV Rights: Modify so that these Rights do not extend to the Holkham Area

5 Part V Rights: Modify (i) so that these Rights do not extend to the NT Area
(ii) by adding the substituted right

6 Part VI Rights: Modify so that these Rights do not extend to the NCC Area.

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.

I would add that any party receiving notice of the decision who has a query to raise on the numbers or form of modifications set out in the Schedules may do so by letter to the Office of the Commons Commissioners.

Dated 26 June 1980

L. J. Harris Smith

Commons Commissioner