



COMMONS REGISTRATION ACT 1965

Reference Nos 209/D/310
209/D/311
209/D/312

In the Matter of (1) Blackdown
and West Blackdown and (2) part
of Blackdown and West Blackdown,
part Willsworthy, Smallcombe
Bottom, Kingsett Down, Zoar
Common, Black Lion Common, Common
Wood, and two small pieces at
Horndon, all in Mary Tavy, West
Devon District, Devon

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos 1 to 64 inclusive, 66 to 125 inclusive, 127, and 129 to 132 inclusive (No. 27 having been replaced by Nos 138 and 139) in the Rights Section of Register Unit No. CL3 in the Register of Common Land maintained by the Devon County Council and to the registrations at Entry Nos 3 to 58 inclusive, 60 to 113 inclusive, 116 to 125 inclusive, 128, 129, 130, 131 and 132 (No. 23 having been replaced by Nos 147 and 148, No. 112 having been replaced by Nos 144 and 145 and No. 120 having been replaced by Nos 141 and 142) in the Rights Section of Register Unit No. CL193 in the said Register; and are occasioned (as to the CL3 registrations) by Objections (relating to the Land Section) No. 75 made by Mr W Cole, No. 76 made by Mr and Mrs P T Dyke and No. 83 made by Miss P D Cole, and all noted in the Register on 15 July 1970, and by Objections (relating to the Rights Section) Nos 105, 106, 107, 110, 111, 112, 113 and 222 (relating particularly to registrations at Entry Nos 41, 129, 39, 82, 83, 85, 112 and 16 respectively) made by Mr Absolom John Warne as chairman of the Mary Tavy Commoners Committee and noted in the Register on 16 November 1971; and (as to the CL193 registrations) by Objections (relating to the Rights Section) Nos 92, 94, 95, 96, 98, 100 and 223 (relating particularly to Entry Nos 38, 130, 128, 39, 91, 120 and 13 respectively) made by Mr A J Warne as chairman as aforesaid and noted in the Register on 30 November 1970 and No. 524 made by North Devon Water Board and noted in the Register on 22 January 1971; and (as to CL3 registration) by the Rights Section registrations at Entry Nos 49 and 129 being in conflict, and (as to the CL139 registration) by the Rights Section registrations at Entry Nos 46 and 128 being in conflict.

I held a hearing for the purpose of inquiring into the disputes at Plymouth on 21 and 22 June 1982. At the hearing (on 21 June) (1) Mary Tavy Commoners Committee were represented by Mr George Hill of Kingsett, Peter Tavy lately and Mr E J Friend of Beardon Farm, Lydford presently their chairman*; (2) Mr Walter Cole who made CL3 Objection No. 75 was represented by Mr D M Crocker, solicitor of Bellingham & Crocker, Solicitors of Plymouth; (3) Mr George Gloyn of Hall Farm, Lydford as successor of Mr and Mrs P T Dyke who made CL3 Objection No. 76, was also represented by Mr D M Crocker; (4) Mr Roger Alfred

*Note: Mr A J Warne former chairman is now deceased; the only other member of the Committee is Mr D Bowhay of Burnford Farm, Peter Tavy.



Cole of Higher Beardon, Lydford on whose application CL3 Rights Section registration at Entry No. 41 was made and as successor of Miss Phyllis Daisy Cole who made CL3 Objection No. 83 and on whose application CL3 Rights Section registration at Entry No. 118 was made, was also represented by Mr D M Crocker; (5) Mr Sidney Bickell of Westcott Farm, Brentor near Tavistock on whose application CL3 Rights Section registration at Entry No. 39 was made, was represented by Mr R G Woolcock of Ward & Chowen, Chartered Surveyors of Tavistock; (6) Mr S F Wilkinson of The Digby, Sherborne, Dorset as successor in title with the said Mr Sidney Bickell of Mr Reginald Hill on whose application CL3 Rights Section registration at Entry No. 83 was made, was also represented by Mr R G Woolcock; (5) Mr Stephen Cowell Saynor on whose application jointly with Mrs Joan Park Saynor (she died shortly after the registration was made) CL3 Rights Section registration at Entry No. 40, was made, attended in person; (6) Mr Cyril Walter Abel of Higher Godsworthy, Peter Tavy as successor of Mr Leslie Archibald Roger Huggins on whose application CL3 Rights Section registration at Entry No. 90 was made, as successor of Mr Cyril George Abel (his father, he died in 1975) on whose application CL3 Rights Section registration at Entry No. 108 was made, and as successor of Mr Henry Clarence Williams (his mother's brother, he died 7 years ago) on whose application CL3 Rights Section registration at Entry No. 116 was made, was also represented by Mr D M Crocker; and (7) Mr George Henry Richard Abel who with the said Mr C W Abel farms under the name George Abel and Son and on whose application the CL3 Rights Section registration at Entry No. 125, was also represented by Mr D M Crocker; and (on 22 June, in relation to CL193) South West Water Authority as successor of North Devon Water Board who made the CL193 Objection No. 223 was represented by Mrs F G Canning, solicitor with the Authority.

The land ("the CL3 Land") in Register Unit No. CL3 is a tract from north-east to south-west about $2\frac{1}{2}$ miles long and about 1 mile wide and situated a short distance north of Mary Tavy and being bounded on the east by the A386 Road (from Tavistock to Okehampton). In the Ownership Section the West Devon Mining and Power Co Ltd are registered as the owners of all the land except an area ("Henscott Plantations") situated at the north end and containing about 169 acres.

The land ("the CL193 Land") in Register Unit CL No. CL193 comprises (1) a piece to the east of the A386 Road approximately triangular (each side about $1\frac{1}{2}$ miles) situated between the CL3 Land on the west and part of Peter Tavy Common on the east and including Kingsett Down; (2) a piece about $\frac{2}{3}$ of a mile long from east to west and having an average width of about $\frac{1}{3}$ of a mile situate on the south side of CL3 Land and being or including Smallcombe Bottom; (3), (4) and (5) three comparatively small pieces or strips along the west side of the CL3 Land; (6) a piece about 300 yards long on the south-east side of the CL3 Land; (7) a piece from east to west about $\frac{1}{3}$ of a mile long and about 300 yards wide by Zoar and a short distance to the north of Higher Creason and Lower Creason; (8) a piece from south-west to north-east about $\frac{1}{3}$ of a mile long or a little more bounded on the southeast by the River Tavy situate to the southeast of Horndon and (9) a smaller piece having a frontage of about 50 yards on the west side of the road between Horndon and Zoar and known as Black Lion Common; and (10) and (11) two comparatively small pieces in or west and south of Horndon. In the Ownership Section the West Devon Mining and Power Co Ltd are registered as owners of nearly all the CL193 Land except the north part of (1) above of which the Secretary of State for Defence is registered as the owner and (9) of which Mr Sydney James Friend is registered as the owner.



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At the hearing I considered each of the Objections separately as hereinafter set out.

Objection No. 105 made by the Commoners Committee:- This relates to CL3 Rights Section registration at Entry No. 41 made on the application of Mr R A Cole. Mr Crocker said that the Objection was agreed; so my decision is as set out in the Decision Table scheduled hereto.

Objection No. 222 made by the Commoners Committee:- This relates to CL3 Rights Section registration at Entry No. 16 made on the application of Mr John Willance Evans, being of a right attached to Will Farm to stray 35 cattle, 230 sheep; the grounds of the Objection are "that the right does not exist at all". Mr Hill said that the Objection accorded with the views of the Commoners Committee, although they perhaps would not have objected if the right had been limited to 1 cow or 1 pony or 5 sheep. However later in the hearing he (as below mentioned) favoured the view that any registration expressed as a right "to stray" should be avoided. The grounds of Objection fairly put the validity of the registration in question, and in the absence of any evidence in support of it, I consider I should accept the views of the Commoners Committee as set out in the grounds and conclude that the registration was not properly made; so my decision about it is as set out in the said Decision Table.

Objection No. 106 made by the Commoners Committee:- This relates to CL3 Rights Section registration at Entry No. 129 made on the application of Mr John Valentine being a right attached to Higher Spring of turbyay, estovers, to take stone, to graze 12 cows, 24 sheep, 6 ponies and 2 goats. The grounds of the Objection are:- "The holding is less than one acre and no agricultural returns are made and the right does not exist at all". The registration conflicts with that at Entry No. 49, made on the application of Mr Edgar John Burley. I have two letters dated 4 and 28 July 1973 from Mr Valentine sent to County Hall saying (in effect) that he does not agree because his holding is less than one acre he is disentitled and that he cannot afford any legal costs to support his claim although he now owns a little more than two acres. In the absence of any evidence in support of the registration I could perhaps conclude that it was not properly made; however Mr Hill said that the Commoners Committee would not object to it being amended so as to read "1 cow or 1 pony or 5 sheep", and this concession I shall accept. In the result the conflict between Entry No. 49 and No. 129 is small; both registrations cannot remain on the Register; the conceded right at Entry No. 129 is perhaps the better; in the absence of any evidence or argument from Mr Burley I prefer No. 129. Accordingly my decision as regards both these registrations is as set out in the said Decision Table.

Objection No. 107 made by the Commoners Committee:- This relates to CL3 Rights Section registration at Entry No. 39 made on the application of Sidney Bickell being of rights attached to Westcott Farm, Brentor. The grounds of Objection are:- "Westcott Farm, Brentor - objection is taken to the whole of the registration, as none of the land is in the Parish of Mary Tavy and, therefore carries no rights on Mary Tavy Commons". Mr Woolcock said that the notice of the hearing given to Mr Bickell dated 20 April 1982 did not include any reference to this Objection. After some discussion, I decided at the conclusion of Day 1 of the Hearing that I would adjourn the dispute occasioned by this Objection as stated in the said Decision Table.



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As to Objection No. 110 by the Commoners Committee:- This relates to CL3 Rights Section registration at Entry No. 82 made on the application of Mr Ewart Sydney Rice and Mr Stanley Russell Rice of a right attached to land in Brentor of turbary, take stones, cut bracken and rushes, graze 15 cattle and 50 sheep. The grounds of the Objection are:- "The whole of the land included in the registration is not in the Parish of Mary Tavy and therefore carries no rights on Mary Tavy Commons". Mr Hill said that both the applicants had died some years ago and their dependents were not local. The grounds of Objection are considered by themselves reasonable, and in the absence of any evidence in support of the registration, I conclude that it was not properly made; so my decision is as set out in the said Decision Table.

Objection No. 111 made by the Commoners Committee:- This relates to CL3 Rights Section registration at Entry No. 83 made on the application of Mr Reginald Hill being of a right therein described as attached to "a small holding comprising OS Nos 127, 129, 124, 125, 126, (2nd Edition 1906) for the Parish of Brentor". The grounds of the Objection are:- "The whole of the land included in this registration is not in the Parish of Mary Tavy, and, therefore carries no rights on Mary Tavy Commons." Mr Woolcock said that his clients Mr S Bickell and Mr S F Wilkinson were the present owners of this small holding which was in fact in Mary Tavy. Mr Hill on behalf of the Committee agreed that Messrs Bickell and Wilkinson are now the owners in succession (not immediately) to Mr R Hill and that the registration would have been proper if "of Mary Tavy" had appeared in the registration. I so conclude; so my decision as to this registration is as set out in the said Decision Table.

Objection No. 112 made by the Commoners Committee:- This relates to CL3 Rights Section registration at Entry No. 85, made on the application of Mr William Arnold Cole being of a grazing right attached to Watervale in Brentor. The grounds of Objection are:- "The whole of the land included in this registration is not in the Parish of Mary Tavy and therefore carries no rights on Mary Tavy Commons." Mr Roger Alfred Cole said that he now owns Watervale in succession to his uncle Mr William Arnold Cole now deceased and that he concedes that because it is in Brentnor it has no rights. I so conclude; so my decision as regards to this registration is as set out in the said Decision Table.

Objection No. 113 made by the Commoners Committee:- This relates to CL3 Rights Section registration at Entry No. 112, made on the application of Mr Cecil Frederick Henry Allen of rights attached to Watervale Farm (not the same land mentioned in the registration at Entry No. 85). The grounds of Objection are:- "the whole of the land included in this registration is not in the Parish of Mary Tavy and therefore carries no rights on Mary Tavy Commons". I have a letter dated 26 July 1973 from Mr H A Yelland of Watervale (sent I suppose to County Hall) in which he says:- "I understand the rights for the above farm was registered as grazing rights, I wish to object to same, I am entitled to straying rights ...". Mr Hill said that Watervale had no rights of common on any common land on which cattle could stray onto the CL3 land. The grounds of Objection are reasonable; in the absence of any evidence in support of the registration I conclude that it was not properly made; so my decision is as set out in the said Decision Table.



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Objections Nos 92, 96 and 98 made by the Commoners Committee:- These relate to CL193 Rights Section registrations at Entry Nos 38, 39 and 91 made on the application of (38) Mr Richard Peter Brendon of rights attached to Town Farm and Mary Tavy Glebe, (39) on the application of Mrs Kathleen Mary Brendon of rights attached to Luxmoores Farm and (91) Mr William Henry Down of rights attached to Little Bidlake, Bridestowe. The grounds of Objection are:- "The whole of the land included in this registration is not in the Parish of Mary Tavy and, therefore, it carries no rights on Mary Tavy Commons." Mr Hill produced a letter dated 16 May 1969 from J J Newcombe & Co, solicitors of Okehampton to the Secretary of the Commoners Committee referring to her letters of 29th April and explaining that the registrations (W H Down, Mr and Mrs P Brendon) "were made purely to cover possible straying, our clients are happy to withdraw their application ..."; and he also produced a copy of a letter dated 24 January 1972 by the said Secretary to the said solicitors. In the absence of any evidence in support of these registrations I conclude that they were not properly made; so my decision about them is as set out in the said Decision Table.

Objection No. 100 made by the Commoners Committee:- This relates to CL193 Rights Section registration at Entry No. 120 made on the application of Mr Ernest Moubray Glossop and Mrs Diana Edith Alicia Glossop (now replaced by Nos 141 and 142 made on the application of Mr David and Mrs Jean Anne Sommerfelt and Mr John William Henry and Mrs Winifred Mary Baker) of rights attached to Highland Farm in the Parish of Whitchurch. The grounds of the Objection are:- "The whole of the land included in this registration is not in the Parish of Mary Tavy and therefore carries no rights on Mary Tavy Commons". Mr Hill said the land is too far away from Mary Tavy Parish sensibly to have a right of common over land in Mary Tavy. In the absence of any evidence in support of the registration I conclude that the registration was not properly made; so my decision about it is as set out in the said Decision Table.

Objection No. 94 made by the Commoners Committee:- This relates to CL193 Rights Section registration at Entry No. 130 made on the application of Mr Dennis Charles Young of rights held in gross. The grounds of Objection are: "That the right does not exist at all". The support of the Commoners Committee of this Objection is some evidence against this registration; in the absence of any evidence in support of it I conclude that it was not properly made; so my decision is as set out in the said Decision Table.

Objection No. 223 made by the Commoners Committee:- This relates to CL193 Rights Section registration at Entry No. 13 made on the application of Mr John Wallace Evans of a right to stray attached to Will Farm. The considerations are similar to those above set out in relation to Objection No. 222 relating to an identical CL3 Rights Section registration; my conclusion is the same, so my decision is as set out in the said Decision Table.

Objection No. 94 made by the Commoners Committee:- This relates to CL193 Rights Section registration at Entry No. 128 made on the application of Mr John Valentine being of a right attached to Higher Spring identical with that in CL3 registration No. 129 above mentioned. This CL193 registration conflicts with the CL193 registration at Entry No. 46 which was made on the application of Mr Edgar John Burley and which



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is identical with the CL3 registration No. 49 above mentioned. I have no note or recollection of these CL193 registrations being particularly mentioned at the hearing by Mr Hill or anyone else, but having regard to what was said as above recorded, about the identical CL3 registrations, I assume that I should treat all these registrations in the same way. My conclusion as to the CL193 registration at Entry No. 128 and No. 46 is therefore the same as that as to the CL3 registration at Entry No. 129 and No. 49; so my CL193 decision is as set out in the said Decision Table. But as to Entry No. 128, see below as to applicability of the Water Authority Proviso.

Next at the hearing I considered the registrations in the CL3 and CL193 Rights Section expressed as being a right "to stray" cattle and/or other animals, and as having been made on the application of the persons specified in Part IV of the said Decision Table. Mr Hill said that the Commoners Committee accepted that animals do in fact stray onto the CL93 and CL193 lands as indicated in the registrations.

The words "to stray", even assuming that they can be read as meaning to stray and to graze, are ambiguous because they may mean that the applicant claims no more than a right of common by reason of vicinage, said to be "but an excuse for trespass", see Co. Litt. (1628) 122a (16th Ed. Hargraves & Butler 1809), and also Halsbury Laws of England (1974) 4th Ed. vol. 6 para. 566 et seq.; or claims a right to graze in some more extensive manner. Since 1972, the Commons Commissioners have acted on the view that a right by reason of vicinage is not a right of common registrable under the Commons Registration Act 1965, a view which at least has the advantage of rendering it unnecessary to fill the Register with Entries recording this "excuse for trespass"; which as regards most contiguous commons is accepted by all concerned. Although the recent case of *Newman v Bennett* 1981 1 QB 726 shows that the exercise of a right of common by reason of vicinage within the New Forest Byelaws is an exercise of a right of common, the Court did not consider the 1965 Act at all; such case in my opinion provides no good reason for my not following the view long acted on by the Commons Commissioners. The CL3 and CL193 Rights Section registrations are all in question in these proceedings by reason of Objections Nos. 75, 76 and 83, which although express to relate only to the Land Section by section 5(7) of the 1965 Act are to be treated as Objections to all the CL3 Rights Section registrations and by reason of Objection No. 524 which puts in question all the CL193 Rights Section registrations. Being obliged by the 1965 Act to "inquire" into these registrations, I must take notice that they are at least highly questionable, see *re Sutton* (1982) 1 WLR 647, at page 658. Mr Hill, Mr Crocker and Mr Woolcock all agreed that they should be avoided and in the absence of any evidence in support of them, I so conclude.

But the grounds of the last mentioned Objections are such that persons concerned with these registrations may have been misled into thinking that they would certainly be confirmed by me, so that their attendance or representation at the hearing was unnecessary. For this reason and because in another case relating to Dartmoor arguments against any such conclusion have been put before me, I consider that such persons should have an opportunity of re-opening these proceedings if they wish. My decision as regards these registrations is as set out in the said Decision Table.



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Next at the hearing oral evidence was given by Mr Roger Alfred Cole in support of Objections No. 75, No. 76 and No. 83, in the course of which he produced: (1) a plan of Henscott Plantations showing how their area is made up of those edged red on the plans attached to the said Objections; (2) a conveyance dated 25 March 1954 by which Messrs H E Turner and A H Ward as executors of Miss Dorothy Ward (she died on 26 July 1952) conveyed lands containing 52.811 acres to Mr Walter Cole (father of the witness); (3) a conveyance dated 30 November 1976 by which Mr O E Ellis conveyed to him (the witness) and Mrs D K Cole (his wife) lands containing 30.794 acres as delineated on the plan annexed to a conveyance dated 25 March 1954 made by Messrs H E Turner and A H Ward; and (4) a conveyance dated 4 February 1977 by which Mr C F H and Mrs A H D Allen conveyed to Mr Morris George Gloyn a farm known as Hall Farm containing about 85.31 acres as edged red on a plan annexed to a conveyance dated 8 April 1971 made by Mr P T and Mrs K Dyke. Mr R A Cole identified the lands comprised in these three conveyances with Henscott Plantations and said generally that they together made up Hall Farm occupied by the objectors and their predecessors in title as such (as stated in the grounds of the Objections). The conveyances make no mention of Rights of Common and are consistent with the lands thereby granted being free from any such rights.

Of 71 papers (yellow forms) addressed to the Clerk of the Council, County Hall, in July and August 1970 signed by persons on whose applications CL3 Rights Section registrations have been made, 68 agree to the Land Section Entry being amended by removing from the Register the lands and 3 either disagree or are ambiguous. All present or represented at the hearing agreed to such lands being so removed. The Land Section registration was made in consequence of an application for registration of rights, but I have nothing to suggest that the registration could be supported as regards any part of the CL3 land which is not subject to any existing Rights of Common.

On the considerations above summarised, I conclude that Henscott Plantations should have not have been included in the registration and that accordingly these Objections succeed at least as regards grounds therein stated. This conclusion leaves open any question there may be as to the effect of the Rights Section objections which by section 5(7) of the 1975 Act are consequentially treated as having being made to all the CL3 Rights Section registrations; this question is dealt elsewhere in this decision or will fall to be dealt on the adjournment of these proceedings as in the Decision Table provided. As regards the Land Section my decision is as stated at the beginning of the said Decision Table.

As to all the other CL3 and CL193 registrations as to which no conclusion is above recorded, Mr Hill asked me to adjourn the further considerations of CL3 Rights Section registration at Entry No. 23 made on the application of Mr Sidney Bickell, because it was or might be connected with Entry No. 39 which as above stated was agreed should be adjourned in any event. About the CL3 and CL193 Rights Section registrations at Entry Nos. 97 and 90 respectively made on the application of Mrs Gladys Ellen Morris, Mr Hill said that the land to which the rights registered are attached is now owned by Mrs D M Penwill of Cholwell Farm; in a letter dated 30/9/82 (after the hearing) he said he wished to withdraw objection to these



Entry Nos., so, notwithstanding he asked at the hearing for their further consideration to be adjourned, I shall treat them as then agreed. Mr Hill said that (save as aforesaid) all the remaining registrations were agreed by the Commoners Committee subject only to the qualifications hereinafter mentioned arising out of the CL193 Objection No. 524 made by North Devon Water Board.

I infer that the Commoners Committee have knowledge of the CL3 and CL193 lands and of the use made of them and I can therefore treat their agreement as evidence enough of the propriety of the registrations, particularly as by so doing I shall be producing the same results as would follow under section 7 of the 1965 Act if Henscott Plantations and the North Devon Water Board land below mentioned had never been included in any of the registrations. Accordingly as regards all these other registrations, my decision is as set out in the said Decision Table.

The grounds of the CL193 Objection No. 524 (North Devon Water Board) applicable to all the CL193 registrations are: "That the Rights of Common do not extend over those parts of the lands ... shown coloured green on the plan enclosed ...". The said plan shows a narrow strip (a water main) about 1/2 a mile long not far (between about 130 and 220 yards) to the east of the A386 road extending from a point near Cholwell on the north near the southwest corner of (1) of 11 pieces mentioned on page 2 of this decision.

On Day 1 of the hearing, (Mrs Canning being not then present), Mr Hill said that the Commoners Committee claimed to have a right to graze over the line of the pipe but accepted that the rights to take stone, bracken, to cut bracken or rushes, turbary and other like rights did not extend to the pipe line, and understanding that Mrs Canning would be agreeable to this he would not attend Day 2. On Day 2 of the hearing Mrs Canning on behalf of the South West Water Authority agreed that it would be enough for their purposes if each of the registrations was qualified in words to the effect of the proviso set out in Part III of the said Decision Table. I have in relation to this Objection No. 524 44 yellow forms similar to those above mentioned, signed in 1971, 38 of which in effect agreed to the Objection, and 6 of which either disagree or are in some respect ambiguous.

In my opinion the proviso set out in Part III of the Decision Table and at the hearing agreed between the Water Authority and the Commoners Committee represents a reasonable compromise of questions the determination of which in accordance with the circumstances in which the pipe line came to be where it now is, would involve expenditure of time and money quite disproportionate to the benefit any such determination could confer. I conclude therefore that I ought to give effect to this compromise, and so my decision about this Objection is as set out in the said Decision Table.

As regards the CL193 registration which might at any adjourned hearing of these proceedings by reason of any provision in the Decision Table, again have to be considered, I record that I have now decided that any such registration will notwithstanding anything said at such adjourned hearing be subject to a proviso the effect of that set out in Part III of the Decision Table; and it will not therefore be open to any person to contend the contrary, so it will not be necessary for North Water Authority to be represented at any such adjourned hearing.



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I record that since the hearing Mr A J Knapman of East Tordown, Drewsteighton sent a letter dated 27 July 1982 to the office of the Commons Commissioners enclosing a copy of a receipt for £7 dated 19 May 1933. I suppose that he is concerned that the CL3 and CL193 Rights Section registration at Entry Nos. 105 and 99 respectively, which (as appears from the Decision Table) I am refusing to confirm. In my opinion this letter and its enclosure is not relevant to any question I have to determine, but it will be open to Mr Knapman to apply to have this decision set aside and for a further hearing as regards these registrations pursuant to the liberty to apply granted by the Decision Table.

So summing up the result of my June 1982 hearing:- There must be an adjourned hearing as regards CL3 Rights Section registrations at Entry Nos 23 and 39. There may be an adjourned hearing as regards some or all of the registrations mentioned in Part IV of the Decision Table. Save as aforesaid my final decision as regards all the registrations which are the subject of these proceedings is as set out in the said Decision Table.

As much of this decision is complicated and I may have mistaken what was said to me at the hearing I gave to all persons who then attended or were represented or who were then entitled to be heard liberty to apply as to any clerical or other errors. Any such application should in the first instance be made by letter to the Clerk of the Commons Commissioners in London.

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.

SCHEDULE
(Decision Table)

Part I: Register Unit No. CL3

I confirm the Land Section registration at Entry No. 1 with the modification that there be removed from the Register the 3 lands edged red on the plans attached to Objection No. 75 (Mr W Cole), to Objection No. 76 (Mr and Mrs P T Dyke) and to Objection No. 83 (Miss P D Cole), such lands being that part of the CL3 land which is not hatched in red and lettered "A" on the Register Map and which is thereon marked "Henscott Plantations".

I confirm the Rights Section registration at Entry No. 41 (Mr R A Cole) with the modification that in column 4 for "5 ponies, 120 cattle, 320 sheep" there be substituted "5 ponies, 10 cattle, 160 sheep", and in column 5 the words and figures from "Beardon Farm comprising OS Nos. ..." to "... of Peter Tavy" be deleted, and with the modification necessarily consequential on the said removal of Henscott Plantations.

I refuse to confirm the Rights Section registration at Entry No. 16 (Mr J W Evans).



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I refuse to confirm the registration at Entry No. 49 (Mr E J Burley) and I confirm the registration at Entry No. 129 (Mr J Valentine) with the modification that for "12 cows, 24 sheep, 6 ponies, 2 goats", there be substituted "1 cow or 1 pony or 5 sheep", with the modification necessarily consequential on the said removal of Henscott Plantations.

These proceedings so far as they concern the dispute relating to Rights Section registration at Entry No. 39 (Mr S Bickell) occasioned by Objection No. 107 is adjourned to a day and place to be fixed by a Commons Commissioner of which notice will be given to and only to: (1) Ward & Chowen, Chartered Surveyors of Tavistock for Mr S Bickell of Westcott Farm; (2) Mr E J Friend as chairman of Mary Tavy Commoners Committee; (3) Devon County Council as registration authority; and (4) such other persons if any as shall make written application to the Clerk of the Commons Commissioners in London saying that they wish to be given notice of the adjourned proceedings.

I refuse to confirm the Rights Section registration at Entry No. 82 (Mr E S Rice and Mr S R Rice).

I confirm the Rights Section registration at Entry No. 83 (Mr R Hill) with the modification that in column 5 there be added at the end "the said holding being itself in the parish of Mary Tavy" and with the modification necessarily consequential on the said removal of Henscott Plantations.

I refuse to confirm the Rights Section registrations at Entry No. 85 (Mr W A Cole) and at Entry No. 112 (Mr C F H Allen).

I refuse to confirm the Rights Section registrations at Entry Nos. 6, 7, 8, 11, 13, 19, 20, 21, 24, 25, 28, 36, 44, 51, 52, 53, 54, 56, 89, 90, 91, 92, 93, 94, 95, 96, 98, 99, 101, 102, 103, 104, 105, 107, 108, 109, 114, 115, 116, 123, 125, 130, 131 and 132, being the Entry Nos. mentioned in Part IV of this Decision Table. But I give to the persons on whose application such registrations were made and to their successors in title liberty to apply to a Commons Commissioner that this decision as regards all or any such registrations be set aside and the said June 1982 hearing be reopened for the purposes of establishing that any one or more of such registrations should be confirmed with or without modification; the said 3 months will commence on the day when notice of this decision is sent to the persons entitled thereto under the Commons Commissioners Regulations 1971; any such application should in the first instance be in writing (it may be by letter) and sent to the Clerk of the Commons Commissioners in London.

I adjourn the further consideration of the Rights Section registrations at Entry No. 23 (Mr S Bickell) to the same place and time as the adjourned hearing relating to Rights Section Entry No. 39.

I confirm the Rights Section registrations at Entry Nos 1, 2, 3, 4, 5, 9, 10, 12, 14, 15, 17, 18, 22, 26, 27 (as replaced by registrations at Nos 138 and 139), 29, 30, 31, 32, 33, 34, 35, 37, 38, 39, 40, 42, 43, 45, 46, 47, 48, 50, 55, 57, 58, 59, 60, 61, 62, 63, 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 84, 86, 87, 88, 97, 100, 106, 110, 111, 113, 117, 118, 119, 120, 121, 122, 124, 127 and 129



(being all the Rights Section registrations in question in these proceedings and not before expressly mentioned) without any modification save such is necessarily consequential on the said removal of the Hescott Plantations.

Part II: Register Unit No. CL193

I refuse to confirm the Rights Section registrations at Entry No. 38 (Mr R P Brendon), No. 39 (Mrs K M Brendon), No. 91 (Mr W H Down) No. 120 (Mr E M and Mrs D E A Glossop, including No. 141 and No. 142 which replaced the said No. 120), No. 130 (Mr D C Young), and No. 13 (Mr J W Evans).

I refuse to confirm the registration at Entry No. 46 (Mr E J Burley) and I confirm the registration at Entry No. 128 (Mr J Valentine) with the modification that for "12 cows, 24 sheep, 6 ponies, 2 goats", there be substituted "1 cow or 1 pony or 5 sheep" and with the modification that a proviso to the effect of Part III of this Decision Table be added at the end of column 4.

I refuse to confirm the Rights Section registrations at Entry Nos 3, 4, 5, 8, 10, 16, 17, 18, 20, 21, 24, 28, 31, 34, 35, 36, 48, 50, 83, 84, 85, 86, 87, 88, 89, 92, 93, 95, 96, 97, 98, 99, 100, 101, 102, 103, 109, 110, 111, 112 (including Nos 144 and 145 which replaced the said No. 112), 113, 124, 125, 129, 131 and 132 being the Entry Nos. mentioned in Part IV of this Decision Table. But I give to the persons on whose application such registrations were made and to their successors in title liberty within 3 months to apply to have this decision set aside identical with the liberty in Part I of this Decision Table granted in relation to the CL3 Entry Nos. mentioned in Part IV, but so that if pursuant to this liberty any such registration is confirmed, it will unless it relates to a right to graze only and includes no other right of any kind, be subject at least to the modification that in column 4 there be inserted at the end a proviso to the effect of Part III of this Decision Table.

I confirm the Rights Section Registration at Entry Nos. 6, 7, 9, 11, 12, 14, 15, 19, 22, 23, 25, 26, 27, 29, 30, 32, 33, 37, 40, 41, 42, 43, 44, 45, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 90, 94, 104, 105, 106, 107, 108, 116, 117, 118, 119, 121, 122 and 123 (being all the Right Section registration in question in these proceedings not in this decision before expressly mentioned) with the modification that in column 4 there be added at the end and where applicable (that is all except the registrations which are only of a right to graze and include no other right of any kind) a proviso to the effect of that set out in Part III of this Decision Table.



Part III: Water Authority Proviso
to every CL193 registration

Provided that except as regards grazing these rights shall not extend over the parts of the land in this register unit coloured green on the plan enclosed with Objection No. 524.

Part IV: Rights to stray not mentioned particularly
in any Commoners Committee Objection

CL3 Entry No	CL193 Entry No	Applicant	Attached land
6	3	William Henry Bellamy	land at Higher Churchtown, Peter Tavy
7	4	William Henry Bellamy	land in Peter Tavy
8	5	William Henry Bellamy	Harragrove Farm, Peter Tavy
11	8	William James Perkins	House Farm, Peter Tavy
13	10	John Wright Vogwill	land in Peter Tavy
19	16	William Henry Bellamy	Part Wedlake Farm, Peter Tavy
20	17	Frank William Collins	Higher Mill Farm, Peter Tavy
21	18	Frank William Collins	land in Peter Tavy Village
24	20	Sidney Bickell	Merrivale Farm, Whitchurch
25	21	Sidney Bickell	Dennithorne Farm, Whitchurch
28	24	Mrs Dulcie Muriel Martin	Copperthorne and Newmead, Lydford
—	28	William Alfred Bellamy	Coxtor Farm, Peter Tavy
36	31	Mervyn John Cole	Lower Downtown Farm, Lydford
—	34	Frances Edward Bellamy	Part Wedlake Farm, Peter Tavy
—	35	Mrs Jessie Mary Bellamy	Broad Oaks, Peter Tavy
—	36	Frances Edward Bellamy and Mrs Jessie Mary Bellamy	Coppythorne and Paisley Mead, Peter Tavy
44	—	Frederick William Percy May	land at Lydford
—	48	Mrs Louisa Frances Mudge	Higher Grenofen Farm, Whitchurch



51	—	Thomas May	land at Brentor, Lydford
52	—	Thomas May	land at Lydford
53	—	Arthur May	land at Lydford
54	—	Miss Laura Heathman	land at Lydford
56	50	Clifford Charles Gloyn and Lionel George Gloyn	lands at Lydford, Watervale, Lambhole and Spooners Hill all in Brentor and Lydford
89	83	Cyril James Beesley	Castle Inn, Lydford
90	84	Leslie Archibald Roger Huggins	land at Lydford
91	85	Leslie Archibald Roger Huggins	land at Lydford
92	86	Leslie Archibald Roger Huggins	land at Lydford
93	87	Leslie Archibald Roger Huggins	land at Lydford
94	88	Leslie Archibald Roger Huggins	land at Lydford
95	89	Mr Robert James Lowries and Mrs Joan Edith Lowries	Highdown Lydford
96	—	George Thomas James Medland	Shillapark, Whitchurch
98	92	John Arthur Reep	Nattor Farm, Peter Tavy
99	93	John Arthur Reep	part of Will Farm, Peter Tavy
101	95	Albert Rich Bellamy	land at Peter Tavy
102	96	John William Mudge	Sowntentown Farm, Peter Tavy
103	97	Ewart Sydney Rice	part of Will Farm, Peter Tavy
104	98	Ewart Sydney Rice	part of Hilltown Farm, Peter Tavy
105	99	Arthur John Knapman	Park Manor Farm, Cudliptown, Peter Tavy
106	100	Alec Phillott	Browsentor Farm, Peter Tavy
107	101	Mrs Ellen Ball	Lower Wapsworthy, Peter Tavy
108	102	Cyril George Abel	Lower Godsworthy Farm, Peter Tavy
109	103	John Arthur Reep	Coffins, Inner Wheatlands, and Tor Meadow, Peter Tavy
114	—	William John Doidge	Lay Farm, Peter Tavy
115	109	Henry Clarence Williams	land at Cudliptown and Sharpitor, Peter Tavy



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116	110	Cyril Walter Abel	Baggator Farm, Peter Tavy
—	111	Mrs Alice May Wakeham	land adjoining village, Peter Tavy
—	112*	William George Turner * Entry replaced by Nos. 144 and 145	Higher Wapsworthy Peter Tavy
—	113	Miss Marjorie Cecile Alford	Wapsworthy Bridge, Peter Tavy
123	—	Samuel George Palmer	land at Zoar
125	124	George Abel & Sons	Higher Gadsworthy Farm, Peter Tavy and Whitchurch
—	125	Mrs Louisa Jane Phillips	land around the village of Lydford
130	129	George Thomas James Medland	Shillaparks, Merridale, Whitchurch
131	131	William Arthur Roy Pearse	Oatenhill and land and other land at Lydford
132	132	Devon County Council	Prescombe Farm, Brenton
—	144*	Mrs Jeremy Francis Lucas and Mrs Moira Congdon Lucas	Higher Wapsworthy Farm, Peter Tavy
—	145*	Mr Ian James Burgoyne *Note: replacing Entry No. 112	part of Higher Wapsworthy Farm

Dated the 11th — day of July — 1983.

A. A. Baden Fuller

Commons Commissioner