



COMMONS REGISTRATION ACT 1965

Reference Nos 209/D/328
209/D/329

In the Matter of Brenamoor Common,
East Cleave, Belstone Common, West
Cleave, Tongue End Common,
Priestacott Common, Meer Pool-Tors
Park, Moors Plot-Well Park, Post
Office Green, Dartmoor House Green
and Broadhayes Green, all in
Belstone, West Devon District,
Devon.

DECISION

These disputes relate to the registrations at Entry Nos 1 to 192 inclusive, 198 and 199 in the Rights Section and at Entry Nos 1 and 2 in the Ownership Section of Register Unit No. CL73 in the Register of Common Land maintained by the Devon County Council and are occasioned by Objection No. 228 made by Belstone Commoners Association and noted in the Register on 27 October 1970, by Objections Nos 411, 412, 413, 414 and 415 made by HRH Prince of Wales, Duke of Cornwall and noted in the Register on 16 December 1970, by Objection No. 521 made by North Devon Water Board and noted in the Register on 24 February 1971 and by the registrations at Entry Nos 9 and 91 and at Entry Nos. 90, 180, 181 and 182 in the Rights Section and the registrations at Entry Nos. 1 and 2 in the Ownership Section being in conflict.

I held a hearing for the purpose of enquiring into the disputes at Plymouth on 8 March and 6 and 7 July 1983. At the hearing (1) Belstone Commoners Association were represented by Mr F J Woodward solicitor of Burd Pearse Prickman & Brown, Solicitors of Okehampton who is their chairman; (2) the Attorney-General for the Duchy of Cornwall was represented by Mr C Sturmer who is the Duchy Land Agent for Dartmoor; (3) South West Water Authority as successor of North Devon Water Board was represented by Mrs F G Canning their Parliamentary and General Legal Officer; (4) Mr Sidney George Saunders, Mr Dudley Luxton son of H Luxton deceased and Mr John Albert Thomas Hodge on whose application Rights Section Entry Nos. 9, 91 and 199 were respectively made, were also represented by Mr F J Woodward; (5) Lady Sylvia Rosalind Pleadwell Sayer on whose application jointly with Vice Admiral Sir Guy Bouchier Sayer the registration at Rights Section Entry No. 3 was made, attended on her own behalf and as representing him, and as representing Admiral Sir James F Eberle as successor of Mr David Miller Scott on whose application the registration at Rights Section Entry No. 2 was made, and Mrs Eleanor Nancy Smallwood on whose application the registration at Rights Section Entry No. 145 was made (on 7 July her son Captain Geoffrey Munday Seton Sayer RN deputised for her); (6) Mrs E M Joy widow of Major E G Joy of Higher Bowden, Meldon as successor of Major Leonard Thomas Sheasby on whose application the registration at Rights Section Entry No. 155 was made, was (at the 8 March hearing only) represented by Mr P A Elliot solicitor of Foot & Bowden, Solicitors of Plymouth; and (7) Miss Dorothy Ellis Brendon Newcombe and Miss Edith Joan Ellis Brendon Newcombe on whose application the registration at Ownership Section Entry No. 1 was made, were also represented by Mr F J Woodward.



The land ("the Unit Land") in this Register Unit comprises numerous tracts and pieces of land as named in the heading to this decision. Of these by far the largest ("Belstone Common") is lettered "A" on the Register map, being about 1½ miles long between its northwest and southeast corners and about 1 mile long between its other corners, situated a short distance southwest of the village of Belstone and bounded on its west side by East Okement River and for the most part on its east side by the River Taw, and on its southwest side by the Forest (Register Unit No. CL164). Next largest is an irregular strip ("East Cleave") about 1¼ miles long and about 300 yards wide extending from near the village of Belstone on the west to near Sticklepath on the east and having nearly everywhere the River Taw as its south boundary. Next largest is a piece ("West Cleave") of about 40 acres east of the East Okement River and adjoining the northwest corner of Belstone Common. The other pieces are all smaller, some very much smaller, and are situated some in the village of Belstone and some in other parts of the Parish. Of the registrations in the Rights Section (194 in all), Nos. 158, 28 and 51 have been replaced by Nos. 201 and 202, Nos. 204 and 205, and Nos. 207, 209, 210, 211 and 212 respectively. In the Ownership Section the Misses Newcombe are registered as owners of all the Unit Land except West Cleave, and HRH Charles Prince of Wales, Duke of Cornwall is registered as the owner of the part of the Unit Land lettered A on the Register map, being Belstone Common.

At the March hearing, Mr Woodward on behalf of Mr S G Saunders and Mr D Luxton said that they were agreed that the conflict between the registrations at Entry Nos. 9 and 91 should be resolved by that at Entry No. 91 being modified in column 4 by reducing "156" to "144" in the expression "To graze 156 stock Units", and in column 5 by deleting "20" in the expression "part East Lake Farm comprising OS Nos. ... 4, 6 and 20"; and by that at Entry No. 9 being confirmed without any modification.*

Mr P A Elliot on behalf of Mrs E M Joy produced the documents specified in Part I of the First Schedule hereto, and submitted (Mrs Canning and Mr Sturmer agreeing) that the documents showed that the registration at Entry No. 155 should be modified in column 5 by adding to the OS Nos. therein describing Higher Bowden Farm: "and part 1,735 (0.250 of an acre)". Owing to other business, at the March hearing I did no more than record (as above set out) what was then said by Mr Woodward and Mr Elliot. For reasons which later became apparent and are hereinafter recorded I reject Mr Elliot's said submission (Entry No. 155 is of a right "to stray" which was never justified at the hearing), and I have otherwise dealt with No. 91.

At the July hearing, I first considered Objection No. 521 (North Devon Water Board) the grounds of which are by reference to parts of the Unit Land coloured green on the 3 plans ("Objection Plan No. 1, No. 2, and No. 3") enclosed with the Objection. Mrs Canning in the course of her oral evidence in support of the Objection produced the documents specified in Part II of the First Schedule hereto. By the 1947 conveyance (FGC/306) His Majesty The King conveyed to the Water Board: "Fourthly the following liberties powers and rights of way ... (D) to construct and thereafter use and maintain 2 access roads one between the points marked A, B, C on the said map No. 1 attached hereto ... such access roads not to exceed twelve feet in width"; on the conveyance map No. 1 is marked a strip ("the WA 1947 part") which is the same as the strip coloured green on Objection Plan No. 1, extending from OS Nos 388 and 389 thereon marked southwards to a line near the word "Recorder House". By the 1949 vesting deed (FGC/308) after reciting the North Devon Water Board Act 1945

*He produced a letter dated March 1983 signed by both of them.



- 3 -

and the Land Clauses Consolidation Act 1845, reciting the said 1947 conveyance, reciting a conveyance dated 7 February 1949 by Nellie Gertrude Newcombe and John Jehu Newcombe to the Water Board of easements and rights therein specified over the lands coloured green on the lands therein mentioned ("the WA 1949 parts"), reciting a meeting on 28 June 1948 of those entitled to common and other rights, reciting a receipt dated 9 July 1949 (FGC/307) by the Committee appointed at such meeting, it was witnessed that the easements and rights granted by the said 1947 conveyance and the said 1949 conveyance should thenceforth vest in the Board freed and discharged from all common or commonable or other rights; on the plans annexed to the said vesting deed the WA 1949 parts are the same as the parts of the Unit Land coloured green on Objection Plans Nos. 2 and 3, being a strip near to and within the west boundary of Brenamoor common and a strip near to and within the west boundary of East Cleave (on the Register map marked "Belstone Cleave"). By the 1969 vesting deed (FGC/309) after reciting the said 1945 Act and the North Devon Water Act 1959, reciting a conveyance dated 14 January 1965 by HRH Charles Prince of Wales Duke of Cornwall to the Board of easements and rights over the land shown coloured pink on the plan therein mentioned ("the WA 1969 parts"), reciting a meeting on 22 September 1959 of those entitled to commonable and other rights and reciting the receipt dated 7 August 1969 by the committee appointed at such meeting, it was witnessed and declared by the North Devon Water Board that the WA 1969 parts were freed from all commonable and other rights over the same to such extent as was necessary for the purpose of the exercise by the Board of the easements and other rights therein described (being to lay water pipes etc); the WA 1969 parts as shown on the map annexed to the said 1969 vesting deed are the same as the strips of land coloured green on Objection Plan No. 1, being strips along which is thereon delineated a water main. Mrs Canning said that effect to the said deeds and to the things in them mentioned as having been done could satisfactorily to the Water Authority be given by subjecting each and every registration of a right of common to a provision that except as regards grazing the rights would not extend over the lands coloured green on Objection Plans No. 1, No. 2 and No. 3 so that as a result all rights (other than grazing) such as turbarry, taking stone gravel and sand etc would not extend over the land so coloured; this was agreed by Mr Woodward. Their agreement is a satisfactory way of resolving a somewhat complicated position; no person at the hearing suggesting otherwise, my decision is accordingly as set out in paragraph 1 of The Decision Table being the Second (and last) Schedule hereto.

I record that there was some discussion at the hearing as to whether I should in my decision say something about the registered rights not extending at all (grazing or otherwise) to the Aeration Tank and Balancing Tank marked on Objection Plan No. 1 on the grounds that the 1969 vesting deed showed that the sites of these tanks were vested in the Water Board for an absolute interest (not merely for easements and rights) and about, on similar considerations a small piece of land adjoining the River Taw coloured blue on the plan annexed to the 1949 vesting deed. It seems to me that these sites and this piece of land have by amendment mentioned in the Land Section Entry No. 2 been altogether removed from the Register as a result of Objection No. 504 made by the North Devon Water Board, they being shown hatched violet on the Register map. I understood that Mr Woodward agreed that the registered rights did not so extend; but because the sites and piece are no longer registered, I give no decision about them.

Next in support of the registrations at Entry Nos. 3, 4 and 145 Lady Sayer gave oral evidence in the course of which she handed in the statement (S/302) specified in Part III of the First Schedule hereto. In answer to questions by Mr Woodward she



- 4 -

referred to a letter dated 18 October 1977 from the Solicitor of the Duchy to Sir Guy Sayer by which the Duchy conceded her right; as to there being a conflict between ancient documents and modern usage, she regarded the latter as chaotic and the former as showing well founded ancient rights. she relied on the decision of the Chief Commons Commissioner as to the extent of Venville rights. Her claim was not over all, but over the parts only of, the Unit Land contiguous with the Forest (CL 164), being Belstone Common, West Cleave and East Cleave (the latter is known as Belstone Cleave).

Next Mr Woodward produced the documents specified in Part IV of the First Schedule hereto as showing that the Misses Newcombe agreed that the Ownership Section conflict be resolved by their registration being modified so as to accord with that made by the Duchy. As the Register now stands no-one is registered as the owner of West Cleave; although Mr Woodward on behalf of the Misses Newcombe said their failure to claim ownership of West Cleave was a mistake, I have I think in these present proceedings no power to correct this mistake; but my inability to do this will not finally prejudice them because following my decision there will have to be a further hearing before a Commons Commissioner under section 8 of the 1965 Act as to the ownership of West Cleave and at such hearing evidence of their ownership can be offered.

Next oral evidence in support of the Duchy Objections Nos. 412, 413, 414 and 415 (no shooting, no piscary no pannage and no right to take wild animals and birds) was given by Mr Colin Sturmer who is and has been since 1970 the Duchy Land Agent for Dartmoor and been with the Duchy since 1965, in the course of which he produced the documents specified in Part VI of the First Schedule hereto. He said (in effect):- As to piscary, it has been the practice of the Duchy over many years at least from before the turn of this century to issue fishing licences for salmon and trout; there has been co-operation between various water authorities as appears from the correspondence produced with regard to the checking of fishing permits, so that the Water Authority Bailiff is now permitted to check that all fishermen carry not only the Water Authority licence but also the Duchy permit; those people without the necessary licence and permit are reported to the Duchy and appropriate action is taken meaning a warning (hitherto enough) of a possible prosecution. As to shooting, the Duchy does not permit shooting or the capture of any animal from the Forest on any of the commons owned by them without a licence from the Duchy; prosecutions have taken place in the past although he (the witness) had not been involved in any of them; any person caught with a gun on open land of the Duchy is immediately warned and asked to leave Duchy property; he has done this on several occasions in the last ten years and never has been told by any person that they claimed a right to shoot or to capture wild animals. All hunting on Duchy land is licensed by the Duchy; the various hunts concerned (Spooners and West Dartmoor, the Dartmoor and the Mid Devon) all have a Duchy licence. As to pannage, oak trees are very rare and they do not produce acorns in a place or in a quantity worth turning out pigs on; generally he had no knowledge of pigs being turned out anywhere on any of the commons of Dartmoor owned by the Duchy.

Next (7 July) I considered particularly Belstone Commoners Association Objection No. 228 relating to the registrations at Entry Nos. 2, 3, 4, 6, 11, 91, 92, 93, 94, 96 to 118 inclusive, 120, 121, 125, 126, 127, 129, 130, 138, 143, 144, 145, 146, 151, 152, 161, 168, 171, 172, 174, 186, 188, 198 and 199; the grounds of the Objection



are: the rights are not exercisable by the persons who obtained the registrations, over the Unit Land. Mr Woodward explained that he signed the Objection as chairman of the Association. I need not consider separately Duchy Objection No. 441 because all the Entry Nos. mentioned in it are included in the Entry Nos. mentioned in, and because the grounds of it are to the same effect as those of, Objection No. 228.

As to Entry No. 199 made on the application of Mr John Albert Thomas Hodge, Mr Woodward said that since the registration Stoney Park Lane mentioned in column 5 had been sold to Mr Jeffery Gratton Wooldridge, who as appeared in the document (JATH/2) produced, claimed no rights over the Unit Land; and that in these circumstances if Stoney park Lane was excluded from the registration, the Commoners Association did not object to it.

As to Entry No. 91, about which an agreement was in March made (see above), I have no note or recollection of anything being said in July about its exclusion from Objection No. 228. However since the hearing, I have had a note dated 22 September 1983 from Mr Woodward saying in effect that Objection No. 228 was intended to relate only to the inclusion in column 5 of the registration of "the land at Northlake in the parish of Okehampton Hamlets"; and in accordance with pages 57 and 118 of my decision dated 30 June 1983 and made in the matter of The Forest of Dartmoor (CL 164) the Commoners Association were agreeable to "156 stock units (NFU scale)" remaining unaltered.

Explaining the evidence to be given on behalf of the Commoners Association Mr Woodward produced the documents specified in Part X of the Second Schedule hereto. Oral evidence was then given by Mr Jack Worth Reddaway who is 61 years of age, and who has from his earliest years (like his father and grandfather before him) been concerned with stock in the Parish of Belstone being on Belstone Common and on the nearby parts of The Forest (CL 164); he said (in effect):- Belstone Commoners Association used to meet long before he was born to discuss matters relating to the Commoners particularly as to the distribution of the money from time to time provided by the War Office as compensation for the disturbance to the commoners for the use of the common for military purposes. He was a member of the Sub-Committee who in 1970 considered what objection the Association should make to the registrations which had by then been made. They realised as was apparent from the memorandum of evidence given by the Dartmoor Commoners Association to the Royal Commission on Common Land that there was a difference between modern usage and ancient rights and decided that their objections would be in accordance with modern usage; on this basis they objected to people who had no land in the Parish and who in their view had no right to graze on the Unit Land. The commoners of Belstone had always paid a Venville rent; as he first remembered it was paid to Mr George Endacott who was tenant of the Duchy of East Okement Farm until when he retired, (he agreed the suggestion that this was in 1966). The Association on behalf of all their members paid the Venville rents to the Duchy direct. He was constantly out on Belston Common or The Forest (not the same part every day) and often met there Mr J A T Hodge (or his son) and other commoners; their activities on the Moor included bringing in the cattle for testing for brucellosis, for putting on the bull and for calving; also during the winter every day to feed them. He also went out to collect the sheep for shearing, for dipping, and for lambing; to see to his sheep either he or his son or one of his workmen would go out every day. He could recognise sheep cattle or ponies on Belstone Common which were not from the Parish;



their sheep were marked and branded on the horn and also have ear cuts; their cattle are ear-marked and tagged. When collected they might get an odd animal from a neighbouring common whose owner on being informed would take back. Generally as to the registrations listed in the Objection none of the persons who had applied for the registrations had animals leared on Belstone Common; he had no recollection of ever seeing on Belstone Common any animals from any of the farms mentioned in these registrations, and in particular he had never seen any animals from the farms mentioned in the registrations made on the application of Sir Guy and Lady Sayer, Mr D M Scott (as predecessor of Admiral Eberle) and Mrs Smallwood. Nor had he ever seen any person from any of the farms in the restirations cutting turf or taking stone or anything of that kind.

In answer to questions by Captain Sayer, Mr Reddaway said (in effect):- From when he was small he always understood that only people in the parish had rights on Belstone Common, and no-one else and so it had always gone on. The Duchy Moorman used ~~used~~ to have animals from as far away as Newton Abbot during the summer on The Forest and they (their owners) paid him so much for the summer grazing; none (of these animals) came onto "out commons" (meaning the Unit Land). As to his lack of knowledge of the decisions of the Chief Commons Commissioner, he could only say that the people who had got rights on their own commons did not he though have rights to graze away from such commons. As to straying, when they saw any (strays) the owners would be asked to remove them, or if the strays were taken in, the owners would be asked to come and fetch them; he had not heard of legal proceedings being taken about such strays; he thought what they (meaning those of Belstone) had done (about strays) had never been questioned.

Also in support of Objection No. 228, oral evidence was given by Mr John Albert Thomas Hodge who is and has been for the past 23 years a member of the Executive Council of the Dartmoor Commoners Association (and thus following his father before him) in the course of which he said (in effect):- He had been running sheep on Belstone Common since 1952. He or his son rode out most days at lambing time and during summer hay-making about once a week. he had also run cattle on Beistone Common; they were fed in the winter with hay brought out into the common starting in November or December and continuing until the first week of June "because in our part we have a long spring". He thought the Sub-Committee when they made the Objection had in mind putting the common right up to modern usage. Those who hold they had made registration were too far away and had no connection at all with Belstone Common. He thought that the commoners of Belstone, would not complain of stock from Okehampton, straying but could object to their stock grazing, there being a difference between straying and grazing. Generally he agreed with the evidence he had heard given by Mr Reddaway. He (Mr Hodge) also said (in answer to questions by Captain Sayer) the Dartmoor Association was made up of about 30 local associations each of which has a representative; it was he thought for each association to run its own commons; he could not think it was practicable having regard to modern usage to do it any other way.

Nobody at the hearing challenged the evidence of Mr Sturmer as above summarised, and I have no reason for not giving full effect to it. It is at least doubtful whether there can be a right of common of shooting, see re Sutton 1982 1 WLR 647: I need not particularly consider the right claimed at Entry Nos. 151 and 152 "to take wild animals birds", because these registrations being within Objection No. 228, I am avoiding altogether quite apart from the Duchy Objection. In the



absence of any evidence or argument to support shooting, piscary or pannage, my decision is that Objections Nos. 412, 413, 414 and 415 wholly succeed. The grounds of these Objections are expressed to be limited to the part of the Unit Land owned by the Duchy (Belstone Common); but as explained below the Objections put the registrations wholly in question, and on the evidence of Mr Sturmer and what I have seen driving in and around the village of Belstone, I conclude that such rights are so unlikely to be capable of proof over the other parts of the Unit Land that I ought to avoid them altogether. However I give livery to apply as hereinafter mentioned as regards the possible existance of these rights over parts of the Unit Land other than the Duchy part (Belstone Common).

As above appears the greater part of the hearing was taken up with the evidence and argument on behalf of the Commoners Association against the registration mentioned in Objection No. 228, and with the contra evidence and argument in support of the registrations at Entry Nos. 2, 3 and 145.

The evidence and argument of Lady Sayer at this Unit Land hearing was much the same as, although shorter and less detailed, as ~~is~~ that on her behalf called and made by her solicitor at the hearing relating to land at Sheepstor (Register Unit No. CL 188) in May, July and November 1982, and as to which I have given a decision dated 30 June 1983; this decision although signed before, was not published until after this July Unit Land hearing. The circumstances of the Unit Land are in all relevant respects the same as those I found at my CL 188 hearing to be then applicable; that is to say, I find on the evidence above summarised that within living memory the rights in these registrations claimed as being attached to the lands therein mentioned, have never been exercised from such lands over any part of the Unit Land. I reject the argument that because the Duchy own Belstone Common and did not pursue Objection No. 411 and indeed conceded the rights claimed by Lady Sayer, the CL 188 land is relevantly different; the Duchy concession is not conclusive evidence but no more than some evidence of the existance of the right which might be enough if I had no other evidence; having no information as to why the Duchy made the concession, I have no good reason for not giving full effect to the evidence offered by the Commoners Association who independently objected, as they were entitled to do. For the reasons set out in my said CL 188 decision, which should be treated as repeated herein, I find that the documents produced or referred to at this Unit Land hearing (whether or not they be treated as supplemented by those produced at the CL 188 hearing) do not establish either that such rights from the lands mentioned in the disputed registrations have ever been exercised over the Unit Land, or have ever been granted. Accordingly my decision as regards the Unit Land is the same as my decision as regards the CL 188 Land, that is, Objection No. 228 as against the registration at Entry Nos. 2, 3 and 145 supported by Lady Sayer, wholly succeeds.

In the absence of any evidence or arguments in support of the other registrations mentioned in Objection No. 228, except as regards those at Entry Nos. 91 and 199 herein particularly dealt with, my decision is as regards these to that the Objection wholly succeeds.

I now consider the remaining registrations (those not mentioned in Objection No. 228) about which save to the small extent above summarised, there was at the hearing no evidence or argument. These registrations are all put in question to you by Objection No. 521 made by South Devon Water Board. Notwithstanding the limited grounds of this Objection, by the 1965 Act I must enquire into these registrations as a whole, see re Sutton supra.



Of these remaining registrations a number (listed in paragraph 3 of the Decision Table hereinafter mentioned) are of a right "to stray". In my decision dated 30 June 1983 about the Forest of Dartmoor (CL 164) under the heading "straying", I gave my reasons for refusing to confirm such registrations to the absence of any evidence or argument about the propriety of registering a right by reason of vicinage or the possibility of modifying them so as to be a right of grazing appurtenant to the lands mentioned in them. Accordingly subject to the liberty to apply hereinafter mentioned available to any person concerned to support these registrations, I refuse to confirm any of them. This refusal applies to the registration at Entry No. 155 mentioned by Mr Elliot at the March hearing, but Mrs E M Joy can take advantage if she wishes of the said liberty to apply.

As regards the registrations at Entry Nos. 90, 180, 181 and 182 which are in conflict, Mr Reddaway said (in effect):- The land mentioned in the registration at Entry No. 180 (Mr R R Kelly of the Moors) was some fields perhaps 20-25 acres altogether; Mr Kelly lived in Belstone, but he did not he thought now graze although of course he might wish to graze at some future time. The land mentioned in the registration at Entry No. 182 (Mr J H Clark of Brooklands, Sticklepath) was one field of perhaps 9 or 10 acres. About the land in the registration at Entry No. 90 (Mr P J Leonard c/o J J Newcombe & Co, solicitors of Okehampton), he could say nothing helpful. I understood Mr Reddaway to be unprepared to answer questions about these registrations, and only did so because I said he might be able to help me. As to Entry No. 181, having regard to the evidence I have about grazing being only from lands in Belstone, I query the inclusion in column 5 of land in Sampford Courtenay; whether or not this query is justifiable, the registration being of a right "to stray" is within the preceding paragraph of this decision. In the absence of any more precise information about the other registrations, my decision as to the resolution of the conflict unavoidably must be somewhat arbitrary; on the little information I have I prefer the registrations at Entry No. 180 and 183 to that at Entry No. 90, and shall therefore refuse to confirm the latter leaving the two former to come within the next paragraph of this decision. However I give liberty to apply to Mr P J Leonard and his successors to have this part of this decision altered, such liberty to be exercised as hereinafter mentioned.

The remaining registrations (including Nos. 9, 91, 180, 182 and 199) are all of rights attached to land in the parish of Belstone. They are all supported by the statutory declarations made when they were applied for, and if they had originally excluded the Water Authority lands, and had not contained any reference to piscary, shooting, or pannage, would have become final under section 7 of the 1965 Act without any reference to a Commons' Commissioner. I have the evidence of the Commoners' Association as above summarised that generally registrations are locally considered to be in order. Those of the Association have local knowledge and I infer that they would know whether the rights have been exercised or are reputed to be properly exercisable. In the absence of any contrary evidence or suggestion at the hearing I conclude these registrations were all rightly made provided they are modified



consequentially on the success of Objections Nos. 412, 413, 414 and 521 and provided those at Nos. 91 and 199 are modified as set out in the said Decision Table.

As stated earlier in this decision, the Unit Land in addition to its largest part, Belstone Common includes smaller (some much smaller) parts, none of which were by Mr Reddaway and Mr Hodge in their evidence dealt with particularly. Over some (but not all) of these parts it is unlikely that there could be grazing such as they described (having in mind that on Belstone Common; nevertheless other rights such as estovers might be exercised over some of the parts, such as East Cleave (Belstone Cleave), and I suppose even the smallest could be grazed sometimes. In the applications for these registrations, nearly all the successful applicants have treated all the parts of the Unit Land as being one common. In the absence of any suggestion at the hearing to the contrary, and notwithstanding the variations in size of the parts I give this decision on the basis that all the Unit Land can be properly treated as one common.

For the purpose of correcting clerical errors and errors due to my incorrectly recording agreements and concessions made to me and possibly other errors which ought to be corrected without putting the parties to the expense of an appeal, the the liberty to apply in the Decision Table will be applicable.

The effect of the decisions hereinbefore recorded is set out in the Decision Table being the Second (and last) Schedule hereto, which Schedule shall be treated as part of this decision.

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.

TURN OVER



FIRST SCHEDULE
(Documents produced)

Part I: on behalf of Mrs E M Joy

- EGJ/L 3 October 1978 Conveyance by Mr J E N Tritton to Major E G and Mrs R M Joy of Higher West Bowden Farm containing 28.83 acres.
- EGJ/2 29 August 1963 Conveyance by Mr E P Danby to Mr D A Hurst of the same premises.

Part II: on behalf of South West Water Authority

- FGC/306 21 October 1947 Conveyance and grant of easement by the King's Most Excellent Majesty to North Devon Water Board.
- FGC/307 9 July 1949 Memorandum of receipt of compensation on extinction and modification of common rights over Belstone Common, Belstone Green, Moor Plot and Brenamoor Common, Belstone.
- FGC/308 27 October 1949 Vesting Deed made by Devon Water Board of common rights in parts of Belstone Common, Belstone Green, Moor Plot and Brenamoor Common, Belstone.
- FGC/309 8 August 1969 Vesting Deed dated 8 August 1969 by North Devon Water Board of common rights in and over lands in the parishes of Belstone, Lydford and South Tawton.

Part III: by Lady Sayer

- Sayer/302 7 March 1963 Statement in support of claim at Entry No. 3, to Venville rights on Belstone Common, West Cleave and Belstone Cleave.



Part IV: on behalf of Misses D E B and E J E B Newcombe

DEBN/1 4 July 1983 Statement signed by the Misses Newcombe as to conceding the ownership claimed by HRH Charles Prince of Wales and claiming ownership of West Cleave Common.

Part V: on behalf of Belstone Commoners Association

JATH/1 7 March 1983 Certificate as to resolution passed by Association on 4 March 1983 as to Objection No. 228 accepting however his application to Entry No. 199 (J A T Hodge).

JATH/2 5 July 1983 Statement signed by Mr Jeffrey Gratton Wooldridge of Oaklands as to his claims in respect of registrations made by Mr Hodge on Register Unit Nos. CL155, CL135 and CL73.

BC/1 -- Summary of the effect of objection to be considered in these proceedings.

BC/2 17 August 1970 Copy letter from Clerk of Belstone Commoners Association to Devon County Council as to resolutions passed on 23 December 1968 and 28 July 1970.

BC/3 May 1956 Memorandum of evidence concerning Dartmoor submitted to Royal Commission by Dartmoor Commoner's Association.

Part VI: on behalf of the Duchy

Duchy/351 -- Specimen fishing licences, salmon week, salmon season, trout season, trout day and trout week.

Duchy/352 28 March,
8 June,
22 August,
22 August, 1903 Letters about shooting.



- 12 -

| | |
|------------------------------|---|
| 23 April and 24 May 1910 | Letters about shooting. |
| 10 September 1932 | Letters about shooting. |
| 2 October 1981 | Letter enclosing £5 rent for permission to over Riddon Ridge. |
| 22 July and 5 August 1953 | Exchange of letters between Duchy and Devon River Board as to the Board's Bailiffs asking fishermen to produce their Duchy permits. |
| 28 January 1954 | Letter to F Warne about payment by Duchy for ensuring that fishermen in Duchy Waters have appropriate Duchy fishing ticket. |

SECOND SCHEDULE
(Decision Table)

1. 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 think fit to provide, is to the following effect: "In this Rights Section the Water Authority Provision means "Provided that except as regards grazing the rights mentioned in column 4 shall not extend to or so as to interfere with any water pipes or water apparatus on or any easement the South West Water Authority may have over the parts of the land in this Register Unit which are coloured green on the plans enclosed with Objection No. 521 made by North Devon Water Board (being strips of land near the River Taw, and south of the village, a strip on Brenamoor Common and some strips in between them)".
2. I REFUSE TO CONFIRM the Rights Section registrations being all except Nos. 91 and 199 specified in Objection No. 228 made by the Belstone Commoners' Association, that is to say the registrations at Entry Nos:- 2 (J F Palmer), 3 (Sir G B and Lady S R P Sayer), 4 (D M Scott), 6 (F Wright and G M M Wright), 11 (G J Tucker), 92 (F W Green), 93 (G E Hodge), 94 (J A T Hodge), 96 (Holme Parish Lands Charity), 97 (D M Scott), 98 (H D and E M Pearce Gould), 99 (L O Perkins), 100 (A G Cousins), 101 (P R Lane-Joint), 102 (R E Adam), 103 (L Jackson), 104 (E H and I A Woodward), 105 (F A Perryman), 106 (J B Townsend), 107 (F & A E Tozer), 108 (R G and A B Mortimer), 109 (B A Norrish), 110 (B E J Cawthorn), 111 (H and M I Clarkson), 112 (M I Clarkson), 113 (W H Norrish), 114 (M M K Ryan), 115 (K A and M E Stevens), 116 (A W Knapman), 117 (J J Newcombe, A W Fullwood and E N G Cooke), 118 (J J Newcombe, A W Fullwood and E N G Cooke), 120 (O C Jefferies), 121 (T J C S Whitham), 125 (W E Denning), 126 (M L Medland), 127 (C A Voaden), 129 (J F), 130 (J Holman), 138 (R C White), 143 (G S and J I Dennis), 144 (P G Ansell), 145 (E N Smallwood), 146 (T J Holman), 151 (E A J Worthington), 152 (V E Knapman), 161 (H N Grindley), 168 (F W Heap), 171 (J L Lees), 172 (Finch Foundry Trust), 174 (J E Barron), 186 (Public Trustee), 188 (E J Hain) and 198 (M Harries).
3. Subject to the liberty to apply hereinafter granted, I REFUSE TO CONFIRM the Rights Section registrations which are of a right "To stray" that is those at the



- 13 -

following Entry Nos:- 5 (W G S Perry), 137 (J W Reddaway), 140 (W T G Wonnacott), 141 (A and D Banbury), 142 (C H Medlam), 147 (Anstey & Thompson for P H M Wickman), 148 (T W Endacott), 149 (J C F Matheson), 153 (D and F M Luxton), 154 (D Luxton), 155 (L T Sheasby), 156 (J G Wooddridge), 157 (J G Wooldridge), 159 (Belstone Parish Council), 160 (I G and J G Wooldridge), 163 (C J White), 164 (J White), 169 (K C Heard), 173 (R R Kelly), 178 (H J L Cooper), 179 (J H Clark), 181 (R R Kelly), 183 (J H Clark), 184 (W J L Heard), 185 (E M Tarry), 187 (Public Trustee), 189 (J Allegri), 190 (V and M Pope Ltd), 191 (L L Gibbons), 192 (G B Bray) and 201 and 202 (formerly No. 158, D W Gore and A L Banbury).

4. I REFUSE TO CONFIRM the Rights Section registration (being one of those in conflict) at Entry No. 90 (P J Leonard).

5. I CONFIRM the Rights Section registration at Entry No. 91 (H Luxton) with the MODIFICATION in column 4 delete "Piscary Shooting" and add at the end "subject to the Water Authority Provision in this Right Section defined", and for all the words in column 5 substitute "Part of East Lake Farm comprising OS Nos. 1, 2, 3, 4 and 6".

6. I CONFIRM the Rights Section registration at Entry No. 199 (J A T Hodge) with the MODIFICATION in column 4 delete "piscary", and add at the end "subject to the Water Authority Provision in this Rights Section defined, and in column 5, delete "and at Stoney Park Lane" and modify consequentially on this deletion the supplemental map in this column referred to.

7. I CONFIRM the Rights Section registrations which are not in this Decision Table before mentioned with the MODIFICATION in column 4 delete "Piscary" and "Shooting" in any registration in which both or either of these words occur and add at the end of all the registrations "subject to the Water Authority Provision in this Rights Section defined" that is to say the registrations at the following Entry Nos:- 1 (Denis? ...* of Pixynook, Exeter Road, Okehampton), 7 (D J Saunders), 8 (S G Saunders), 9 (S G Saunders), 10 (S G Saunders), 12 (A C and N L W Jenkins), 13 (F R Betham), 14 (H W Ball), 15 (R E C Brooks), 16 (D L Moss), 17 (E V M Trenaman), 18 (B S and E M Holloway), 19 (C L Clayton), 20 (F W Woodward), 21 (O H Warne), 22 (V J and M J Rouse), 23 (C E and E M Moorlock), 24 (J F Pote), 25 (S J Bowden), 26 (M M C Bather), 27 (W Z Cox), 29 (W W Westlake), 30 U M C Anderson), 31 (B Gratton), 32 (E Shale), 33 (B J Littlejohns), 34 (I S Westaway), 35 (W J Crocker), 36 (F M E and C I Bickersteth), 37 (H J and K M Hill), 38 (T W R Haycraft), 39 (T MacCulloch), 40 (B M Napper), 41 (R C Horsley), 42 (D A Blackman), 43 (E Kelly), 44 (A White), 45 (G M C Rutley), 46 (H A and R F Walker), 47 (D Cooper), 48 (N Welling and C T Dyer), 49 (F J Ward), 50 (J I Reddaway), 52 (M J Ash), 53 (M S S Reynolds), 54 (C N Jeavons), 55 (E R Smart), 56 (A J K and B V Gere), 57 (A J Allan), 58 (J McAllan), 59 (W and W I Mitchell), 60 (C H Kinnersley and S J D Awdry), 61 (V M Whitehead), 62 (J C Shankland), 63 (C A Drock), 64 (E A Kemp), 65 (G R Wilson), 66 (E James), 67 (K M F Terry), 68 (H Brown), 69 (K C Robinson), 70 (K C Robinson), 71 (L M Sheppard), 72 (A Kelly), 73 (D C Phare), 74 (M D Jordan), 75 (T Marshall), 76 (H R Johns), 77 (D H C Rudd), 78 (W A Squares), 79 (W Ellis), 80 (P M Hughes), 81 (N Hakewill), 82 (W A J Pickford), 83 M M K Ryan), 84 E M and R D Glanfield), 85 (E J Glanfield), 86 (J L Cave-Penny), 87 (M E A Pike), 88 (W S Pike), 89 (C L Slade), 119 (F M Jefferys), 122 (C E Miller), 123 (P J Northcott), 124 (C A Orsler), 128 (J W Matthew), 129 (J F and R I Young), 131 (J W Reddaway), 132 (G Hodge),

* On my copy of the Register this name has become illegible.



- 14 -

133 (J A T Hodge), 134 (P B Brook), 135 (R Hooley), 136 (A Cooper), 139 (C G Lovering), 150 (D E Reed), 162 (D F Pulman), 165 (D F Fry), 166 (I L Glanfield) 167 (K M F Terry), 170 (G Littlejohns), 175 (H Littlejohns), 176 (D Moore and R Hooley), 177 (F T Wale), 180 (R R Kelly). 182 (J H Clark), 204 and 205 (replacing No. 28) (V W Martin and J A and P B Ransom) and Nos 207, 210, 211 and 212 (replacing No. 51) (S W Quartly, V W martin, M J Reddaway and W Mitchell).

8. I CONFIRM the registration at Entry No. 1 in the Ownership Section with the MODIFICATION that in column 4 add after the words "except West Cleave" the words "and except the part of the land in this Register Unit hatched in red and lettered "A" on the register map"; and I CONFIRM the registration at Entry No. 2 in the Ownership Section WITHOUT ANY MODIFICATION.

9. Reference in this Decision Table to any registration must be taken to include any registrations which have since replaced it, and any registration which it has replaced.

10. Wherever in this decision liberty to apply is mentioned such application should be made within THREE MONTHS of the date on which this decision is sent out to those entitled to receive it 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 will be produced by the applicant at any hearing but 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 realize that unless they can show that all who could possibly object to the application, agree to it being granted, the Commons Commissioner 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 registration 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.

Dated the 2nd day of November 1983.

a. a. Baden Fuller

Commons Commissioner

CORRECTED as set out in The First Schedule to my second decision dated 4 April 1984

a. a. Baden Fuller