



COMMONS REGISTRATION ACT 1965

Reference No. 206/U/247

In the Matter of Unnamed Land (at Chapel Amble) St. Kew Parish

DECISION

This reference relates to the question of the ownership of land at Chapel Amble St. Kew being the land comprised in the Land Section of Register Unit No. CL.262 in the Register of Common Land maintained by the Cornwall County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference (1) Jeffrey John Pollard and Mrs Vivienne Mary Pollard and (2) Sydney Clarence Williams claimed to be the freehold owners of parts of the land in question but no one claimed to have any information as to the ownership of the remainder of the Register Unit.

I held hearings for the purpose of inquiring into the question of the ownership of the land at Bodmin on 23rd October 1990 and 11th December 1991.

The hearing on 23rd October 1990 was attended by Mr Martin Wright of Cornwall County Council the Registration Authority Mr Brander and Mr H Bates of St. Kew Parish Council Mrs C Lockyer of Macmillans Solicitors of Bodmin representing Mr and Mrs Pollard Mr C G Frost of Ralph & Co. Solicitors of Wadebridge representing Mr S C Williams and Mr Williams (in person).

The hearing on 11th December 1991 was attended by Mr Martin Wright and Mrs Stiff of Cornwall County Council Mr H Bates of St. Kew Parish Council Mrs Lockyer representing Mr & Mrs Pollard Mr Pollard (in person) Mr S C Williams and Mr R Kent.

I made an informal site visit on the afternoon before the second hearing.

The Register unit comprises two separate parcels of land in the centre and to the south-east of the Village of Chapel Amble. The land was registered as common land upon the application of St. Kew Parish Council. There are no entries in the Rights Section. At a previous Ownership inquiry held at Bodmin on 5th October 1982 before Chief Commons Commissioner George Squibb no one claimed to have information as to the ownership of the land and it therefore remained subject to protection under Section 9 of the Act of 1965.

The present claims were to some very small pieces of the Register Unit. Mr & Mrs Pollard's claim was to two small parcels outside The Malsters Arms Public House. Mr Williams' claim related to the road frontage of the garden of his dwelling-house, "Sunnybank".

At the hearing on 23rd October 1990 Mrs Lockyer asked me for an adjournment as her clients' deeds were lodged with the Land Registry. This I granted.

At that hearing Mr Frost on behalf of Mr Williams produced a Conveyance dated 5th July 1966 in favour of Mr Williams of a cottage at Chapel Amble delineated "for the purpose of identification and not by way of limitation" on the plan annexed thereto and thereon edged red. After the hearing Mr Frost supplied me with a certified copy of that Conveyance, the photostat plan annexed thereto



showing the premises thereby conveyed as a solid black quadrilateral. I attach a copy of that plan to this Decision marked "A".

It appears from that plan that the Sunnybank land extends right up to the road, whereas on the Register Map (Sheet No 92A) the part of this land nearest the road is included in the Register Unit. Mr Frost raised the question of the discrepancy between the Register Map and the plan attached to a Search Certificate dated 30th April 1985. In correspondence between the Commons Commissioners and Ralph & Co subsequent to the hearing it was explained that this was a matter for Ralph & Co to take up with the Registration Authority not the Commons Commissioners.

Mr Williams was not represented at the adjourned hearing on 11th December 1991, but appeared in person. He said that he had moved his fence back to 17 feet 6 inches from the centre of the road. Mr Bates said that the Parish Council accepted this as Mr Williams' boundary. Nevertheless it seems to me that Mr Williams can make title to so much of the Register unit as is included in the plan annexed to the Conveyance of the 5th July 1966 and I shall give a direction in that form.

At the adjourned hearing Mrs Lockyer told me that the main title to the Malsters Arms had been registered at the Land Registry, but that the Land Registry had been unable to register the two small parcels lying outside the Malsters Arms and which fall within the Register unit because there is no identification of them on the ground.

On my visit to the site I observed that there was a small low stone building on the Register unit in front of the terrace of buildings of which the Malsters Arms forms part. This building is shown on the Register Map. I was told that this was originally a pigs house used by the owner of one of the cottages, Mrs Cooper. Mrs Lockyer said that the Pollards had no claim to the existing building, but claimed the site of a demolished building (probably also a pigs house), which was once joined on to the existing building and belonged to the cottage called "Tregarth".

Mrs Lockyer referred me to a number of documents included in an Abstract of Title to the Malsters Arms and Tregarth. A Conveyance dated 16th November 1965 between P.N.Binks (1) and G Hanley (2) in respect of the Malsters Arms included in the Second Part of the Schedule thereto all the estate and interest of the Vendor in the small plot of land on the wastrel "which now has or at one time had erected upon it two pigs houses" and which was delineated on the plan to a previous Conveyance dated 18th August 1934 and thereon coloured green. A Conveyance dated 6th October 1971 between P M S Albrook (1) and Garth H Allbrook & Company Limited (2) in respect of Tregarth included (in the Fourth Part of the parcels clause) a piece of ground situate to the south-west of the cottage on which an outbuilding formerly stood but which was then a piece of garden ground separated from the cottage by a roadway and which was shown coloured green on the plan thereto.

After various intermediate conveyances both the Malsters arms and Tregarth and the parcels of land that went with them were vested in Mr & Mrs Pollard by a Conveyance dated 1st December 1987 made between D H Dines and M E Dines (1) and J J Pollard and V M Pollard (2).



I attach to this Decision marked "B" a plan supplied to me by Mrs Lockyer subsequent to the adjourned hearing identifying the two parcels of land claimed by Mr & Mrs Pollard. I am satisfied that they are the owners of these parcels.

I shall accordingly direct the Cornwall County Council as Registration Authority to register:-

(1) Sydney Clarence Williams as the owner of so much of the land shown coloured black on plan "A" attached to this Decision as falls within the Register unit

(2) Jeffrey John Pollard and Mrs Vivienne Mary Pollard as the owners of the two small parcels of land identified on plan "B" attached to this Decision.

The remainder of the Register unit will remain subject to protection under Section 9 of the 1965 Act.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this

13<sup>th</sup>

day of

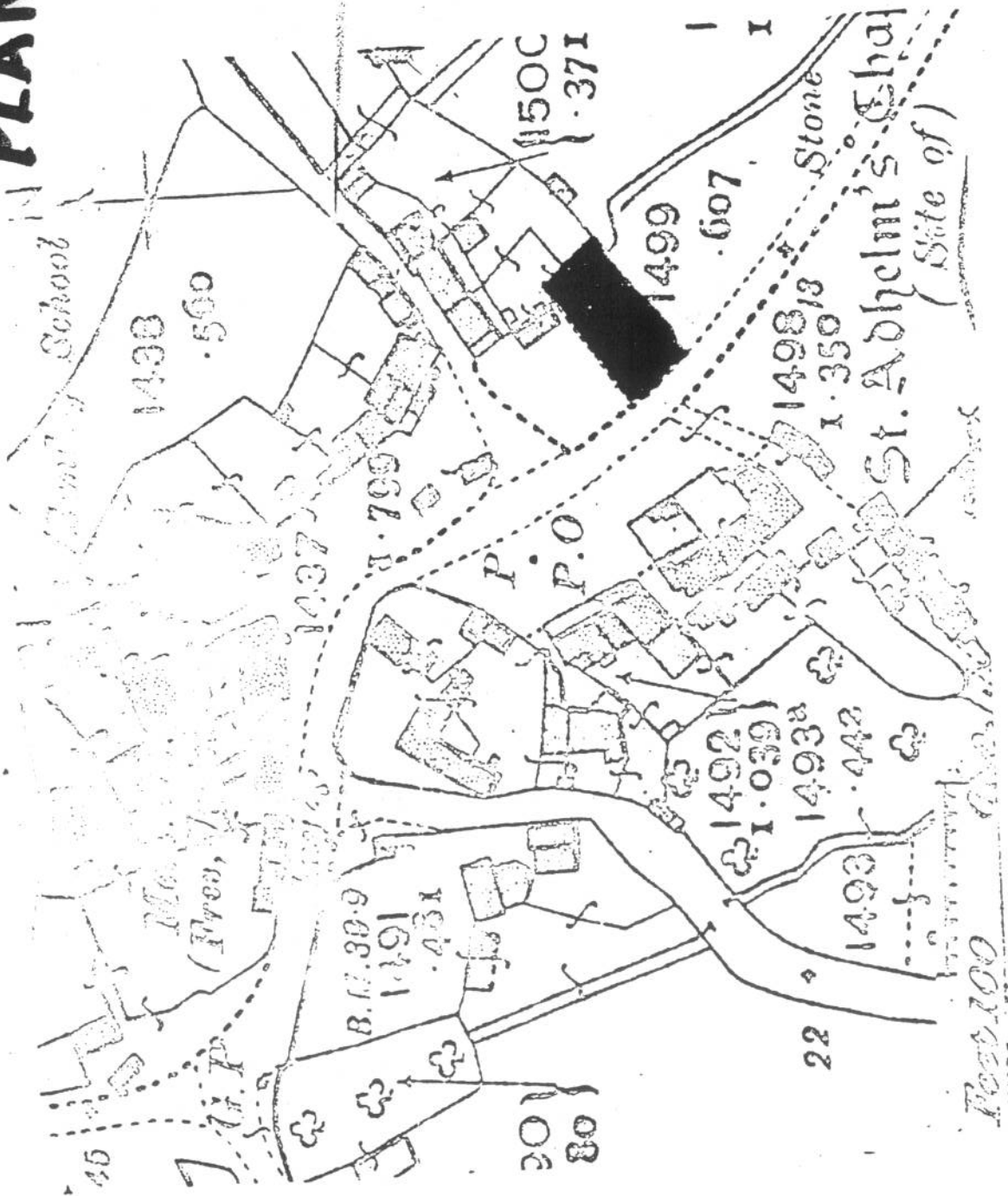
March

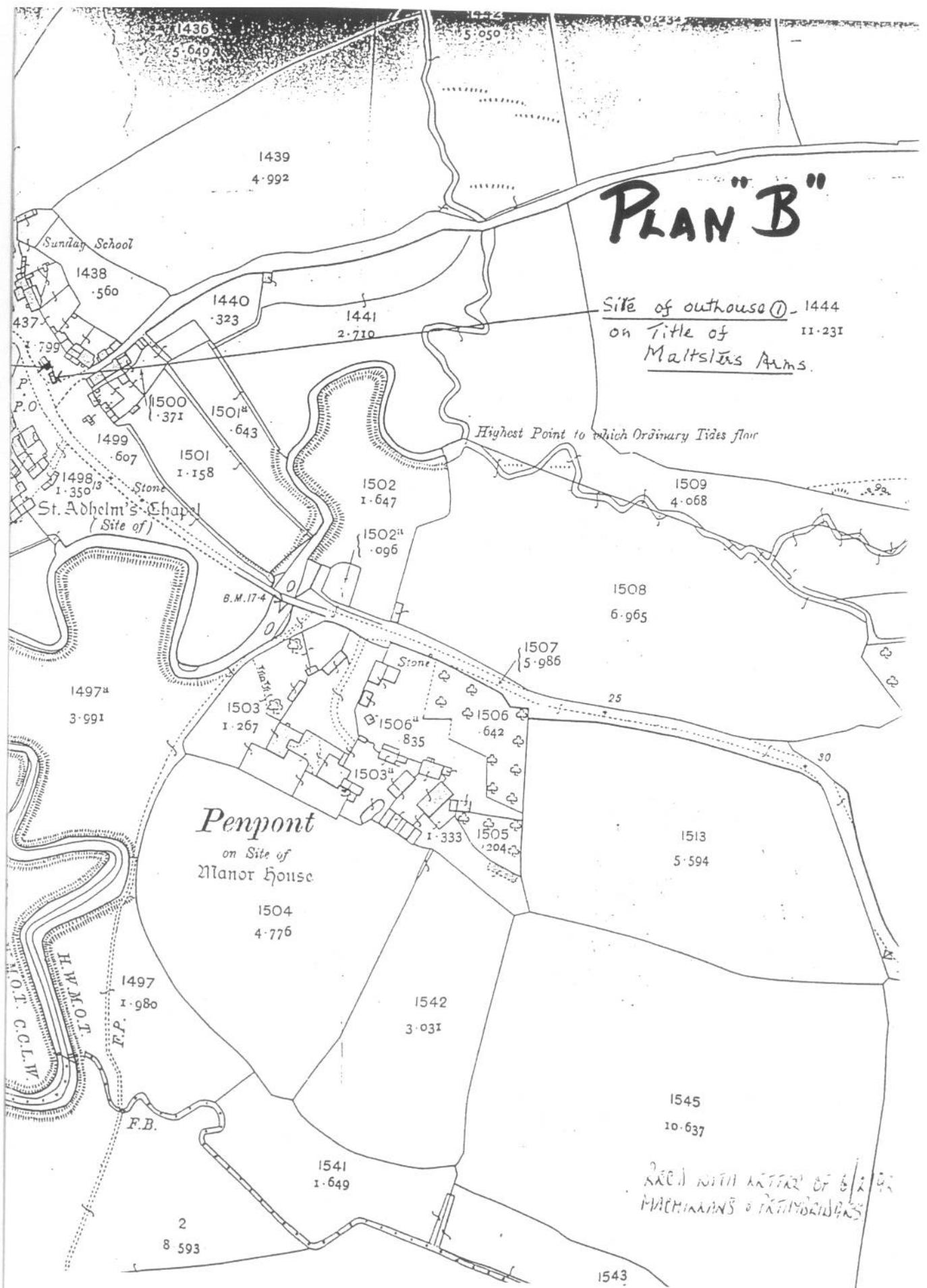
1992

Mati Rott.

Commons Commissioner

# PLAN A





# PLAN "B"

Site of outhouse ① - 1444  
on Title of Maltsters Arms.

Highest Point to which Ordinary Tides flow

Penpont  
on Site of  
Manor House

SEEK WITH LETTER OF 6/2/92  
MACHINISTS & PATENTERS



