



COMMONS REGISTRATION ACT 1965

References Nos 209/D/416
209/D/417In the Matter of Harford Moor, Harford,
South Hams District, DevonDECISION

Introduction

This Matter relates to 102 registrations made under the 1965 Act. My decision as regards each of such registrations is set out in the Third (and last) Schedule hereto. The disputes which have occasioned this decision, the circumstances in which they have arisen and my reasons for my decision are as follows.

These disputes relates to the registrations at Entry Nos. 1 to 52 inclusive (13 and 34 having been replaced by Nos. 102, 104 and 105 and Nos. 110 and 111) and 54 to 99 inclusive (59, 75 and 80 having been replaced by Nos. 107 and 108, Nos. 119, 120, 121 and 122, and Nos. 113 and 114 respectively) in the Rights Section, and at Entry Nos. 1 and 3 in the Ownership Section of Register Unit No. CL195 in the Register of Common Land maintained by the Devon County Council and are occasioned by Objections Nos. 460, 461 and 987 made by HRH Charles Prince of Wales, Duke of Cornwall and noted in the Register on 2 March 1971 and 23 June 1972, by Objections Nos. 616, 1081, 1082 and 1083 made by B N Howell and noted in the Register on 30 November 1970 and 11 September 1972, and by the said Ownership Section registrations being in conflict.

I held a hearing for the purpose of inquiring into the disputes at Plymouth on 17 and 18 July 1984. At the hearing: (1) the Attorney-General for the Duchy of Cornwall who made the said Objections and at Ownership Section Entry No. 2 are finally registered as owners of the part of the Unit Land lettered "A" on the Register map ("the lettered A part") was represented by Mr C Strumer, the Land Agent for their Dartmoor Estate; (2) Mr Brian Neale Howell who made the said Objections and who is at Ownership Section Entry No. 1 provisionally registered as owner of all the land in this Register Unit except the lettered A part, was represented by Mr W J Edmunds of Gribblesdown, South Brent; (3) South West Water Authority as successor of the Lord Mayor Aldermen and Citizens of the City of Plymouth who at Ownership Section Entry No. 3 are provisionally registered as the owners of the portion of the Unit Land lettered "B" on the Register Map, were represented by Mrs F G Canning solicitor of their Legal Department; (4) Lady Sylvia Rosalind Pleadwell Sayer who with Vice Admiral Sir Guy Bouchier-Sayer applied for the Rights Section registration at Entry No. 1 attended in person, on her own behalf and as representing him; (5) Admiral Sir James F Eberle as successor of Mr David Miller Scott who applied for the Rights Section registration at Entry No. 2 was also represented by Lady S R P Sayer; (6) Mr James William Northmore who with Doctor Henry Parsons Burrows applied for the Rights Section registration at Entry No. 24 attended in person; (7) Mr John Thomas Cole of West Combeshead Farm, Harford as successor of Messrs Herbert Edward Coles and Rosamond Isabel Coles



who applied for the Rights Section registration at Entry No. 46 and as successor of his mother Mrs Mary Louisa Cole who applied for the Rights Section registration at Entry No. 47, attended in person; and (8) Mrs Eleanor Nancy Smallwood who applied for the Rights Section registration at Entry No. 85, was also represented by Lady S R P Sayer.

The land in this Register Unit ("the Unit Land") is a tract from north to south a little more than 6 miles long and having a variable width between 1/4 of a mile and 1 mile (in one place a little more); along its east and south east boundary it adjoins Ugborough Moor (Register Unit No. CL156); along its north boundary (about 1/2 a mile) → it adjoins the Forest of Dartmoor (Register Unit No. CL164); along about half of its west boundary it adjoins Stall Moor (part of Register Unit No. 156, the boundary being the River Erme); and along the remaining part of its west and all its south west boundary are enclosed lands in the valley of the River Erme including the village of Harford. The Land Section registration being undisputed has become final. The Rights Section registrations (all provisional) are over the whole of the Unit Land except Nos. 43 and 44 which are limited to "the part of the land comprised in this register unit as lies south of the assumed Forest Boundary", No. 52 (by amendment 7/2/72) which is over all except the lettered A part, and No. 78 which is limited to the part of the Unit Land lettered "C" on the Register Map (being an area comprising the north part of the Unit Land extending for a little under 2 miles from its north boundary). The portion of the Unit Land of which the Plymouth Corporation are registered in the Ownership Section as owners is a strip about 175 yards long and about 30 yards wide by the River Erme, situated about 2 miles south of the north boundary of the Unit Land.

Course of the proceedings

At the beginning of the hearing (17 July), Mrs Canning said that South West Water Authority as successor of the Plymouth Corporation has rights over the portion of the Unit Land lettered "B" on the Register map, but do not have a freehold interest, and that accordingly the Ownership Section registration at Entry No. 3 was withdrawn with the consequence that I could refuse to confirm it and could confirm the registration at Entry No. 1 (Brian Neale Howell) without any modification.

Next (17 July), after an adjournment during which I considered other Register Units, oral evidence was given by Mr James William Northmore who produced the documents relating to Broadaford Farm specified in Part I of the Second Schedule and from the schedule to the 1963 conveyance quoted:-

"TOGETHER with an unlimited right of common in upon and throughout Erme Plains and Ugborough Moor in the said parish of Ermington, such right having been apportioned to the fields Ordnance Survey Nos. 875, 874 and 258 and shared jointly with Henry Whiteway Peeke (senior) and Henry Whiteway Peeke (junior) or their respective successors in title in respect of other lands jointly owned by them"

Mr Northmore said that 20.700 acres specified in the said schedule was at one time part of Broadaford Farm (another part is specified in the Rights Section



registration at Entry No. 3 made on the application of Messrs R E and R L Skelley).

Next Mr Greep of Lower Hill Farm, Cornwood and son-in-law of Mr J W Northmore said that in their deeds it is clearly stated that the Erme Plains are in the parish of Ermington. I understood from Mr Northmore that Higher Broadaford is south of the A38(T) road near to the village of Ugborough.

Next (18 July) oral evidence was given by Mr Wilfred John Edmunds generally about the Objections made by Mr B N Howell: in the course of which he produced the documents specified in Part II of the Second Schedule hereto and said (in effect):- As to Howell Objection No. 1083, the registrations at Entry Nos. 95 and 97 which are within it, being of rights "to stray" should not be confirmed; the registration at Entry No. 98 is within it and also within Objection No. 1082; as to this registration, about 2 months ago he (the witness) spoke to Mr Luckett who applied for it and who then agreed to the registration being cancelled. As to Howell Objection No. 615 applicable to Entry Nos. 1 and 2, the Harford Commoners Association on whose behalf Mr Howell in it said he was objecting, was in existence before 1950 and of it Mr Howell was the chairman; he (the witness) could not say how the officers of the Association were appointed but he knew the Objection was made in conjunction with the Association as a result of a meeting at which they went through the whole Register; the rights claimed in these two registrations, and also that at Entry No. 85 had not to his knowledge which went back to 1950, being exercised over the Unit Land either as regards grazing, or taking stone and sand or taking peat and turves or otherwise. As to Howell Objection No. 1081 applicable to Entry Nos 3 to 20 inclusive, 23 to 34 inclusive, 43, 45, 46, 48, 49, 51, 54, 55, 56, 58, 59, 81, 82, 83, 84, 88, 90 to 95 inclusive, 97 and 99 (and also expressed to be applicable to Nos. 100, 101 and 102 which replaced No. 13 and were in part replaced by Nos. 104 and 105), all these registrations except No. 46 were expressed as rights "to stray"; the part of the grounds of the Objection "the right should comprise fewer animals" was not being pursued; the other grounds should be amended so as to put the registrations (except as regards No. 46) wholly in question, because the remaining grounds were not clear, and it is submitted that all rights "to stray" should be avoided. Objection No. 1081 so far as it related to the registration at Entry No. 46 (Messrs H E and R I Coles) was withdrawn, and could therefore (so far as Mr Howell and the Commoners Association were concerned) be confirmed. As to Howell Objection No. 1082 applicable to Entry Nos 21, 41, 52, 57, 60 to 77 inclusive, 79, 80, 85, 86, 87 and 98: Mr John Colwell who applied for the registration at Entry No. 21 is now dead and he (the witness) was informed in the last 3 months by Mr Cane his successor that he was agreeable to the registration being cancelled; Mr M Grimdrod and Mr R G Prowse who applied for the registrations at Entry Nos. 41 and 57 are similarly agreeable; the registration at Entry No. 52 (amended 7/8/72 so as to be no longer applicable to the lettered A part) is of a right attached to land in Tavistock, and there has been (so far as the witness was aware) no grazing on the Unit Land from so far away; the registrations at Nos. 60 to 77 inclusive, 85, 86 and 87 were (so the witness supposed) based on a Venville claim, such as had been rejected by and for the reasons set out in, the Commons Commissioners CL 188 decision (dated 30 June 1983 and made by myself about a Register Unit of common land in Sheepstor), and they



should for the same reasons be avoided; the rights specified in the registration at Entry No. 80 (replaced by Nos. 113 and 114) are attached to land in Whitford from which rights over the unit land have never been exercised (no rights, too far away); as to the registration at Entry No. 98, Mr Lockett had never grazed the Unit Land (see above about Howell Objection No. 1083); as to Entry No. 79 (rights to be expressed to be limited to part of the Unit Land being ? the same as the lettered A part) he (the witness) said (WJE/11) "I leave 79 to to your decision".

While Mr Edmunds was giving evidence there was some discussion as to whether I should allow Objection No. 1081 to be amended so as to put the registrations specified in it wholly in question even on condition that those concerned to support them should have liberty to apply to reopen the hearing; against such a condition Lady Sayer observed that very few would have time to attend a reopened hearing and would hesitate to prolong these already very lengthy proceedings. Also Mr J W Northmore explained that may be Erme Plains lie in Ugborough parish so that what he had said did not apply to Harford Moor; he asked that his claim be treated as being over Ugborough; any how the Register map was incorrect so far as it marked Erme Plains as being in part to the west of the River.

Next (17 July), Lady Sayer in support of the Right Section registrations at Entry Nos. 1, 2 and 85 gave oral evidence in the course of which she read out as part of it a statement Sayer/22 specified in Part III of the Second Schedule hereto in which she said (in effect):- This case is closely paralleled to CL 161 and CL 156 (Brent Moor and Ugborough Moor). Duchy Objection No. 460 has been withdrawn to their venville rights on the lettered A which is part of the Forest of Dartmoor (CL 164). As to the rest of this common there is only Objection No. 616 to their rights thereof; there is no valid reason for this objection "Mr Edmunds has no statutory mandate to speak for the Harfords Commoners Association: he has only a letter from one individual; the landowner, who as an interested party. Mr Edmunds takes a lot upon himself -- he has said that he knows better (on venville rights) than the Chief Commons Commissioner or High Court Judge; clearly a ludicrous claim. He is in fact uncertain on facts to his own area; he said yesterday that there were no oaks growing on CL 156; he evidently forgets the outlying oaks of Skirscombe Wood. Nor did Mr Edmunds see us cutting vags near Harford Moor Gate".

Lady Sayer also produced yellow forms and plans specified in Part III of the Second Schedule hereto and explained the cutting of vags which she had mentioned in her statement was 3 or 4 years ago.

Next (18 July) oral evidence was given by Mr Colin Sturmer who is and has been since 1970 for the Duchy the Land Agent of their Dartmoor Estate and has been employed by them since 1965, in the course of which he said (in effect):- The Duchy was only concerned with the lettered A part of the Unit Land containing approximately 70 acres. The Duchy Objection No. 460 which is applicable to Entry Nos. 1, 2, 52, 60 to 77 inclusive, 79, 80 and 85, is withdrawn except as regards Entry Nos. 52 and 79, on the basis that all these registrations (except Nos. 52 and 79) are in venville. The lands specified in Entry _____ Nos. 52 and 79 are in Tavistock and Okehampton, in the Duchy records not _____ considered as being in venville; and so far as he (the witness) was aware the rights registered had never been exercised over the lettered A part. The Duchy Objection



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No. 461 is applicable only to Entry No. 78 (rights for free warren does not exist on lettered A part). He understood that the registration had been amended (my copy shows two amendments made on 5/1/73 and 15/4/71 deleting "right of free warren" and "CL 161 and CL 164" and had (? as so amended) been replaced (? no copy available) by Entry Nos. 116 and 117. Duchy Objection No. 987 (the rights claimed do not exist on the lettered A part) is applicable to 75 of the Rights Section registrations as specified in the First Schedule hereto including No. 78 immediately hereinbefore mentioned; the Duchy maintains the Objection as regards all these registrations because according to the information available to the Duchy none of the lands in the registrations (except No. 70) mentioned are in venville..

Next (18 July), Mr John Thomas Cole gave oral evidence against Duchy Objection No. 987 in support of the registrations at Entry No. 46 (West Combeshead Farm) and No. 47 (Broomhill Farm) extending over the lettered A part in the course of which he said (in effect):- His father having been since 1934 at Pithill Farm (east of the River Erme) where he had a herd of Galloway cattle, in 1949 purchased Broomhill Farm (west of the River); they moved to the farm house; the farm lands are on both sides of the Ivybridge-Harford road. In 1972 his father (? his mother Mrs M L Cole) bought West Combeshead Farm (on the east side of the road and south of Broomhill Farm) and they moved to its farm house; Broomhill farm house has since been let. His mother died in April 1980. Combeshead Farm and the Broomhill Farm lands are (and have been since 1972) one agricultural unit. From 1949 their cattle had in the summer been let out on Harford Moor (the south part of the Unit Land is conveniently near to both Farms) and they can go to the north of the Unit Land as far as Stony Bottom (about $\frac{3}{4}$ of a mile south of the north boundary of the Unit Land) and from there up to Brown Heath (on the Register Map marked across the boundary of the lettered A part); they (their Galloway cattle) had gone so far for the last 3 years approximately. In 1968 he had bought some sheep from Mr Edmunds and found they had been leared on Stony Bottom; they had been leared there ever since.

Questioned by Mr Sturmer as to the basis of his claim to a right to graze the 70 acres of the lettered A part, Mr Cole said (in effect):- He knew the Duchy had an agister (Mr Edmunds) on the nearby part of the Forest. He (the witness) did not claim to have grazed sheep relevantly before 1968. The cattle he had grazed numbered about 100 and there were only out in the Unit Land in June, July and August; the cattle are grazed there in that when they are put on the Unit Land "they take off and are gone" and so "just go there" (to Stony Bottom and Brown Heath, on their own as I understood him).

Next Mr W J Edmunds gave further evidence in answer to the claims made by Mr J T Cole in the course of which he said (in effect):- Mr Cole had no entitlement on the Forest of Dartmoor. His (the witness') concern with the Forest appeared from the evidence he had given at my CL 164 hearing. The bullocks belonging to Mr Cole and his family before him did not graze on the Forest with the exception of the odd stray and any such animals (strays) were turned back. The sheep which Mr Cole in 1968 purchased from him (the witness) were leared on Stony Bottom; he (the witness) prepared the flock for sale and parted his sheep as completely as possible so that not sold sheep leared on the Forest were not included in the sold Stony Bottom flock. Before the 1968 sale the only sheep of the Cole family which reached the Forest were the occasional strays; since Mr Cole's purchase in 1968 of this flock when he (the witness) found from time to time Mr Cole's sheep on the Forest, he had turned them back.



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In reply to questions by Mr Cole about his sheep being on Green Hill, Mr Edmunds said that he had only seen the odd stray and did not agree with Mr Cole's suggestion that there might have been as many as 12 or even 20. On re-examination and during the discussion Mr Edmunds said that Green Hill is within Register Unit No. CL 164 and that it would take a day to get sheep from Stony Bottom to Green Hill. To this Mr Cole insisted that during the last few years cattle moved longer distances than formerly.

Next (19 July) I considered the Duchy evidence in support of their claim that the lettered A part is now and has been from time immemorial part of the Forest of Dartmoor. Because such claim was also being made about similar parts of Brent Moor (CL 161) and Ugborough Moor (CL 156) and I was in the course of hearings about all three Moors, it was agreed by those present or represented at all three hearings that the evidence about to be given in support of these Duchy claims should be treated as given at all three hearings. Mr Sturmer produced the map (Duchy/21) specified in Part IV of the Second Schedule hereto showing by straight lines the parts of these Moors which the Duchy claimed was of the Forest of Dartmoor. At page 7 of this decision is an uncoloured copy of the said map showing the said straight lines and marking the parts claimed with the CL Nos of the Register Units; on this copy I have thickened these lines and also the lines of the relevant parts of the boundaries of these Moors and added their names and the name "The Forest" (Register Unit No. CL 164) which extends many miles to the north.

Next oral evidence was given by Mr Grahame Haslam who is and has been since 1975 the archivist of the Duchy of Cornwall. He said (in effect) that from the documents kept in the Duchy Archives he deduced that from time immemorial the now relevant part of the boundary of the Forest of Dartmoor had always been treated as a straight line from Huntingdon Cross southwards to the top of Eastern White Barrow and thence a straight line westwards to the top of Western White Barrow, and thence a straight line to where Red Lake (a brook so called which flows down from Red Lake Mire) falls into the River Erme. In the course of his evidence he produced or referred to the documents specified in Part IV of the Second Schedule hereto (other than Duchy/32 and 33), and explained and commented on them both in the introductory part of his evidence and in reply to questions by Mr Sampson*, Lady Sayer and myself. In the said Part IV, I have shortly indicated the parts of the said documents to which Mr Haslam drew attention. It should be noticed that the historical boundary line so deduced by Mr Haslam is not the same as the modern Local Government boundary between South Hams District and West Devon District and between the parishes; the boundaries of the Unit Land and of the said Register Units Nos CL 164, CL 156 and CL 195 as registered by Devon County Council as registration authority, follow the District and Parish boundaries.

In the course of the evidence being given by Mr Haslam, the documents specified in Part V of the Second Schedule hereto were produced on behalf of the South Brent Commoners' Association, they having so I understood, been provided by Mr R Savery.

*Note: Mr R F D Sampson solicitor of Woollcombe Watts and Co, Solicitors of Newton Abbot was at the CL 161 hearing representing the South Brent Commons Association.

COMMONS REGISTRATION ACT 1965

Re: Harford Moor, South Hams District, Devon: Register Unit No. CL195

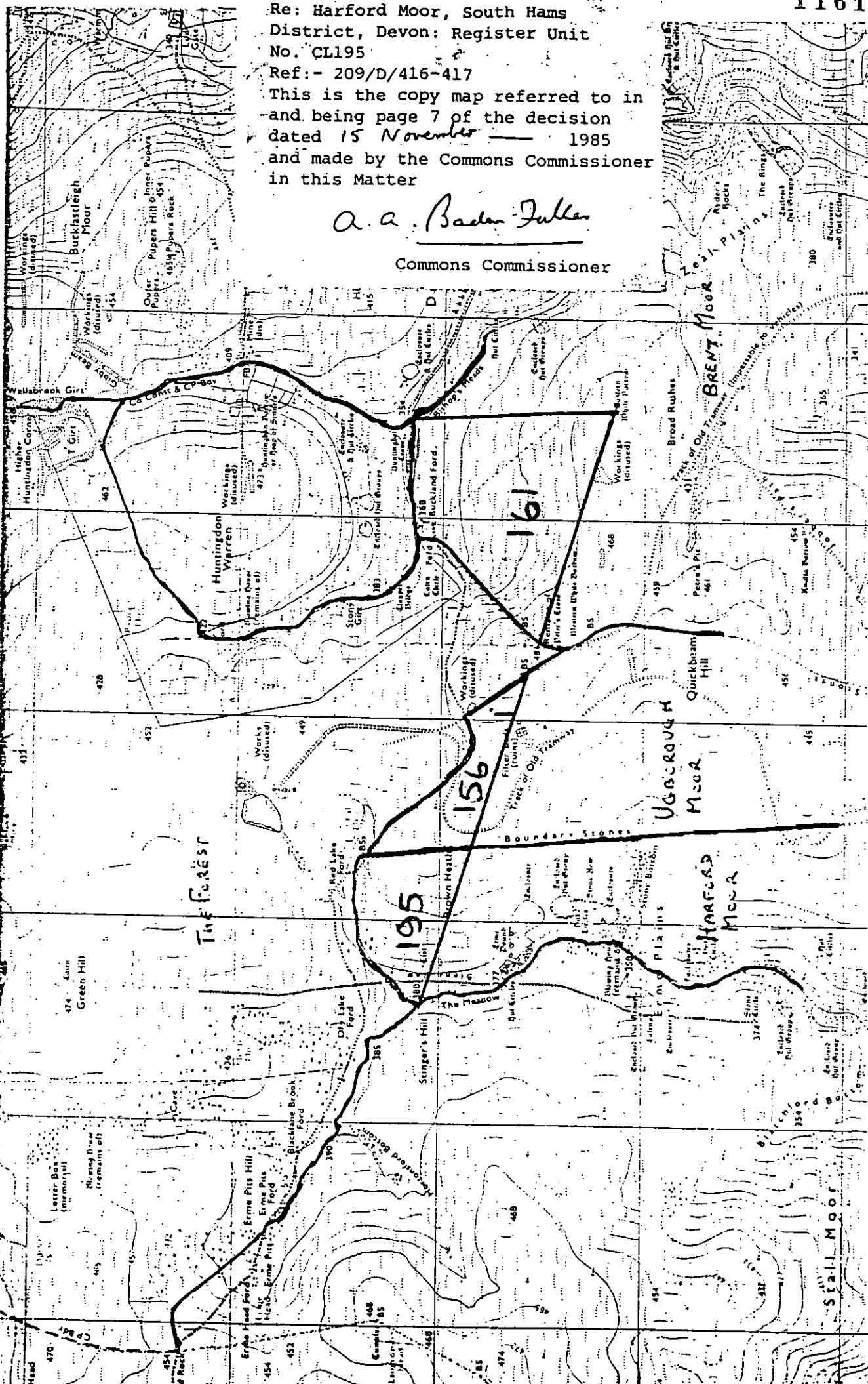
Ref:- 209/D/416-417

This is the copy map referred to in and being page 7 of the decision dated 15 November 1985 and made by the Commons Commissioner in this Matter

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a. a. Baden Fuller

Commons Commissioner





Next Mr Wilfred John Edmunds who has been the Agister of the South Quarter of the Forest since 1963 gave oral evidence in the course of which he referred to the documents (Duchy/32 and 33) specified in Part II of the Second Schedule hereto. Under his 1968 tenancy agreement, he was (? still is) entitled to graze the land therein specified in words summarised in the said Schedule, and also entitled "to take in stock belonging to other persons to feed off the said land and to collect and retain for his own use all Venville Rents payable in respect of the following Parishes namely Dean Prior, Buckfastleigh West and Holne"; but liable to pay a rent, and taking subject to the rights set out in the Schedule to the said agreement (of the Venville Tenants, and others therein specified). He said (in effect):- He had since 1963 in succession to members of his family since 1843 been the Duchy Agister for the part of the Forest by South Brent, Ugborough and Harford. He had always understood the boundary of the part of the Forest to which he was concerned as Agister to be as drawn on the 1968 tenancy agreement plan, being (relevantly) the same as the plan prepared for the Royal Commission by the Dartmoor Commoners' Association (Duchy/33). As to his knowledge and activities as Agister he referred me to the evidence he had given at my 1982 hearing about the Forest of Dartmoor as recorded at page 67 of my decision dated 30 June 1983.

Erme Plains/Broadaford

"Erme Plains" on the Register map (based on OS 6"=1 mile) is printed partly on the east and partly on the west side of the River Erme (that is as part of CL 112 Stall Moor and part of the Unit Land), and on the 1974 OS map (1 in 50,000) is printed on the east of the River (that is wholly as part of the Unit Land). The locality of Erme Plains could only be relevant to this Matter if the 1963 conveyance referred to by Mr J W Northmore would be relevant if some precision could be given to the words "Erme Plains" used in it.

I had no evidence that OS No. 875, 874 and 218 mentioned in the 1963 conveyance could be identified with Hele Farm specified in the Unit Land Rights Section registration at Entry No. 24 made on the application of Dr H P Burrows and Mr J W Northmore or with any land specified in any other Unit Land Rights Section registration. No other Unit Land Rights Section registration was mentioned by Mr J W Northmore as being his concern. I have not overlooked that there is a CL 156 (Ugborough Moor) Rights Section registration at Entry No. 41 made on the application of Mr J W Northmore of rights attached to land at Higher Broadaford; to this registration there is no corresponding Unit Land registration. So even if I had at this Unit Land hearing evidence of a right over the Unit Land attached to this land at Higher Broadaford, I would have no jurisdiction to direct the Unit Land Rights Section to be amended by including a corresponding registration.

For these reasons, I express no opinion as to the locality of Erme Plains for the purposes of the 1963 conveyance or any other purpose; and I refuse to take



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any action on the application which I understood Mr Northmore was making to me to make some addition to or alteration in the Unit Land Rights Section registration as a result of the documents he produced.

It may be that Mr Northmore contemplated that what he said at this Unit Land hearing would by me be treated as said at my Ugborough Moor (CL 156) hearing held shortly before and shortly after this Unit Land hearing. I have not mentioned this in my CL 156 decision of even date, because by it I have confirmed in part the CL 156 Rights Section registration at Entry No. 41 and because there is nothing in the 1963 conveyance which could have produced a for him more beneficial result.

Forest Part, rights

On the documentary evidence of Mr Haslam and the personal evidence of Mr Edmunds I conclude (no-one at the hearing suggesting otherwise) that the lettered A part of the Unit Land has from time immemorial been treated as part of the Forest of Dartmoor for ownership and many other purposes.

As to the boundary between (a) the Forest and (b) the rest of the Unit Land, of the CL161 land and of the CL156 land being a straight line as drawn on the map being page 7 of this decision:- I feel some doubt whether the documents produced by Mr Haslam show it to be one straight line all the way from Eastern White Barrow to the foot of Red Lake; perhaps it is two or more straight lines; however the angle between them is at the most very small and no-one suggested at the hearing that the exact boundary within a few feet was of any practical importance. It may be that on the land there are boundary stones. In these circumstances, in this Unit Land decision, I adopt as showing the true boundary of the Forest the delineation on the Register map of the land hatched (diagonally) red and lettered A on it.

My said conclusion accords with the Ownership Section registration at Entry No. 2 which being undisputed is now final. My conclusion is reason enough for my equating so far as I reasonably can the Rights Section registrations over the lettered A part ("the Forest Part") of the Unit Land with the corresponding CL164 registrations.

In my CL164 decision dated 30 June 1983 after a hearing in 1982, I concluded that a number of registrations in such proceedings disputed had been properly made, the rights having been recognised by the Duchy as being attached to lands in venville and not disputed by anyone else. Mr Sturmer said that the corresponding Unit Land registrations were similarly recognised as being in venville. This is not enough to enable me to equate for all purposes of the Commons Registration Act 1965, the Forest Part with the adjoining CL164 land, because of the very many CL164 Rights Section registrations which in my 1983 CL164 decision I decided were properly made, only very few have corresponding registrations in the Unit Land Rights Section. I have no power (it was not at the Unit Land hearing suggested I have) to direct that the Forest Part of the Unit Land be removed



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from the Land Section of this CL195 Register and by way of transfer included in the CL164 Land Section, or to direct that any of the CL164 Rights Section registrations should be inserted in the Unit Land Rights Section for the first time. So by the Commons Registration Act 1965 the historic connection between the Forest Part of the Unit Land and the rest of the Forest of Dartmoor comprised in CL164, has been for ever in part broken. The Act nowhere makes this result altogether unavoidable; but even with the hindsight I have as a result of this Unit Land hearing, I am unable to think of any way in which it could have been prevented by the Duchy or anyone else except at trouble and expense disproportionate to the value of any benefit which could have resulted.

First I consider the outside Harford registrations specified in Part II of the First Schedule hereto so far as possibly applicable to the Forest Part. Lady Sayer contended that those at Entry Nos 1, 2 and 85 were properly made being in Venville and as having been confirmed by my CL164 decision (see CL164 Entry Nos. 123, 124 and 766); Mr Sturmer conceded that they were in Venville as he had done at my CL164 hearing; nobody contending otherwise, my decision is that these registrations were as regards the Forest Part properly made. Mr Sturmer made a similar concession about the other Holne registrations at Entry Nos. 60 to 76 inclusive (see CL164 Entry Nos. 678 to 694) and to the West Buckfastleigh registration at Entry No. 77 (see CL164 Entry No. 695) which were by my said CL164 decision also confirmed; I have no reason for making any distinction between these registrations which were not supported at the hearing and those which were supported by Lady Sayer, so my decision is that they too were properly made. As regards the registrations at Entry Nos. 52 and 79, Duchy Objection No. 460 was not withdrawn, and as regards the registrations at Entry Nos. 41, 50, 57, 79, 80, 86, 87 and 98 Duchy Objection No. 987 was not withdrawn, and I have some evidence against them in that at my CL164 hearing it appeared that rights attached to lands in Ugborough and Okehampton, are not recognised as being in Venville; however this may be in the absence of any evidence in support of these registrations and of any concession by the Duchy such as Mr Sturmer made as regards the lands in Widecombe-in-the-Moor, Holne and West Buckfastleigh, my decision is that none of these registrations were properly made.

Next I consider these registrations of rights "to stray" specified in Part I of the First Schedule hereto so far as possibly applicable to the Forest Part. Mr Sturmer insisted that they were not properly made at least as regards those to which the Duchy had made an Objection, that is as regards all except No. 43; accordingly in the absence of any evidence in support of them, my decision is that all these registrations except as aforesaid were as regards the Forest Part not properly made. Under this heading I am not concerned with No. 43 (made on the application of Mr Edmunds) because it is not expressed to apply to the Forest Part.

Lastly under this heading I consider the registrations specified in Part III of the First Schedule hereto so far as possibly applicable to the Forest Part. They are all within Duchy Objection No. 987, and none was conceded by Mr Sturmer.



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Of these registrations those at Entry Nos. 46 and 47 (West Combeshead Farm and Broom Hill Farm) were the only registrations about which there was at the hearing conflicting evidence and argument, they being supported by Mr Cole and opposed by Mr Sturmer.

That there has been from time immemorial over the Forest Part any rights attached to these two farms was I think negated by the documentary evidence of Mr Haslam and the oral evidence of Mr Edmunds about the Forest Part having always been considered part of the Forest of Dartmoor; further in my CL164 decision dated 30 June 1983, I refused to confirm CL164 registrations at Entry Nos. 487 and 488 which correspond to these Unit Land registrations, and there having been no appeal from such a decision, I must assume that attached to these farms are no rights over the part of the CL164 land which adjoins the Forest Part of the Unit Land. So to find that the rights claimed by Mr Cole over the Forest Part exist, in the absence of any evidence of any express grant, I must have proof of usage either within the Prescription Act 1832 or enough for a grant to be presumed in accordance with the law as set out in *Tehidy v Norman* 1971 2QB 528. Objection No. 987 is dated 10 April 1972, so under Section 16 of the Commons Registration Act 1965 the 30 year period specified in the 1832 Act dates back from 1972; I consider that the 20 year period specified in *Tehidy v Norman* supra should run back from the same date either by analogy with the 1832 Act or because grazing after an objection made under the 1965 Act cannot be as of right. The grazing by sheep described by Mr Cole started in 1968 and therefore was not for long enough. Grazing by cattle while Mr Cole's father was at Pithill and before 1949 when he moved to Broomhill cannot be counted; nor can grazing since 1972 from West Combeshead. So I must consider in detail whether grazing from Broomhill by the Galloway herd from 1949 to 1972 was "as of right (with the legal meaning of these words) so that a grant over the Forest Part ought to be presumed. As I understood Mr Cole, the cattle were put onto the Unit Land through one of the gates conveniently near Broomhill Farm, that is a gate south or at least not north, of Harford Moor Gate (east of the Church). I accept that such cattle would be grazing as of right at least over the part of the Unit Land south of the Forest Part. That the Forest Part is a distinct piece of land was I think established by the documentary evidence of Mr Haslam and the personal evidence of Mr Edmunds; the mere fact that cattle might or probably did (there being no fence) go as far as the Forest Part, would not by itself prove that they were grazing there as of right. Such grazing must be "not secretly" within the legal meaning of these words used in association with the words "as of right"; the absence of conscious deception is not enough; "the enjoyment must have been open, of such a character that an ordinary owner of the land diligent in the protection of his interest would have or must be taken to have a reasonable opportunity of becoming aware of that enjoyment, see *Union v London* 1902 2 Ch 557 at page 571. Mr Cole said nothing (and the burden of proof as I think upon him) from which I could infer that anyone seeing cattle of his herd on the Forest Part would understand them to be there in exercise of a right attached to Broomhill Farm, or would think of them as otherwise than as strays. The evidence of Mr Edmunds that he would treat them as strays and drive them back, confirms this.



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So for these reasons my decision about these registrations at Entry Nos. 46 and 47 is that they were not properly made as regards Forest Part.

With regards the other registrations specified in the said Part III, in the absence of any evidence or argument in support of them, my decision is that none of them was properly made as regards Forest Part.

Harford grazing from outside

Under this heading I consider the registrations listed in Part II of the First Schedule hereto so far as possibly applicable to the part ("the Harford part") of the Unit Land except the Forest Part.

Of these registrations, those at Entry Nos. 1, 2 and 85 were the only registrations about which there was at the hearing any conflicting evidence of argument. They being supported by Lady Sayer and opposed by Mr Edmunds. These registrations are within Howell Objections Nos. 616 and 1082 (that the right does not exist at all); so the burden of proving their propriety as regards the Harford Part falls on those concerned to uphold them. The evidence and arguments offered at the hearing by Lady Sayer considered in isolation were too lacking in precision and too vague in their reference to documents to establish the existence of rights. However, I understood her to be referring generally to the documents and other evidence and arguments adduced at the hearing I held in 1982 by her solicitor in support of essentially identical registrations in Register Unit No. CL138 (Commons of Shepstor); because Mr Edmunds was present at such a hearing and because he at this Unit Land hearing referred to my CL188 decision dated 30 June 1983 I treat all such documents, evidence and arguments as repeated at this Unit Land hearing. In my said CL188 decision I refused to confirm the said registrations for the reasons which were therein set out in part by reference to my CL164 decision of the same date about the Forest of Dartmoor. Such reasons should be treated as repeated herein as applicable to these three Unit Land registrations.

As I understood her Lady Sayer claimed that she as owner of her holding in Widecombe-in-the-Moor had for many years been exercising their Venville rights. Because such exercise might be regarded as enough to establish her claim under the Prescription Act 1832 or under a presumed grant in accordance with *Tehidy v Norman* 1971 2QB 528, I record that as I understood her she was not alleging that any animals from her holding in Widecome-in-the-Moor had actually grazed on the Harford Part. However this may be, the distance between the Unit Land and Widecombe-in-the-Moor and Holne and the nature of the CL164 moorland are such that I am unable to ascribe to any grazing done from Widecome-in-the-Moor or Holne as having been done for the purpose of prescription under the 1832 Act or presumed grant in any relevant way over the Harford Part. Additionally I have the evidence of Mr Edmunds which I accept that no animals either from Widecome-in-the-Moor or Holne have been seen on the Harford Part. The taking of vags on one occasion mentioned by Lady Sayer (she said it was three or four years to go) is not enough to establish a right of turbary either under the 1832 Act or under a presumed grant. I decline to discredit Mr Edmunds' evidence on the ground (impliedly suggested by Lady Sayer) that he had "no statutory mandate"; his evidence was admissible whether or not he was so mandated. His submission that



The decision of the Chief Commons Commissioner and the High Court mentioned by Lady Sayer have no relevance, is not ludicrous and does not become so merely because at my CL156 hearing about Ugborough shortly before this Unit Land hearing, when during a hostile cross examination by Lady Sayer he, quickly and apparently without much thought (excusable in the circumstances) answered affirmatively her question: "Are you saying that the Chief Commons Commissioner was-wrong?" As to the oaks at Skirscombe Wood, about oaks on Dartmoor I had detailed evidence in July 1983 at a hearing relating to Okehampton Common (CL155) by Mr J P Barkham as recorded in my CL55 decision dated 17 November 1983; there was no need for Mr Edmunds to qualify his evidence against pannage on Dartmoor by mentioning the extraordinary oak groups at Black Tor Copse, Wistmans Wood and Piles Wood.

For these reasons my decision is that the registrations at Entry Nos. 1, 2 and 85 were not as regards the Harford Part properly made.

All the other registrations listed in the said Part II are within Howell Objection No. 1082 (No. 98 is also within Howell Objection No. 1083). As submitted by Mr Edmunds, if they could be considered as being in Venville with any such consequence as was claimed by Lady Sayer, I conclude they were not properly made for the reasons set out or referred to in my said CL188 decision. Alternatively I conclude in the absence of any evidence or argument in support of them having regard to the evidence of Mr Edmunds above summarised against them or some of them, they were not properly made. Accordingly my decision is that as regards the Harford Part they should not be confirmed.

Harford, straying on

Under this sub-heading I consider the registrations listed in Part I of the First Schedule hereto so far as possibly applicable to the Harford Part of the Unit Land other than the Forest Part.

All these registrations are within Howell Objection No. 1081, the grounds of which are: "The right should comprise fewer animals; the precise number cannot be defined until my other objections on the grounds that the right does not exist have been upheld or disallowed".

Mr Edmunds (as above recorded) asked that this objection be treated as putting all these registration wholly in question. It may be as expressed they do just this particularly if I have regard to re Sutton 1982 1WLR 647 and re West Anstey 1985 2WLR 677. However this may be I give leave for the grounds to be amended appropriately.

For the reasons given under the heading Straying in my CL164 (Forest of Dartmoor) decision dated 30 June 1983 which reasons should be treated as repeated herein, I consider that a registration including the word "stray" is confusing, and should for this reason be avoided unless some clarifying modification is suggested and the propriety of the registration as so modified is proved. I have no such suggested modification or proof; accordingly my decision is that as regards the



Harford Part none of these registrations was properly made. But because persons concerned with these registrations may have failed to attend or be represented at the hearing assuming from the grounds of the Objection that the registration would be confirmed in part at least as regards the Harford Part, I give to such persons liberty to apply to reopen the hearing so that they can offer evidence and arguments in support of these registrations so far as they may concern the Harford Part; any such application should be made within the THREE MONTHS period and otherwise as specified in paragraph 5 of the decision table being the Third Schedule hereto. I have not overlooked the criticism of Lady Sayer that it is unlikely that any of the persons concerned with these registrations will make any such applications. The only alternative so it seems to me is that instead of giving a decision subject to liberty to apply I should now adjourn the proceedings and direct notice of the adjourned hearing given to all persons concerned with these registrations; such a course seems to me open to the criticism that this would lead to much expense without increasing the chance of any of those concerned with the registration actually attending and being represented at a hearing. Being of the opinion that I ought not to confirm these registrations without any modification merely because the grounds of Objection No. 1081 does not exactly fit the circumstances, and balancing these alternative criticisms as best I can, I think it better to give a decision now, subject to liberty to apply.

Harford grazing within

Under this heading I consider the registrations listed in Part III of the First Schedule hereto so far as possibly applicable to the Harford Part of the Unit Land other than the Forest Part.

As regards the Harford Part there was no objection to any of these registrations other than Howell Objection 1081 applicable to Entry No. 47 and No. 1082 applicable to No. 21. As above recorded, Mr Edmunds said that Objection No. 1081 was withdrawn; and that Objection No. 1082 was not withdrawn and he thought that Mr Cane was agreeable to No. 21 being cancelled. I have the evidence of Mr Edmunds that all these registrations (except No. 21) were before Mr Howell decided not to include them in any of his Objections, considered by persons with local knowledge and by the Commonners Association. They are all of rights attached to lands in Harford or to lands in Ivybridge (including Ermington) to the south to which it is reasonable to suppose that rights over Harford Moor have existed from time immemorial. According as regards all these registrations other than No. 21 but including No. 47 my decision is that they were all as regards Harford Part properly made.

In the absence of any evidence or argument in support of the registration at Entry No. 21 and having regard to what Mr Edmunds said about it, my decision is this registration was not properly made and confirmation of it should be refused.



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Final

The effect of the decisions herein before contained is set out in the decision table being the Third (and last) Schedule hereto, and such Schedule should be treated as part of this decision.

Because much of this decision relates to persons who were not present or represented at the hearing and is dependent on agreements and statements about which there may be some mistake or error which I ought to correct without putting the persons concerned to the expense of an appeal, I give liberty to apply to any person who might be affected by any such mistake or error. Such application should be made within the THREE MONTHS time limit and otherwise as specified in paragraph 4 of the decision table being the Third Schedule hereto.

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

TURN OVER



FIRST SCHEDULE
(Rights Section registration)

Note:- In this Schedule "the Duchy Part" means the part of the Unit Land hatched in red lines and lettered "A" on the register map.

Part I: to stray

Note:- All in this Part are expressed as "to stray"; in brackets are the names of the applicants and the Register Unit from which stock may stray.

Number:- 3 (Robert Edward Skelley from CL156 and CL164S), 4 (William Anthony Daniels from CL156 and CL164S), 5 (Henry John Daniels from CL156 and CL164S), 6 (Nicholes Cawter and Acrilla Mary Clemens Cawise from CL156 and CL164S), 7 (Harry John Ridgeway from CL156 and CL164S), 8 (Mary Florence Douglas Pennant from CL156 and CL164S), 9 (Aubrey Allen Rogers and Margarita Opal Vivian Rogers from CL156 and CL164S), 10 (Victor Lobb from CL156 and CL164S), 11 (Gladys Grace Mitchell from CL156 and CL164S), 12 (Edward Thomas Mitchell from CL156 and CL164S), 13 (replaced by Nos. 101 and 102, Humphrey William Woolcombe and another as trustees of the estate of Thomas Waring Colles deceased, from CL156 and CL164S), 14 (Francis Seymour from CL156 and CL164S), 15 (Violet Dalby from CL156 and CL164S), 16 (John Henry Smerdon from CL156), 17 (John Henry Smerdon from CL156), 18 (Thomas Cole from CL156), 19 (Frank Percival Coker from CL156), 20 (Harry Richman and Samuel Ruhman from CL156 and CL164S), 23 (Reginald Percy German from CL112), 24 (Henry Parsons Burrows and James William Borthmore from CL112), 25 (Henry Parsons Burrows and John Alfred Stranger Moysey from CL112), 26 (Henry Parsons Burrows from CL112), 27 (Henry Parsons Burrows from CL112), 28 (Henry Parsons Burrows from CL112), 29 (Henry Parsons Burrows from CL112), 30 (John Mortimore Munford from CL112), 31 (John Henry Smerdon from CL156), 32 (William Hayward Hosking from CL156), 33 (Robert Henry Jane from CL156), 34 (replaced by Nos. 110 and 111, (Esmond Marshall Kingston Jellicoe from CL156), 43 (Wilfred John Edmund and Lucy Adeline Edmunds from CL187 and parts of CL161 and CL156 south of the assumed Forest boundary), 45 (Arthur Frances Luscombe and William Thomas Luscombe from CL156), 48 (Thomas Wakeham from CL156), 49 (Arthur Francis Luscombe and William Thomas Luscombe from CL156), 51 (Edgar Gordon Rendle and Joyce Rendle from part of CL112 known as Stall Moor), 54 (South Brent Feoffees from CL156), 55 (South Brent Feoffees from CL156), 56 (Charles Worth from CL156), 58 (Eden James Hungerford Morgan from CL156 and CL16S), 59 (replaced by Nos. 107 and 108, Patricia Mary Donner from CL156 and CL164S), 81 (Joseph Grigg Kellock from CL156), 82 (John Henry Smerdon from CL156), 83 (John Henry Smerdon from CL156), 84 (John Henry Smerdon from CL158), 88 (Herbert Alfred French, John Trevarthen French and Geoffrey Herman French from CL156 and CL164S), 90 (Reginald Jeffrey Hine from CL156), 91 (Henry George Hurrell and John Trevarthen French from CL156), 92 (Henry George Hurrell and Reginald Jeffrey Hine from CL156), 93 (Henry George Hurrell and Lilian Hurrell from CL156), 94 (Genry George Hurrell and Terence Rodney Stockman from CL156), 95 (Lilian Renell Norrish from CL112), 97 (Edward William Mudge from part of CL112 Stall Moor) and 99 (Ernest William Charles Hancock and Kathleen Elizabeth Hancock from CL156).



Representation:- None.

Objections:- Duchy No. 987 (applicable to all above except No. 43 do not exist on lettered "A" part, Duchy Part, the Duchy Part. Howell No. 1081 (applicable to all above registrations; the rights should comprise fewer animals, the precise number cannot be defined until my other objections on the grounds do not exist have been upheld or dealt with). Howell No. 1083 (applicable to Nos. 95 and 97, right does not exist.

Part II: registrations of rights
attached to lands outside Harford

Note:- This Part does not include any registrations specified in Part I. In brackets names of applicants.

(A) Widescombe-in-the-Moor:- No. 1 (Guy Bouchier Sayer and Sylvia Rosalind Pleadwell Sayer).

(B) Holne:- Nos. 2 (David Miller Scott); 60 (Holne Parish Lands Charity); 61 (David Miller Scott); 62 (H D and E M Pearce); 63 (Lewis Oliver Perkins); 63 (Alexander George Cousins); 65 (Philip Robert Layne-Joynt); 66 (Robert Ewing Adam); 67 (Leonard Jackson); 68 (Edwin Hooper Woodward and Isabella Amelia Woodward); 69 (Francis Arthur Perryman); 70 (James Barnes Townsend); 71 (Florence and Albert Edward Tozer); 72 (Raymond George Mortimore and Anne Bouverie Mortimore); 73 (Percy Albert Norrish); 74 (George Ernest Jonathon Cawthorn); 75 (replaced by Nos. 119, 120, 121 and 123); (Hugh Clarkson and Mary Isabel Clarkson); 76 (Mary Isabel Clarkson); 85 (Eleanor Nancy Smallwood):

(C) Ugborough:- Nos. 41 (Miles Grindrod), and 57 (Robert Grant Prowse).

(D) West Buckfastleigh:- No. 77 (William Henry Norrish).

(E) Okehampton:- No. 79 (Peter George Ansell; owner part tenant remainder; Upcott House; Estovers, turbary, piscary, pannage, shooting, take sand, gravel earth and stone over that part of the land comprised in this register unit as lies within the Forest of Dartmoor.

(F) Tavistock:- No. 52 (Pamela Mary Sedgwick amended 7/2/72 to exclude lettered A Duchy Part).

(G) Whitchurch:- No. 80 (replaced by Nos 113 and 114, Ernest Mowbray Glosop and Diane Edith Glossop).

(H) South Tawton:- Nos. 86 (Allen Amy Joyce Worthington) 87 (Vera Ellen Knepman)

(I) Cornwood, Ivybridge:- No. 98 (John Lockett)



Representations:- Lady S R P Sayer for herself and Sir G B Sayer (No. 1), for Sir J F Eberle of successor of D M Scott (No. 2), and for Mrs M R S Smallwood (No. 85).

Objections:- Duchy No. 460 (applicable to all above except Nos. 21, 22, 41, 50, 57, 78, 87 and 98, not exist over lettered A part (the Forest Part). Duchy No. 461 (applicable to No. 78, Free Warren does not exist over lettered A part, the Forest Part). Howell No. 616 (applicable to Nos. 1 and 2, claimants have none of the rights listed, I object as owner and on behalf of Harford Commoners Association). Duchy No. 987 (applicable to Nos. 21, 22, 41, 50, 57, 78, 79, 80, 86, 87 and 98, not exist over lettered A part, the Forest Part). Howell No. 1082 (applicable to all except 1 and 2 above, the right does not exist at all). Howell No. 1083, (applicable to No. 98, rights do not exist).

Part III: registrations of rights
attached to lands in Harford

Note:- This Part does not include any registrations specified in Parts I and II. In brackets names of applicant and land to which rights are attached. In this Part are included Nos. 21, 22, 50 and 78 in the Register described as of Ivybridge (no mention of Harford).

Nos:- 21 (John Colwill, Cadleigh Farm, Ivybridge), 22 (Phyllis Margaret Gillard, South Cadleigh, Ivybridge), 35 (Francis William Boucher Edwards, Broomhill), 36 (Western Machinery & Equipment Co Ltd, Bullaven), 37 (Kenneth Watkins, Bullenbrook House), 38 (Henry Leon Watkins, Bullaven), 39 (Western Machinery & Equipment Co Ltd, Ash Farm), 40 (John Henry Pearse, Meads Farm), 42 (Roy Neale Howell, Lukesland Farm), 44 (Wilfred John Edmunds, Lower Piles), 46 (Herbert Edward Coles and Rosamond Isabel Coles, West Combeshead), 47 (Mary Lousia Cole, Broomhill Farm), 50 (Mary Florence Douglas Pennant, Lower Cadleigh, Ivybridge), 78 (Grahame Stewart Mills, Strode Farm, Ermington, Ivybridge), 89 (William Matthews and Annie Amelia Matthews), and 96 (Royal Agricultural South of England and L Ryan).

Representation:- Mr W J Edmunds (No. 44) attended in person. Mr J D Cole successor of Messrs H E and R I Coles (No. 46) and of Mrs M L Cole (No. 47), attended in person.

Objections:- Duchy No. 987 (applicable to all above, right does not exist on lettered A part (the Forest Part). Howell No. 1081 (applicable to No. 46, the rights should comprise fewer animals; the precise number depends cannot be defined until my other objection on the grounds that rights do not exist have been upheld or disallowed. Howell No. 1082 (applicable to No. 21, the right does not exist at all).



SECOND SCHEDULE
(Documents produced or referred to)

Part I: by Mr J W Northmore

- 1960 Abstract of title of the Trustees of S K Peeke deceased to property known as Broadaford in the parish of Ugborough, including an indenture dated 31 March 1884 by John Rodder conveyed lands to William Peeke.
- 25 April 1963 Conveyance by Eden James Hungerford Morgan and his mortgagees to James William Northmore of land containing about 20.700 acres in the parish of Ugborough as described in the first Schedule.

Part II: by Mr W J Edmunds

- WJE/10 11 May 1984 Letter of authority signed B N Howell authorising Mr Edmunds to act on his behalf.
- WJE/11 -- Paper (10" x 8") summarising submissions

Part III: by Lady SRP Sayer

- Sayer/22 -- Statement on behalf of Sir Guy and Lady Sayer, Admiral Sir James Eberle and Mrs Smallwood
- 30 November 1970 Yellow form (No. 28) giving notice of Objection by B N Howell
- 2 March 1971 Yellow form (No. 28) giving notice of Objection by HRH Charles Prince of Wales.



Part IV: on behalf of the Duchy

Duchy/21	1975	OS map 1/25,000, Buckfastleigh marking location of Duchy claims.
Duchy/22	--	<p>Pages 5 to 9 from "Old Map of Dartmoor" (an octavo booklet) comprising:-</p> <p>"Perambulation 24 Henry III, 1240. Printed from the copy on the back of the original map: ... Et sic per Wester Welbroke usq. cadit in Auena. Et inde Linealit usq. ad Yester Whyteburghe. Et inde Linialit usq. ad la Redelake, ubi cadit in Erme, ..."</p> <p>.....</p> <p>Perambulation of Dartmoor Forest 24 Henry III AD1240. Extracted from Risdon's Survey of Devon. (as above)</p> <p>.....</p> <p>Perambulation of the Boundaries of Dartmoor Forest, 24 Henry III AD1240. --- Extracted from Rowe's Dartmoor. (as above)"</p>
Duchy/23	1540	Copy map showing "Foresta de Dartemore" as a circle, and outlining River Avon and marking on the circumference "Ester Whiteburg".
Duchy/24	? 1894	<p>Printed Extract entitled: "Presentment of the Jury at a Survey Court for the Forest of Dartmore AD1609. --- Extracted from Rowe's Dartmoor.</p> <p>"... so by the same Wester Wellebrook until it falleth into Owne, al's Aven, and from thence linyallie to Easter Whitaburrowe and from thence liniiallie to Redlake foote whir it falleth into Erme ..."</p>



Duchy/25 13 October 1786

The Manor of Lydford and Forest of Dartmore. At a Court of Survey ... The Jurors returned ... First they present that the bounds of the said Forest of Dartmore have been used and accustomed to be ... from thence is West Wellebrook head and so down the said Brook will it fall ... (?) ... Owen or Avon by Huntingdon Cross, from thence to East Whettaborough, from thence to Redlake foote where it falls into the Erme and thence up to Erme head ..."

Duchy"26 1808

"A plan of the Forest of Dartmoor. The property of His Royal Highness the Prince of Wales" endorsed (describing the several Newtakes etc By Thomas Gray 1808 or ... (illegible)."

Part 10 of map shows straight line from foot of "Western Wellbrook" where it joins "Aven" to an asterisk ($\frac{1}{2}$ " diameter) marked "East Whiteaborough" and thence a straight line westwards.

Duchy/24 21 September 1867
bis.

Deed made between (1) HRH Albert Edward Prince of Wales ... and (2) Henry Rivers and Henry Bowen Rivers defining the respective rights of HRH in respect of the Manor of Lydford and H and HB Rivers in and over Harford Moor ... The Duchy of Cornwall Management Act 1865" ... which said Moor is bounded as follows that is to say on the north by the Forest of Dartmoor the boundary of which in that locality is an imaginary straight line drawn from the point where Redlake falls into the Erme in the direction of the Tor



- or Beacon called Western Wittaborough ... more particularly defined on plan annexed ... orange border ..." The annexed plan marks orange a straight line from Easter Wittaborough to Western Wittaborough and another straight line from Western Wittaborough nearly (a little northwards) producing such last mentioned line. Enrolled in the Office of the Duchy 2 December 1867.
- Duchy/27 16 January 1935 Copy conveyance between Ivy Constance Meynell and The Kingsbridge & Salcombe Water Board (same as FGC/1 above).
- Duchy/28 -- Copy memorandum on said conveyance (as on FGC/1).
- Duchy/29 3 November Letter from South West Water Authority to Farrer & Co "... In view of information produced, the Authority agrees to forego any claim of title to the area coloured red on the attached plan ..."
- Duchy/30 -- Paper (35" x 8", printed) of "Various Records of the Perambulation of The Forest of Dartmoor from 1240 AD", "Perambulation of 1608", Evidence 1689, 1699 and 1702, 1826". Parchment ... Ed III and extract "Feoda in Capite, Hen VIII.
- Duchy/31 1970
2nd imp
1977 Extract (pages 279 and 280 from John Somer Cocks, Dartmoor: New Study (printed book):- Map illustrating the Paper on "The Bounds of the Forest of Dartmoor" by Arthur B Prowse (Devon Association July 1892) and (at page 279) "In 1240 the next



bound is Eastern Whitebarrow ...
The parish boundary is now
drawn to Western. There does
not seem to be much doubt that
historically the lower but
more conspicuous Eastern Whitebarrow
is correct ..."

Duchy/32 10 June 1968

Tenancy agreement between The
Lord Warden and Council of
HRH Charles Prince of Wales
Duke of Cornwall and Wilfred
John Edmunds ("the Grazier"):
entitling the Grazier "to graze
with cattle and sheep and horses
the land being a portion of
the South Quarter of the Forest ..
shown by pink colour on the
plan attached ..." The plan
shows the southeast boundary
as a straight line from the
Avon south to Eastern Whitebarrow
and then a nearly straight
line westwards through Western
Whitebarrow to where the Red
Lake Brook joins the River
Erme.

Duchy/33

Map "Dartmoor, the Forest and
Adjacent Commons being the
same as Appendix I to the
Memorandum of Evidence submitted
by the Dartmoor Commoners'
Association and by them considered
on 30 April 1957.

Part V: on behalf of South Brent Commoners' Association

Savery/1	1557	(?) Inquisition (put to Mr Haslam when questioned).
Savery/2	1892	Map (another copy of Duchy/31 not marked).
Savery/3	1856	Extracts from Samuel Rowe; perambulation of Forest of Dartmoor; second edition; little page and paper 176, 177, 178 and 179; 328, 329, 330 and 331



THIRD SCHEDULE
(Decision table)

1. I CONFIRM the registration at Entry No. 1 in the Ownership Section without any modification; and I REFUSE to confirm the registration at Entry No. 3 in the said Section.
2. As to the Rights Section registrations listed in Part I of the First Schedule hereto, for the reasons set out under the heading Harford straying on and added to under the heading Forest Part rights:-
Subject to the liberty to apply granted under the heading Harford straying on, I REFUSE to confirm the registrations at the following Entry Nos. (being all listed in the said Part I):- Nos. 3 to 20 inclusive (including Nos. 102, 104 and 105 which replace 13), 23 to 34 inclusive, 43, 45, 48, 49, 51, 54, 55, 56, 58, 59 (including Nos. 107 and 108 which replace 59), 81, 82, 83, 84, 88, 90 to 95 inclusive, 97 and 99.
3. As to the Rights Section registration listed in Part II of the First Schedule hereto for the reasons set out under the heading Harford grazing from outside and added to under the heading Forest Part, rights:-
 - (A) I CONFIRM the registrations at Entry Nos. 1, 2, 60 to 77 inclusive (including Nos. 119, 120, 121 and 122 which replace 75) and 85 with the MODIFICATION in column 4 for the words: "over the whole of the land in this register unit" substitute "over the part of the land in this register unit hatched red and lettered A on the register map".
 - (B) I REFUSE to confirm the registrations at Entry Nos. 41, 52, 57, 79, 80 (including Nos. 113 and 114 which replace 80), 86, 87 and 98.
4. As to the Rights Section registrations listed in Part III of the First Schedule hereto for the reasons set out under the heading Harford grazing within and added to under the heading Forest Part, rights:-
 - (A) I REFUSE to confirm the registration at Entry No. 21.
 - (B) I CONFIRM the registrations at the following Entry Nos. (being all other those listed in the said Part III) with the MODIFICATION in column 4 after the words:- "over the whole of the land comprised in this register unit" insert the words "except the part hatched red and lettered A on the register map", that is to say, Nos. 22, 35 to 40 inclusive, 42, 44, 46, 47, 50, 78, 89 and 96.
5. Any application under any liberty to apply in this decision granted should be made within THREE MONTHS from the date on which notice of this decision was sent to the persons entitled to have it, but so that application may be made to a Commons Commissioner to enlarge this three month period. Any such application should in the first instance be by letter to the Clerk of the Commons Commissioners stating the alteration in this decision which the applicant considers should be made and the evidence (identifying the documents relied on) which would be adduced if the Commissioner directs a further hearing. A copy of the application should be sent to any person who might be adversely affected by it being granted and also to the County Council for their information as Registration Authority. As a result of the application the Commons Commissioner made direct a further hearing unless he is satisfied that the error or mistake is obvious and all those concerned are agreeable. Of such further hearing notice will be given only to the persons who on the information available to the Commons Commissioner appear



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to him to be concerned with the registration in question. Any person wanting to be given notice of any 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 this 15th — day of November —

1985

A. A. Baden Fuller.

Commons Commissioner