



COMMONS REGISTRATION ACT 1965

Reference Nos 209/D/326
209/D/327
209/D/324

In the Matter of (1) Okehampton
Common and (2) The Triangle,
Okehampton Hamlets, West Devon
District, Devon.

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos. 1 to 463 exclusive of Nos. 60, 317, 335 and 388 which have been cancelled, but otherwise inclusive in the Rights Section of Register Unit No. CL155 in the Register of Common Land maintained by the Devon County Council and to the registrations at Nos. 1, 3 to 13 inclusive, 15 to 28 inclusive, 30 to 35 inclusive, 37 to 45 inclusive, 48 to 162 inclusive, 164 to 218 inclusive, 220 to 240 inclusive, 242 to 247 inclusive, 249 to 260 inclusive, 262 to 284 inclusive, 286 to 288 inclusive, 290, 291, 293 to 306 inclusive, 310 to 318 inclusive, 320, 322, 324, 325, 327, 332, 334, 335, 337, 338, 340 to 343 inclusive, 351, 354, 358, 359 and 361 to 371 inclusive in the Rights Section of Register Unit No. CL135 in the said Register; and (as regards CL155) are occasioned: by Objections (relating to the Land Section) No. 455 made by HRH Charles Prince of Wales, Duke of Cornwall, and No. 502 made by North Devon Water Board and noted in the Register on 23 November and 23 December 1970 respectively; by Objections (relating to the Rights Section) Nos. 277, 278, 279 and 280 made by Okehampton Hamlets and Okehampton Borough Commoners Committee and noted in the Register on 29 October 1970, Nos. 442, 443, 444, 445 and 446 made by HRH Charles Prince of Wales, Duke of Cornwall and noted in the Register on 14 December 1970, and No. 520 made by North Devon Water Board and noted in the Register on 23 December 1970, and No. 1142 made by Devon County Council and noted in the Register on 11 September 1972; and by the registrations at Entry Nos. 174, 272, 286 and 398 being in conflict; and (as regards CL 135) are occasioned by Objections (relating to the Rights Section) Nos. 281, 282 and 283 made by Okehampton Hamlets and Okehampton Borough Commoners Committee and noted in the Register on 29 October 1970, and Nos. 416, 417, 418, 419, 420 and 421 made by HRH Charles Prince of Wales, Duke of Cornwall and noted in the Register on 3, 5 or 9 November 1970, and No. 1137 made by Devon County Council and noted in the Register on 11 September 1972.

I held a hearing for the purpose of inquiring into the disputes at Plymouth on 8 March, and 5, 6 and 7 July 1983. At the hearing: (1) the Attorney-General for the Duchy of Cornwall was represented by Mr C Sturmer, the Duchy Land Agent for Dartmoor; (2) South West Water Authority as successor of North Devon Water Board was represented by Mrs F G Canning their Parliamentary and General Legal Officer; (3) Okehampton Hamlets and Okehampton Borough Commoners Committee were represented by Mr F J Woodward, solicitor of Burd Pearse Prickman & Brown, Solicitors of Okehampton; (4) the Nature Conservancy Council as persons under an agreement dated 28 September 1961 were concerned to support Objection No. 455 were represented by Mr D B P Bradley their Southwest Regional Land Agent; (5) Lady Sylvia Rosalind Pleadwell Sayer on whose application with Sir Guy Bouchier Sayer the registrations at CL155 Entry No. 75 and at CL135 Entry No. 35 were made



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attended in person on her own behalf and as representing him, and also as representing Admiral Sir James F Eberle as successor of Mr David Miller Scott on whose application the registrations at CL155 Entry No. 76 and at CL135 Entry No. 36 were made and as representing Mrs Eleanor Nancy Smallwood on whose application the registrations at CL155 Entry No. 380 and at CL135 Entry No. 301 were made; (6) Mr Jack Worth Reddaway on whose application the registrations at CL155 Entry No. 444 and at CL135 Entry No. 359 were made was also represented by Mr F J Woodward; and (7) Mrs E M Joy widow of Major E G Joy of Higher Bowden, Eeldon, as successor of Major Leonard Thomas Sheasby on whose application the registrations at CL155 Entry No. 394 and CL135 Entry No. 314 were made, was (at the March hearing only) represented by Mr P A Elliot solicitor of Foot & Bowden, Solicitors of Plymouth.

The land ("the Main Unit Land") in Register Unit No. CL155 is a tract in the parish of Okehampton Hamlets about 3 miles long from its southwest side (being about 2 miles of the West Okement River from Wellake Corner up to Sandy Ford) to its northeast side (being a short distance west of East Okement River) and includes Omerton Hill, Longstone Hill, Blackdown near and within its northwest side and Higher Willhays (2,039 feet), Yes Tor, West Mill Tor and Rough Tor near and within its southeast side. In the Ownership Section HRH Charles Prince of Wales, Duke of Cornwall is registered as owner of all the Unit Land except some very small areas marked "B", "C", and "D" (three areas so marked), and "E" the relevance of which hereinafter appears.

The land ("the Triangle") in Register Unit No. CL135 is a triangular tract of about 64 acres, near to (about $\frac{1}{3}$ rd of a mile to the southwest of) the west corner (Wellake Corner) of the Main Unit Land.

At the March hearing:- Mr Woodward on behalf of Mr Reddaway conceded that the County Council Objection No. 1142 (grounds: "right does not exist at all") was rightly made against the registration at Entry No. 444 (a right in gross to graze); to nobody suggesting otherwise, my decision is that this registration was not properly made. Mr Woodward on behalf of the Commoners Committee withdrew their objection No. 280 (grounds: "right does not exist at all") to the registration at Entry No. 361 made on the application of Mrs M L Medland, but because this registration includes piscary and shooting, my decision about it is hereinafter dealt with in the context of Duchy Objection Nos 443 and 444. Mr Elliot on behalf of Mrs E M Joy produced the documents specified in Part I of the First Schedule hereto, and claimed that column 5 of the registration at Entry No. 394 mistakenly did not, and should therefore be modified so as to, include OS No. part 1735 containing 0.250 acres; this claim was agreed by Mrs Canning and Mr Sturmer. Since the hearing I have checked the registration against my copy of the application signed by Major L T Sheasby, and the mistake appears to have been his; nevertheless nobody at the hearing suggesting otherwise, I can I think properly correct it as claimed by Mr Elliot. Having other business, I did no more about these disputes at the March hearing.

I started the July hearing by considering first the Main Unit Land. As the hearing progressed it appeared that all present were agreed that the evidence and arguments



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so far as they could be applicable to the Triangle should be treated as given in relation to it, and that my Triangle decision should, as near as might be, be the same as my Main Unit Land decision. For convenience of exposition, I deal first with the Main Unit Land.

As regards the Main Unit Land, Mr Sturmer said that Duchy Objection No. 442 (no rights exist at all) is withdrawn.

Next I considered Duchy Objection No. 445, the grounds being: "the land edged black on the attached plan ... known as Black Tor Copse and land adjoining embracing an area of about 72 acres is by agreement occupied by the Nature Conservancy for conservation". The grounds are not happily expressed because an occupation for conservation is by itself not reason enough for removing land from the Register; however reading this Objection as a whole, the intention to challenge the Land Section registration to the extent of the 72 acres is clear enough. I record that I would under regulation 26 of the Commons Commissioners Regulations 1971 think it just to allow to be put forward as additional grounds of objection the matters about which I heard evidence as hereinafter summarised.

In the course of the opening by, and of the evidence given or presented by, Mr Bradley, the documents specified in Part II of the First Schedule hereto were produced. He said (in effect):- His Council's case was under three alternative headings. First, for them he claimed that the 72 acres should be removed altogether from the Register; this would give his Council freedom; but they now had no proposals for fencing the 72 acres from the rest of the Unit Land, although they might wish to fence small areas in order to ensure that the trees are able to get above grazing level; so notwithstanding the removal of the 72 acres grazing as at present would continue because there is nothing to prevent animals anywhere crossing the boundary (even the River which is one of the boundaries is easily crossable); so apart from these small areas grazing would continue from the remainder of the Unit Land much as now. Secondly in the alternative if I considered that there are grazing rights over the 72 acres, he claimed that they be defined, so that his Council could negotiate an agreement which would be applicable to everybody entitled to graze. Thirdly additionally or in the alternative, he claimed that rights such as estovers, taking stone, etc. should be defined (for example by limiting estovers to dead wood), to help the preservation of the scientific interest of the area.

As appears from the aerial photographs (NC/3), only a part ("the Copse") of the 72 acres is wooded, being not more than about 1/5th of the whole; the Copse is mostly a short distance from (not alongside although nearly so) the West Okement River; between the Copse and the foot of the summit rocks of Black Tor (1,553, 1,589 and 1,646 feet) there is a steep slope with some grass and a lot of clutter.

Mr John Patrick Barkham who is a University Lecturer in Ecology in the course of his oral evidence said (in effect):- His researches into the Copse were mainly carried out in 1965 and 1973. First there are signs that the Copse is ancient, maybe what ecologists call "primary", meaning it has been a woodland since pre-historic times; but the evidence is somewhat limited being that the soil of the part of the Copse is such that it could only have arisen under woodland, and could only be as it now is if the cover of woodland had been more or less continuous. Secondly the Copse consists very largely of English pedunculate oaks, a characteristic shared by two only woodland areas on or anywhere near Dartmoor, namely



Wistman's Wood (about 1½ miles north of Two Bridges) and Higher Piles Copse (in the Erme Valley about 2 miles north of Harford); the significance of this is that around the edge of the Moor, the oak is sessile; the pedunculate is over the granite and the sessile is over the carboniferous substrata (from Meldon Quarry near the north boundary of the Unit land, is taken rock of the Culm measures), which surround the granite core responsible for the ancient vegetation of pre-historic Dartmoor. Although the Copse could have arisen from irregular or regular coppice management or by commoners exercising a right of estovers, it could also have arisen entirely naturally without any human interference other than by the grazing of animals. The earliest documents relating to the woods of Dartmoor are the 1587 Court Rolls of the Manor of Lydford and the 1608 record of the Court of Survey; the former names William Bowden as "having cut oak in Black Tor Beare", and the latter refers to commoners taking all things that may do them good "saving whert (which they take to be greene oke) ...". In the chapter of Worth's Dartmoor (3rd impression 1981) headed "the Ancient Dwarfed Oak Woods of Dartmoor", there is at page 87 a reference to a document "without date but early seventeenth century entitled 'Review of Woods' ", which indicates that the cutting of wood on Dartmoor could lawfully be arranged. The Copse (as a wood) may at one time have extended up to beyond Sandy Ford to the Forest (as now known). He knew of no other documents referring to the Copse before 1830, when Miss Dixon in her Journal for 27 May says: "All along the side of the hill overlooking the course of the West Ockment, is a growth of dwarf oak, mostly quite young ... This place which is known by the name of Blackator Copse ... (it) is certainly a remarkable place ... on account among other reasons) of the singular disposition of the bushes and trees which extend over a space of perhaps, upwards of ten acres ..."; see Worth supra at page 88. He (the witness) thought the site very unfavourable for woodland: the oldest tree he estimated to be 134 years, but most of the trees (as opposed to scrub) he estimated between 30 and 90 years old. In 1921 Mr G T Harris, an ecologist and historian made a study of Wistman's Wood, Piles Wood and Black Tor Copse, describing the young trees as numerous and vigorous, see Transaction of the Devonshire Association vol 53, and the quotations from it in Worth supra. The trees (the witness said) are a mixture of multiple stems (sprung from the same stool) and single stems: they could be naturally caused or could have resulted from cutting in the early 17th century as described in the said "Review". That neither Harris nor Worth remember cutting in their time is an indication that there has been none during this century. For taking wood the Copse is inaccessible in that there is no track to it beyond that (marked on the Register map) which ends at the West Okement water intake (about half a mile from the Copse lower down the River), and indeed to get from this track to the Copse you have to cross a swampy/boggy area. The only way in which substantial pieces of wood could be removed would be by horses and he knew of no record of this having ever taking place. He found no evidence documentary or on the ground of any tree planting; there are now plenty of very young trees saplings and scrub oaks, which would grow if left to themselves; but the numbers of sheep and ponies in the area have increased since the last war, and the Nature Conservancy Council had good reason to worry about future regeneration unless somehow they could fence for short periods small trees (those between 10 and 20 years). He thought that an increase in winter grazing between November and April, particularly March and April could for regeneration be critical.



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Mr David William Bubear who as Waterworks Superintendent since 1968 has gone to the Copse approximately once a week and before then visited it a few times a year, in the course of his oral evidence said (in effect):- In the Copse he had seen no activity apart from grazing and in particular he had not seen any gathering of wood, or taking timber or coppice or any other interference with trees, or seen anyone trying to dig up turf (there is some along the Riverbank and around the larger boulders). He had seen the odd fisherman (there are only very small fish in the River: brown or brook trout).

Mr Edmund James Hain who has been a National Park Ranger since 1973, who has known the Copse for about 40 years and whose visits varied between twice a month and sometimes every 3 months and more often in the summer than in the winter, in the course of his oral evidence said (in effect):- Basically he had never seen anyone cutting trees for firewood or collecting turf or collecting soil or taking stone or gravel; stone would be bits of granite; there is some gravel in the streams. he had dealt with complaints about camping and the burning of dead wood for fires; fires would not be likely to spread due to the rocky nature of the ground. He had seen sheep there; for shelter mainly.

Mr Bradley summarised the main scientific interest of the Copse:- A rare example (there are only 3 in Dartmoor) of a predominantly oak wood growing at high elevation (1300 feet) on an isolated site; mainly English Oak (*quercus robur*), which is not common in the West Country, the Oaks there usually being sessile (*quercus petraea*). The dwarfed and gnarled trees are heavily clothed with epiphytes. A wide range of plants and animals survive in the protection of the rough granite boulders (clitter); the species recorded are 133 lichens, 44 bryophytes, 70 birds, 18 butterflies and 11 mammals.

Against the Objection, Mr William John Leonard Heard who of the Okehampton Hamlets and Okehampton Borough Commoners Committee is chairman of their Hamlets section and was authorised to speak at this hearing for their Borough section, and who has all his life (born 1927) known the Unit Land, his father having grazed it since 1924 and he himself since 1943, gave oral evidence in the course of which he produced the documents specified in Part III of the First Schedule hereto. He said (in effect):- Cattle have grazed the Copse as well as eating ivy from the trees; they go there for shelter; it is part of the common (meaning the Main Unit Land). There is a track that leads near to the 72 acres as marked on the Register map (meaning that which ends about 250 yards north of the most northerly of the Black Tor Summits). He had never seen anyone exercise a right of turbary or estovers or taking sand or stone from the Copse. No request had ever been made to the Committee to fence small parts of the Copse as had been mentioned by Mr Bradley and he could not say how the Committee would regard such a request, although he personally would not disagree. On behalf of the Committee he favoured the view that cattle be allowed to go into the Copse as they had always done. He thought it would be quite easy for pack horses to get to the Copse, only not by the River but from higher up.

After Mr Heard had given his evidence, Lady Sayer from whom I have a letter dated 15 June 1983 saying that she and her husband withdraw their claim to Venville rights over Blacktor Copse (or Blacktor Beare), made some observations about the position of Venville tenants, referring to the 1976-1977 decisions specified in



Part V of the First Schedule hereto. Disagreeing in some respects, Mr Woodward produced (OC/2) a copy letter dated 25 March 1976 from Mr D M Scott and a copy memorandum dated 15 September 1976 from the County Secretary to the Dartmoor National Park Office (OC/3), an extract from the presentment of the Jury as a Survey for the Forest of Dartmoor 1609, and (OC/4) a list of persons who had paid Tavistock rents; he also referred me to the notes to section 2 of the Commons Act 1876 in Halsbury Statutes.

After discussion as to whether I should finally deal with Duchy Objection No. 455 (about the 72 acres) without first considering at least in a general way the 19 registrations in the Rights Section, Mr Heard continued his evidence, dealing with Objections Nos. 277, 278, 279 and 290 made by the Commoners Committee the grounds being: "the rights" at Entry Nos. 56, 75, 76, 311, 315, 316, 321, 324, 325, 326, 327, 329, 331, 337 to 353 inclusive, 361, 370 and 380 "does not exist at all". He said (in effect):- He was a member of the Committee which made the Objections. He had been chairman for 2 years and vice-chairman for 10 years. Approximately the Committee had about 48 members who had land in Okehampton Hamlets and about 60 members who had land in Okehampton Borough. The Committee considered that all registrations or rights attached to land in Okehampton Hamlets or to land in Okehampton Borough were acceptable; this view was expressed at a recent meeting (in 1983) which he had attended; it followed from this view that the registration at Entry No. 361 (Mrs M L Medland) which did not include a right of grazing but which related to land in Okehampton Borough was all right (and should not therefore have been included in Objection No. 280). As to the other registrations mentioned in the said Objections, including those listed at page 3 of OC/5 (although not objected to this list includes Entry No. 450 made on the application of Francis Thorne Ware of a right attached to Leave House in Belstone): he (the witness) had never seen anybody from the lands mentioned in the registrations so listed exercise rights for grazing ponies, cattle or sheep or any other rights such as taking sticks or turf. He was out on the Common nearly every day in the winter and frequently in the summer. Lambs are marked in mid May; sheep are brought in to shear early in July, and dipping is during the 3rd week of that month. Cows are brought in for calving in April, for dipping early in July and for brucellosis tests at various times as may be convenient to the vet and the herd concerned. The ponies are drifted in October. The sheep (Scotch black face sheep) have ear-marks and brands; the cattle have ear-marks and/or tags and are branded; ponies have ear-marks and/or tags and branding; branding is now dying out. He had not noticed any unmarked animals. The marks on the sheep could be identified from the stock books (OC/6, OC/7 and OC/8). He had never seen animals from the lands mentioned in the registrations in the said list (meaning never on the Main Unit Land).

In reply to questions by Lady Sayer, Mr Heard said (in effect):- All ratepayers claimed a right on the Moor (meaning the Main Unit Land). For a long time the Ministry of Defence paid (for their use of the Moor) compensation to all householders; so much money being allocated to each Council, that is to the Parish Council and to the Borough Council who divided it according to rateable values. People such as shop-keepers who might not have any "agricultural land" received "Common money", although they had no land to which a grazing right could reasonably be attached; however other rights such as turbary, estovers and taking stone could be attached to lands from which grazing might be unreasonable. The money distributions were in cash; perhaps 4 or 5 shillings for each householder; for the



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Parish of Okehampton Hamlets the distribution was on the second Saturday in November, and for the Borough (he thought) on another day. He did not know whether the Ministry of Defence were cutting down the compensation for people who did not exercise their rights; there might be an argument because some people who had not registered wanted to be paid all the same.

Mr Heard in answer to other questions explained that when he said that people were paid for disturbance, he meant that it was for not being allowed on the common all the time; and also explained that list OC/4 was not a full list of all the Venville payments that might have been made to the Duchy.

Next (6 July) Mrs Canning dealt with the North Devon Water Board (Land Section) Objection No. 502 the grounds of which are that the parts of the Main Unit Land coloured pink on the plans enclosed therewith were not common land at the date of the registration; on plan No. 1 are marked 3 pieces being the same as the two more easterly of the 3 pieces marked "D" on the Register map and as the piece thereon marked "E"; and on the other plan No. 2 are marked 2 pieces both on the east side of the West Okehampton River, one being the most westerly of the said 3 pieces marked "D" on the Register map and the other (much larger) being a short distance to the south. She also dealt with the Board's (Rights Section) Objection No. 520 the grounds of which are that the rights of common do not extend to the parts of the Unit Land coloured green on the plan enclosed or should be modified to the extent necessary to enable the Board to exercise their rights: the said plan showed a strip of land about $\frac{1}{2}$ a mile long and about 25 feet wide extending northwards from the most southerly of the last mentioned pieces. In the course of her oral evidence Mrs Canning produced the documents specified in Part IV of the First Schedule hereto.

By the 1902 conveyance (FGC/301) there was conveyed to the Mayor Alderman and Burgesses of the Borough of Okehampton ("the Corporation") a piece of land 60 feet wide and 83 feet long and on the map annexed called "filter beds"; Mrs Canning identified this plot with that marked "E" on the Register map. By the 1934 conveyance (FGC/305) HRH Prince of Wales Duke of Cornwall granted to the Corporation a licence to maintain in perpetuity the reservoir and intake and to maintain in perpetuity the pipes as indicated on the map herein referred to; on this map are marked "A reservoir (Okehampton Corporation Water Works)" by Red-a-the-Brook and "B Filter beds (Okehampton Corporation Water Works)" by Moor Brook; Mrs Canning identified A and B with the two more easterly of the 3 pieces marked "D" on the Register map. By the 1947 deed (FGC/302) the Board after reciting the North Devon Water Work Board Act 1945 authorising them to purchase for the purpose of their water undertaking the common lands therein mentioned, reciting the appointment of a Committee of Commoners pursuant to the Lands Clauses Consolidation Act 1845, reciting a conveyance dated 21 October 1947 by which the lands coloured green and yellow on the plan were conveyed to them, and reciting agreement with the Committee to pay them at £10 and their receipt of such payment on 12 November 1947, it was by this deed witnessed (a) that the common rights in the green and yellow land had been purchased and (b) that the



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common rights in the pink land had been freed from common rights for the purposes of the exercise by the Board of the easements and other rights in the Schedule hereto described (being rights to lay pipes etc); Mrs Canning identified the green and yellow land with the 2 pieces marked on the said Objection No. 502 plan No. 2 and the pink land with the strip mentioned in Objection No. 520. The works for which provision was made by these deeds are still in existence. Mrs Canning contended that the grounds of both Objections had been established and that effect could conveniently be given to the Rights Section Objection No. 520 by every registration which on other grounds I thought fit to confirm being made subject to the provision set out in paragraph 2 of the Decision Table being the Second Schedule hereto. Mr Woodward on behalf of the Commons Committee accepted this contention and agreed that the confirmed registrations should be modified on the lines suggested by Mrs Canning. Nobody at the hearing suggesting otherwise, my decision is accordingly.

Next Lady Sayer gave oral evidence by reference to a written statement (S/301) in which she referred to the documents specified in Part V of the First Schedule hereto and said (in effect):- The Main Unit Land is contiguous to the Forest and is part of the Commons of Devon upon which Venville rights obtain. The Duchy had withdrawn their Objection to these rights (not only at, but in the 1977 letter written before this hearing). The Commons Committee Objection No. 227 was contrary to the decisions and the printed documents to which she referred. When dealing with modern usage the 1956 Memorandum of Evidence at page 1161 as regards modern usage described the present state of affairs can be seen to be thoroughly unsatisfactory and when the legal position comes to be considered the situation appears to be little short of "chaotic"; it is upon this chaotic situation and the present day uncertainty that Mr Woodward seeks to build up his client's case. She and others were interested in registering and upholding ancient rights attached to their several holdings which were and are of great value. It is misleading to suggest that only Commons of Devon owned by the Duchy can properly be subject to Venville rights for which Venville dues are paid; there are a number of acknowledged Commons of Devon which are not Duchy owned now.

In reply to questions by Mr Woodward, Lady Sayer amplified her view as to the effect of the documents she produced.

Next Mr C Sturmer who has been since 1970 the Duchy land agent for Dartmoor and has been connected with Dartmoor since 1965, in the course of his oral evidence produced the documents specified in Part VI of the First Schedule hereto. He said (in effect):- As regards Objection No. 44 (no piscary), it had been the practice of the Duchy for many years at least before the turn of the century to issue fishing licences for salmon and trout; as the correspondence showed there had been co-operation with the Water Authority as regards checking fishing permits issued by the Duchy; people without the necessary licences are reported to the Duchy and appropriate action is taken, in case of persistent offences they would usually be given a warning of possible prosecution and this was enough; he had not been involved in a prosecution himself, the form of the fishing licences had not been changed for many years. As to Objection No. 443 (no rights for shooting), the Duchy does not permit the shooting or capture of any animal on the Forest or the other commons without a licence;



prosecutions had taken place in the past although they had not been involved in his time; any person caught with a gun on open land is immediately warned and asked to leave Duchy property; he could confirm this because he has done it on several occasions in the last 10 years; no person had ever told him that they had a right to shoot or capture wild animals; hunting is also by licence of the Duchy had been granted specified areas, (1) Spooners and West Dartmoor; (2) the Dartmoor and (3) Mid Devon; fox and hare. As to Objection No. 445 (no rights for pannage); he had never heard pigs being turned out (on the Main Unit Land); there are oak trees but in Dartmoor they are very rare and acorns have not been taken by pigs. As to Objection No. 446 (no rights of "placing of Colonies of Bees"), he had no knowledge of there being any bee keeping on the Main Unit Land.

On the day after the hearing (8 July) I inspected the Main Unit Land accompanied by Mr Bradley, Mr C Sturmer, Mr W J Leonard Heard and his brother Mr Kenneth C Heard; in a landrover starting from Hughslade Farm and going to the end of the track a short distance north of Blacktor (1,553 feet wide); and then on foot to the summit; from there I had a good view of the Copse and the West Okement River (several hundred feet below). Also some months previously I had been in a landrover over the north and east parts of the Main Unit Land in the course of an inspection arising out of my hearings about the Forest of Dartmoor (CL 164).

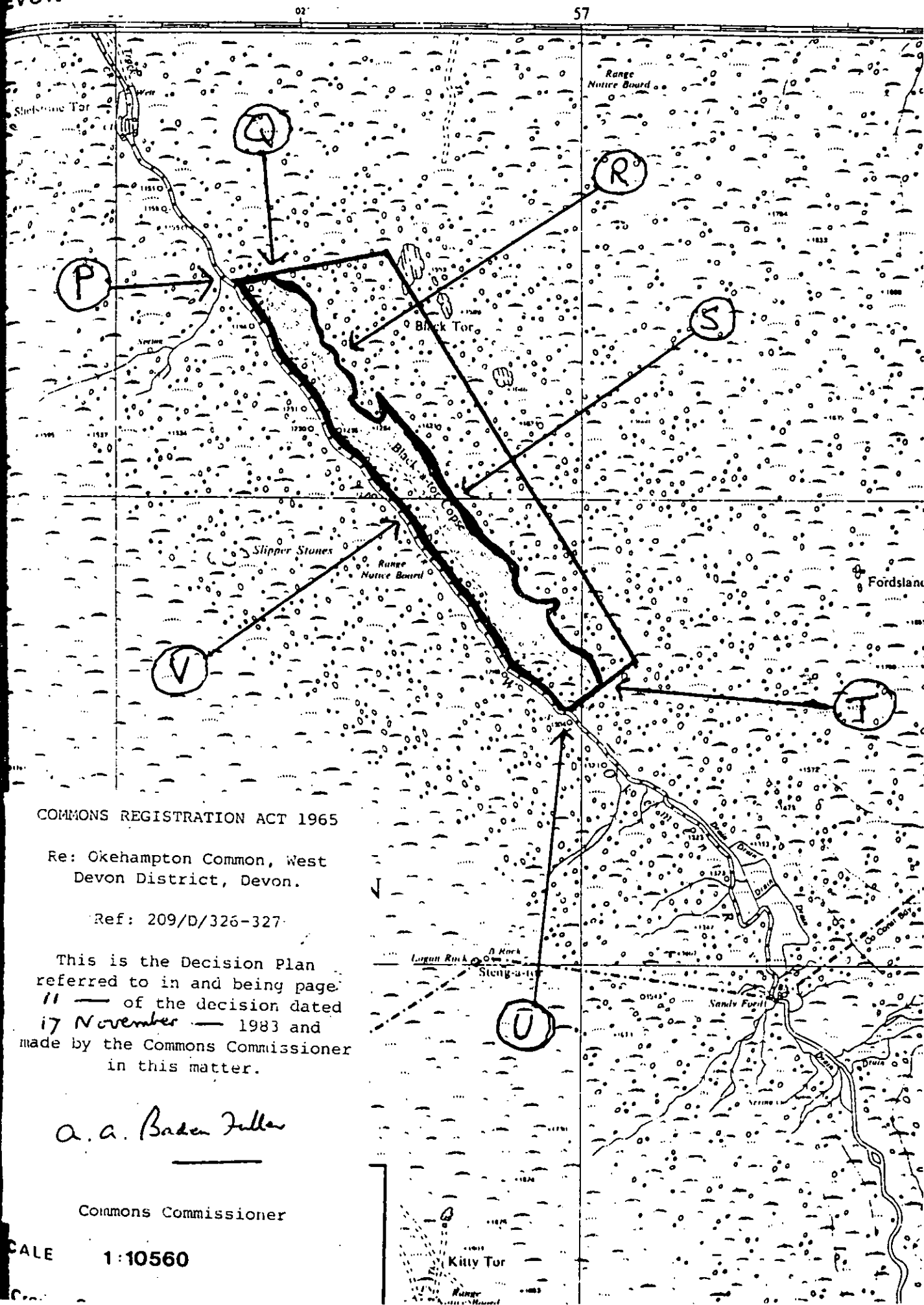
As to the question most discussed at the hearing, about the 72 acres specified in Duchy Objection No. 455:- The making of the 1961 agreement between the Duchy and the Nature Conservancy could not affect the rights of the commoners (it did not purport to do so) or provide any evidence against them that the 72 acres was not part of Okehampton Common as generally known. The boundaries of the 72 acres so specified (apart from River) are three straight lines arbitrarily drawn representing no feature on the ground; there was no evidence that either before or after the 1961 agreement the exercise of common rights was related in any way to these straight line boundaries; and on appearance I find there could be no such relation. Accordingly I reject the Objection to the extent that it claims to exclude from the registration the whole of the 72 acres. But this leaves open the question whether there is now and has always been, a distinct piece of land known as Black Tor Copse corresponding (perhaps a little more or less) to the area on which oak and other copse wood are now growing; which ought to be excluded from the registration. No-one doubted there is a large area known as Okehampton Common which with the possible exception of Black Tor Copse is the same as the Main Unit Land (with the possible addition of the Triangle). The test is I think that propounded by Jessel MR in *Commissioners v Glass* (1874) 19 Eq. 134 at page 151:- "what is this thing called?" which test I have discussed in my decision dated 30 June 1983 about the Forest of Dartmoor (CL 164) under the heading "Venville"; the question I have to consider is therefore whether there is a distinct piece of land known as Black Tor Copse and if so whether it (this piece) is included in the land called Okehampton Common. As to this there are conflicting considerations. In favour of it being distinct I have that on successive Ordnance Survey Maps it is marked with dotted lines as a distinct area named "Black-a-tor Copse"; as I viewed it from the top of Black Tor it appeared distinct; I have the documents referred to by Mr Barkham in which it is distinctly treated; and Mr Buear and Mr Hain gave their evidence if not expressly at least impliedly so regarding it. But contra it is not fenced; as emphasised by Mr Heard stock can and do cross from the surrounding Okehampton Common and go among the oak



and other vegetation within the Ordnance Survey dotted lines. On successive Ordnance Survey Maps the Copse is drawn with dotted lines in slightly different places indicating that the places where the oak and coppice wood has been changes from time to time; the circumstance is not against the Copse being a distinct piece of land, because distinction is not I think lost by accretions. Nor is distinction lost because the boundary of the Copse cannot be defined without some arbitrariness. That stock wander there for shelter and/or grazing is relevant but not decisive; I find there was no taking of turf, sticks or stone there. Balancing these conflicting considerations as best I can, my decision is that there is a distinct piece of land known as Black Tor Copse that is not part of Okehampton Common and that this distinct piece should therefore be excluded from the registration.

During my inspection I told those who accompanied me that I was then inclined to give such a decision, and while sitting on the top of Blacktor while we discussed how for registration purposes that I reached such a decision that such a distinct piece of land best be defined. Mr Kenneth Heard while not agreeing with the decision helpfully joined in the discussion as to the form of definition which would be most convenient. It seemed that the north-east boundary should be by reference to the latest OS map 1/10,560 and the south-west boundary should be the River, but so that for the remainder of the Unit Land there should be right for all purposes of passage 15 feet wide for persons on foot and for sheep cattle ponies and other animals. The said boundaries are shown by a thick black line PQIRSTUVP on the plan ("the Decision Plan") being page 11 of this decision. My decision is accordingly, see paragraph 1 of the Decision Table being the Second Schedule hereto.

The questions at the hearing between Lady Sayer and Mr Woodward as to Venville rights were essentially the same as those about which I had evidence and argument in much greater detail in relation to The Forest (Register Unit No. CL 164) and Ditsworthy Warren and Ringmoor Down (Register Unit No. CL 188), and upon which I had given decisions dated 30 June 1983 signed before this CL 155 hearing but not published until afterwards. That the Duchy as owners concede that these rights were properly registered is some evidence that the rights existed when the registrations were made, but in my view such evidence is not conclusive, particularly as the Commoners have themselves made Objections. In relation to their Objections, the evidence provided by the Duchy concession is I think of negligible weight, because I do not know why the Duchy withdrew their Objection, because the information I have about the undisputed rights suggests that the Duchy's interest as owner in the grazing of the Main Unit Land is negligible and because it may be that the withdrawal by the Duchy of their Objection was merely to avoid being involved in a legal controversy the outcome of which could affect them little. There was no evidence at this Main Unit Land hearing or any other hearing I have had relating to Dartmoor that any rights of common attached to the lands mentioned in the registrations at Entry Nos. 75, 76 and 380 have within living memory ever been exercised over the Main Unit Land; and I have the evidence of Mr Heard (summarised above) that they have not. Having regard to the situation of these lands the unreasonableness of any such exercise could not be different from the unreasonableness which I have found to exist in relation to the CL 188 land. I find therefore that such rights have never been exercised over the Unit Land. For the reasons therein set out in my said CL 188 decision, I reject the submissions of Lady Sayer in relation to the Main Unit Land, and accordingly I decide that the registrations at Entry Nos. 75, 76 and 380 were not properly made.





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None of the remaining registrations (except No. 361) mentioned in the Commons Committee Objections Nos. 277, 278, 279 and 280 was at the hearing supported by any evidence or argument. The evidence of Mr Heard above summarised is against them. Upon the considerations set out in the preceding paragraph, my decision is the same, that is that the registrations (except No. 361) were not properly made.

None of the registrations mentioned in County Council Objection No. 1142, these grounds of which "that the right does not exist at all" applicable to Entry Nos. 390, 391 and 444 was at the hearing supported by any evidence or argument. That at Entry No. 444 (Mr Reddaway) was as above recorded in March expressly abandoned. Those at Entry Nos. 390 and 391 are of rights attached to land in Zeal and South Tawton, so the evidence given generally by Mr Heard was against them; because they are mentioned in the list OC/5 to which he referred, I consider his evidence reason enough, no-one at the hearing suggesting otherwise, for my concluding that these registrations too should be avoided.

The remaining registrations, being those not particularly mentioned in any Objection, are in question in these proceedings by reason of the Land Section Objections Nos. 455 and 502 and sub-section (7) of section 5 of the Commons Registration Act 1965; and I am by the Act required to inquire into them, see re Sutton 1982 1 WLR 647.

Mr Woodward pointed out that the registration at Entry No. 450 (Mr Francis Thomas Ware) although not particularly mentioned in any CL 155 Objection, is identical with the Triangle registration at CL 135 at Entry No. 361 to which is applicable CL 135 Objection No. 283 made by the Okehampton Hamlets and Okehampton Borough Commons Committee. The evidence of Mr Heard is against this Main Unit Land registration, so I conclude that it was not properly made, but because the procedure position is obscure, I give to Mr Ware and those claiming under him liberty to apply to have this paragraph of this decision altered.

Of the other registrations so remaining those listed in paragraph 4 of the Second Schedule hereto (about 100 in all) are of rights expressed as "to stray ...". For the reasons set out under the heading "Straying" in my CL 164 (The Forest of Dartmoor) decision dated 30 June 1983, I consider that the registration of a right to stray is ambiguous, and therefore ought not to be confirmed unless modified so as to show clearly that it is not sought to register a right by reason of vicinage (within the legal meaning of these words) or any other right not being a "right of common" as used in the 1965 Act. Such rights are in my opinion "unsustainable" within the meaning of the judgment in re Sutton supra. But in accordance with such judgment, I must give the persons concerned with these registrations an opportunity of being heard before I give a final decision about them. The evidence of Mr Heard about straying above summarised shows that it is unlikely that those who made these registrations will wish to support them; as I understood him, the circumstance that now and for many years animals are able and sometimes (perhaps often) do roam and wander across the boundary of the Unit Land was thought by the Commons Association to be by itself enough to establish a registerable right to stray; but as explained in my said CL 188 decision about this they are mistaken, see Jones v Robin (1847) 10 QB 581 and 620. For this reason I think it unlikely that if I were now to adjourn the proceeding anyone would attend the adjourned hearing to establish a right to stray; so to save the expense of an unnecessary hearing, subject to the liberty to apply mentioned in the Second Schedule hereto my decision is that none of these registrations was properly made.



The registrations at Entry Nos. 174, 272, 286 and 398 are in conflict. At the hearing no evidence was offered about this conflict. Before meeting Messrs Heard and Sturmer for my said inspection, I motored by the lands referred to in column 5 of these registrations. During my inspection in reply to a question by me, Mr Heard said he thought the land mentioned in Entry No. 286 made on the application of Mr D O Soby as tenant was owned by Mr J G Wooldridge (the applicant for the registration at Entry No. 398 as owner), and that he had now taken over this land. Since the hearing I have looked at copies of the applications pursuant to which the registrations were made; those leading to Entry Nos. 174, 272 and 286 include a plan of the land referred to in column 5 of the Register; in that leading to Entry No. 398 the attached land is described by reference to Ordnance Survey numbers on maps of which I have no copy. I am required to resolve this conflict, and with the very little information I have, my decision is unavoidably arbitrary. I prefer the registration at Entry No. 398 to that at Entry No. 286 and shall therefore avoid the latter altogether. I prefer the registrations at Entry Nos. 174 and 272 to that at Entry No. 398, and shall therefore modify column 5 of the registration at Entry No. 398 by excluding any of the land described in column 5 of the registrations at Entry Nos. 174 and 272; but I infer that the inclusion of these lands in the application of Mr Wooldridge was a mistake, and I shall therefore not reduce the numbers of the animals specified in Entry No. 398. The plan attached to the application for the registration at Entry Nos. 174 and 272 are on a different scale; as I read them the lands to which it is claimed the rights are attached although very near do not overlap, but in case I am mistaken about this (any overlap is small), I prefer the registration at Entry No. 174 (Mr F J Doughty) to that at Entry No. 272 (the Rev A J Radford) and accordingly I shall modify column 5 of the latter registration by deleting the overlap if any. Subject as above, the registrations at Entry Nos. 174, 272 and 398 I treat as coming under the considerations set out as regards the remainder of the Main Unit Land registrations considered next hereinafter.

As to all the other registrations (including those at Nos. 174, 272, 361 and 398) to which no objection has been made other than Objections Nos. 443, 44, 445 and 446 (no shooting, piscary, pannage or bees) subject to giving effect to such objections and to the Water Authority Provision set out in paragraph 2 of the said Decision Table, nobody at the hearing suggested that they were not properly made. It may be that even if there was no evidence supporting these registrations, I ought to treat them as properly made, see the recent High Court decision in re West Anstey reported in The Times Newspaper of 17 October 1983. But because a possibly contrary view has been judicially expressed in re Sutton 1982 1 WLR 647, I now consider whether the evidence and information available to me sufficiently establishes the regularity of these registrations.

As to the registrations of rights attached to land in the Borough of Okehampton:- A right for all persons having land in a Borough, or by all occupiers in or ratepayers of a borough is not as such recognised by law, see *Smith v Gatewood* (1607) Cro Jac 152 and 6 Co Rep 59b and the numerous later cases in which the judgment then given has been explained; but there is no reason why practically identical rights of common should not be all applicable to a number of pieces of land provided the evidence about them shows that the facts relating to all of them is enough to show that each has a separate right, see *de la Warr v Miles* (1881) 17 Ch D 353 at pages 585 and 586. It may be that many of those living in the



Borough of Okehampton who have registered rights often walked over the Main Unit Land for air or exercise; but by doing this, they are not exercising any rights which have been registered; so I have no evidence of any actual exercise of the rights. But contra, the main Unit Land is called "Okehampton Common" and is so situated in relation to the Borough that it is probable that rights such as have been registered were at one time extensively used by some of those having land in the Borough. The Secretary of State for Defence is currently paying compensation for disturbance of the rights by use of the Main Unit Land for military purposes; although not much was said about these purposes at the hearing, they have been frequently mentioned at other hearings, and during my inspections arising out of such hearings I saw the public notices warning the public about the military activities (during the week but not at weekends so I understood) and about the effect such use had on the grazing there. It was implicit in what was said at the hearing, and I was so told at other hearings that this military use substantially as now has gone on for at least 50 years, and possibly much longer and for it the Secretary of State and before him the War Office have paid compensation. Payment of compensation for disturbance of rights is cogent evidence that the rights do exist. I infer that those who were sufficiently interested to claim a share of this compensation would also be sufficiently interested to apply for the registrations I am now considering. If the applications for these rights had never included Black-a-tor Copse or any of the Water Authority land and had made no mention of shooting, piscary, or pannage, they would all in the absence of any objection have become final under Section 7 of the Commons Registration Act 1965 without any hearing before a Commons Commissioner. In the absence of any Objection or of any suggestion that these registrations should not stand, although the evidence about any one of them is not particularised, I consider I can properly conclude that they were all properly made, and my decision is accordingly.

As to the registrations of rights attached to land in the parish of Okehampton Hamlets:- It was implicit that in the evidence of Mr Heard that he and other members of the Commoners Association knew those of the Parish who had land from which rights had been exercised or were properly exercisable and that the Association in not objecting to these registrations with this knowledge considered that they were properly made. With this evidence and also that mentioned in the preceding paragraph, I reach a similar conclusion, and my decision is the same accordingly.

Because much of this decision relating to the Main Unit Land concerns persons who were not present or represented at the hearing, or is dependent on matters of detail about which there may have been some mistake which I ought to correct without putting the persons concerned to the expense of an appeal, I give liberty to apply to any person affected by any such mistake.

The effect of the decisions hereinbefore contained is said in Part I of the Decision Table being the Second Schedule hereto. Where any liberty to apply is hereinbefore given, it should be exercised as in such Part specified. Such Schedule should be treated as part of this decision.

As above stated it was at the hearing agreed that my decision as regards the Triangle (CL135) should as near as might be, be the same as my Main Unit Land decision. It cannot be the same in all respects because I have not before me any dispute relating to the Land Section and because some of the Rights Section registrations being undisputed have become final and I have no jurisdiction over them.



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South West Water Authority are not concerned with the Triangle, so the Water Authority Provision mentioned in Part I of the Decision Table is not applicable to it.

The registration at the Triangle Entry No. 361 made on the application of Mr F T Ware is within the Triangle Objection No. 283, unlike the corresponding Main Unit Land registration at Entry No. 444 which is not within the corresponding Main Unit Land Objection No. 279. So the liberty to apply hereinbefore granted in respect of the Main Unit Land registration at Entry No. 444 will not be applicable to the Triangle Entry No. 361.

I have on page 1 of this decision when listing the Triangle Rights Section registrations in dispute included all except the 38 registrations which are in the Register listed as having become final (see Entry Nos. 372 and 373) and except those at Entry Nos. 248, 261 and 308 which have been cancelled. However I feel doubt whether I have jurisdiction over the Triangle registrations at Entry Nos. 332, 334, 335, 337, 338, 340, 341, 342, 351 and 354 (all made on the application of Lt-Col V W Calmady-Hamlyn) which are in the Register stated to be in conflict and which are not (I suppose for this reason) included in the list of those which have become final. There is no Objection applicable to these registrations and it is not clear from the Register with what other Triangle registrations they are in conflict. Because all these registrations are of a right "to stray", I have avoided them, but I give to Lt-Col V W Calmady-Hamlyn liberty to apply to change this paragraph of this decision.

All the Triangle registrations have corresponding Main Unit Land registrations as stated in Part I of the said Decision Table. I have not save where the context requires, mentioned the ~~same~~ Triangle Rights Section registrations which are in the Register recorded as having become final.

Subject as above I consider that my Triangle decision should be the same as that given by me in respect of the Main Unit Land, that is to say my Triangle decision is to the effect set out in Part II of the Decision Table being the Second 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 the decision is sent to him, require me to state a case for the decision of the High Court.

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OVER



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FIRST SCHEDULE
(Documents produced)

Part I: on behalf of Mrs E M Joy

EGJ/1	3 October 1978	Conveyance by J E N Tritton to Mr E G and Mrs R M Joy of dwellinghouse, buildings and farm, Higher West Bowden containing 23.838 acres.
EGJ/2	29 August 1963	Conveyance by E P Danby to D A Hodge of the premises.

Part II: on behalf of Nature Conservancy Council

NC/1	--	Map 30" x 25" showing Unit Land with Ownership details: A = Duchy of Cornwall, B = ECC Quarries, C = Public Trustee, D and E = North Devon Water Board; Black Tor Copse shaded.
NC/2	--	Map showing "Proposed Forest Nature Reserve".
NC/3	29 June 1969	Aerial photograph No. 6963, showing East Okement River and Black Tor Copse.
NC/4	28 September 1961	Agreement signed on behalf of Duchy and Nature Conservancy headed "Forest Nature Reserves: Dartmoor; Wistman's Wood and Black Tor Copse; with plans attached.
NC/5	21 September Eliz Reg xxix (1587)	Public Record Office copy (1 page) from Exchequer Augmentation Rentals & Surveys: SC2/167/7.
NC/6	1608	Certified copy (5 pages) from Records of Duchy of Cornwall: Court of Survey.
NC/6, bis	--	South West Region, Nature Conservation Review Site Index. W66. Black Tor Copse, Devon. 6 ha. Grade I.
NC/7	--	Latest OS Survey, 1:10560 with 1961 agreement area transcribed.
NC/8	--	Manuscript statement by Mr Bradley as to main scientific interest.



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Part III: produced on behalf of Okehampton Hamlets
and Okehampton Borough Commoners Committee

OC/1	28 January 1983	Letter from County Council to Okehampton Hamlets Parish Council.
OC/2	11 March 1983	Letter from Kellock and Johnson to Burd Pearse Prickman & Brown enclosing copy letter 25 March 1976 from D M Scott to Paul Williams & Partners for Shaugh Commoners Association and copy letter 15 September 1976 from County Secretary of Dartmoor National Park Officer.
OC/3	1875	Paper headed "BELSTONE 1875", being extract from the Presentment of the Jury at a Survey Court for the Forest of Dartmoor, AD 1609.
OC/4	--	Statement of Venville rents received by Duchy being Duchy/68, exhibit at the CL164 hearing (April, June, October 1982).
OC/5	--	Analysis of Objections and their effect on Okehampton Hamlet Commoners, showing nature of objection and action recommended. (4 pages).
OC/6	--	Scotch Sheep Breeders Association book, 1983.
OC/7	--	Ditto, 1962.
OC/8	--	Ditto, 1933.



Part IV: on behalf of South West Water Authority

- FGC/301 18 June 1902 Conveyance by William Augustus Francken and others together entitled to 1/6th, 1/3rd, 1/3rd and 1/6th shares in the granted and conveyed to Mayor Aldermen and Burgesses of Okehampton (1) piece of land drawn on plan and surrounded with pink line with dimensions indicated, (2) licence to construct and lay pipes etc within two feet on either side of the red line drawn on said plan (3) free rights of ingress etc and (4) right to abstract water etc, with covenants by the Corporation.
- FGC/302 18 November 1947 Vesting deed by North Devon Water Board pursuant to North Devon Water Board Act 1945 and reciting resolution of a meeting of persons entitled to commonable or other rights and a conveyance dated 21 October 1947 by the Kings Most Excellent Majesty and the payment on 12 November 1947 of £10 to the said committee, it was the Board purchased and taken commonable and other rights therein specified.
- ~~FGC/303~~
- FGC/304 12 November 1947 Said memorandum of receipt by the Commoners Committee with plan attached.
- FGC/305 9 May 1934 Deed by HRH EACGAPD Prince of Wales Duke of Cornwall granting licence to Mayor Aldermen and Burgesses of Okehampton to maintain the dam, weirs, reservoir and intake in the position indicated on the map attached used by the Corporation on the stream known as Redaven Brook.

Part V: produced or referred to by Lady Sayer

- S/301 5/6 July 1983 Paper (submissions) headed CL155 Okehampton Common, Registration Entry 1 and 75; Objection Nos. 442, 445, 277, 520. (seven pages) including precis of Salient Points, and dealing also with CL135 known as The Triangle.
- 18 October 1977 Letter from Duchy Solicitors to Admiral Sir G Sayer.



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- 17 February 1976
30 May 1977 Decisions of Chief Commons Commissioner, re Headland Warren (CL148) and re Hentnor Warren (CL190).
- 1890 Short History of the Rights of Common upon the Forest of Dartmoor: report of Stuart A Moore, with an introduction by Sir F Pollock, published by Dartmoor Preservation Association.
- May 1956 Memorandum of evidence submitted by Dartmoor Commoners Association to the Royal Commission on Common Land.
- 1967 (3rd
impression 1981) Dartmoor, compiled from the published works of R Hansford Worth.

Part VI: on behalf of Duchy

- Duchy/351 -- Specimen fishing licences, salmon week, salmon season, trout season, trout day and trout week.
- Duchy/352 28 March Letters about shooting.
8 June
22 August 1908
- 23 April and Letters about shooting.
24 May 1910
- 2 October 1981 Letter enclosing £5 rent for permission to shoot over Riddon Ridge.
- 22 July and Exchange of letters between Duchy and Devon
5 August 1953 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.
- Before 1900 Specimen grant by Warden of the Stannaries in Cornwall and Rider and Master Forester of the Forest and Chace of Dartmoor of licence to hunt with Harriers from 1 October 18-- to 31 May 18--.



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SECOND SCHEDULE
(Decision Table)

Part I: Main Unit Land, CL155

1. I CONFIRM the registration at Entry No. 1 in the Land Section with the MODIFICATION that there be removed from the Register: (a) the land shown coloured pink on the plans enclosed with Objection No. 502 made by North Devon Water Board; and (b) the land shown edged with a thick black line marked PQIRSTUVP on the Decision Plan, the northeast boundary being the same as the dotted line shown on the latest OS map 1/10,560 as the northeast boundary of Black-a-tor Copse and the southwest boundary being the River West Okement and with the further MODIFICATION that words be inserted after the description of the land in the second column of the registration showing that the registered land includes a right for all purposes of the land in this register unit of passing and repassing for persons on foot and for sheep, cattle, ponies and other animals over a strip of 15 feet wide measured northeastwards from the edge of the River West Okement towards and within the land known as Black-a-tor Copse.
2. For the purpose of enabling 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 will not extend over the part of the land in this register unit shown coloured green on the plan enclosed with Objection No. 520 made by North Devon Water Board (being the part on or under which are water pipes).
3. I REFUSE TO CONFIRM the following Rights Section registrations being all (except No. 361) mentioned in Objections Nos. 277, 278, 279 and 280 made by Okehampton Hamlets and Okehampton Borough Commoners Committee and all mentioned in Objection No. 1142 made by Devon County Council, that is to say:- (within the brackets are the corresponding Entry No. if any of the Triangle registration, and the name of the applicant):- No. 56 (none: J F Palmer), No. 75 (No. 35: G B Sayer and S R P Sayer), No. 76 (No. 36: D M Scott), No. 311 (No. 242: W H Down), No. 315 (No. 246: R Palmer), No. 316 (No. 247: A C Deeley), No. 231 (none: F Wright and G M Wright), No. 324 (No. 250: E M Glanfield and R D Glanfield), No. 325 (No. 251: E J Glanfield), No. 326 (No. 252: J L Cave Penny), No. 327 (No. 253: M E A Pike), No. 328 (No. 254: W S Pike), No. 329 (No. 255: C L Slade), No. 336 (No. 262: Holne Parish Lands Charity), No. 337 (No. 263: D M Scott), No. 338 (No. 264: H D & E M Pearce Gould), No. 339 (No. 265: L O Perkins), No. 340 (No. 266: A G Cousins), No. 341 (No. 267: P R Layne Joynt), No. 342 (No. 268: R E Adam), No. 343 (No. 269: L Jackson), No. 344 (No. 270: E H & I A Woodward), No. 345 (No. 271: F A Perryman), No. 346 (No. 272: J B Townsend), No. 347 (No. 273: F & A E Tozer), No. 348 (No. 274: R G & A B Mortimore), No. 349 (No. 275: P A Norrish), No. 350 (No. 276: G E J Gawthorn), No. 351 (No. 277: H & M I Clarkson), No. 352 (No. 278: M I Clarkson), No. 353 (No. 279: W H Norrish), No. 363 (No. 289 final: J W Matthew), No. 370 (W H Voaden), No. 371 (No. 294: J J Newcombe), No. 380 (No. 301: E N Smallwood), No. 390 (No. 310: E A J Worthington), No. 391 (No. 311: V E Knapman), No. 444 (No. 359: J W Reddaway).
4. Subject to the liberty to apply hereinafter mentioned I REFUSE TO CONFIRM the registrations at Entry Nos. 286 and 450 made on the application of D O Soby and F T Ware (Nos. 220 and 361 being the corresponding Triangle registrations).
5. Subject to the liberty to apply hereinafter mentioned I REFUSE TO CONFIRM the following registrations being of a right "to stray"



that is to say (within the brackets is the name of the applicant):-

No. 31 (C Heathman), No. 32 (C Heathman), No. 33 (J E Jones), No. 34 (E W Alford), No. 35 (E W Alford), No. 36 (F Dennis), No. 37 (L A Pellow), No. 38 (L Dawe), No. 39 (R J Ellis), No. 40 (H C Pratt), No. 41 (W L Cowley), No. 42 (A S G Daniel), No. 43 (J H & S M Willcocks), No. 44 (J H & S M Willcocks), No. 45 (H Friend), No. 46 (B W J Lavis), No. 47 (W P Fogerty), No. 48 (W P Fogerty), No. 49 (L J G Hockridge), No. 50 (C Horne), No. 51 (G W Alford), No. 52 (G W Alford), No. 53 (G R Alford), No. 54 (N S Heggadon), No. 55 (H E Pellow), No. 61 (T G G Dawe), No. 62 (E F Cullen), No. 63 (B W J Lavis), No. 73 (E M Dawe), No. 74 (O M Jury and Sons), No. 86 (W E E M Reddaway), No. 90 (H T Heathman), No. 91 (F W P May), No. 92 (M R Gloyn), No. 93 (M R Gloyn), No. 94 (C C & L G Gloyn), No. 95 (L G Gloyn), No. 96 (M G Gloyn), No. 97 (W F Bickle), No. 307 (M Pellow), No. 308 (M J Allen), No. 309 (E W Mayo), No. 310 (P D Garvey), No. 318 (D G Saunders), No. 319 (S G Saunders), No. 320 (S G Saunders), No. 322 (F Wright and G M M Wright), No. 359 (C A Orsler), No. 364 (J W Reddaway), No. 367 (R Hooley), No. 369 (J Friend), No. 387 (D E Paske), No. 389 (D W Reed), No. 396 (C Manning), No. 397 (T N A & J H A Clarke and R, L, D, H, Chamness), No. 401 (E R J Pugsley), No. 404 (A H Phillips), No. 405 (K M F Terry), No. 407 (J Cole), No. 408 (W A R Pearse), No. 409 (E F Ward), Nos. 412, 413, 414 (V W Calmady-Hamlyn), No. 415 (Devon County Council), No. 416 (T G G Dawe), Nos. 417 to 443 inclusive (V W Calmady-Hamlyn), No. 445 (D & R Hooley), No. 448 (J E & M G Chapman), No. 449 (H Littlejohns), No. 452 (R R Kelly), and No. 453 (J H Clark).

6. Subject to the liberty to apply hereinafter mentioned I REFUSE to confirm the registration at Entry No. 286 which is in conflict with the registrations at Entry Nos. 174 and 272 and which was made on the application of D O Soby (No. 220 being the corresponding Triangle registration).

7. Subject as regards Entry Nos. 174, 272, 286 and 398 to the liberty to apply hereinafter mentioned, I CONFIRM the Rights Section registrations at the Entry Nos. next hereinafter mentioned with the MODIFICATIONS that: (a) in column 4 the words "piscary", "shooting", "pannage", and "20 colonies of bees" where such words or any of them or any words to the like effect occur in any of the said registration be deleted; (b) at the end of the said column 4 there be inserted in all the registrations numbered as next hereinafter mentioned at the ends the words "subject to the Water Authority Provision in this Rights Section defined"; (c) in column 5 of the registrations at Entry Nos. 272, 394 and 398 be amended as in the next paragraph of this decision table is specified; and (d) all the said registrations be modified to the extent necessarily consequential on the removal from the Register of the man specified in paragraph 1 of this Decision Table that is to say (in brackets is stated the No. of the corresponding triangle registration if any and the name of the applicant):- that is to say:- No. 1 (---: D M & P D Brown), No. 2 (No. 1: W F Brett), No. 3 (---: D G Vick), No. 4 (No. 2, final: D E Tucker), No. 5 (---: D J Horwood), No. 6 (No. 3: W J Knapman), No. 7 (No. 12: T F Bennett), No. 8 (No. 4: B Bickle), No. 9 (No. 5: W F Brock), No. 10 (---: K Easterbrook), No. 11 (No. 6: H R Horne), No. 12 (No. 7: W K R Tippet), No. 13 (No. 8: H R Weaver), No. 14 (No. 9: H Westlake), No. 15 (---: W H Westlake), No. 16 (No. 10: N F Weston), No. 17 (No. 11: N W Willis), No. 18 (---: P N & B P Smart), No. 19 (---: A L Shobbrook), No. 20 (No. 13: B M Friendship), No. 21 (No. 14 final: M Carpenter), No. 22 (No. 15: W E Lodge), No. 23 (No. 16: E Warren), No. 24 (No. 17: A & E Hackridge), No. 25 (No. 18: R M Friend), No. 26 (No. 19: D G Packer), No. 27 (No. 20: D V Wills), No. 28 (No. 21: T W Marshall), No. 29 (No. 22: A Brian), No. 30 (No. 23: D C Shields), No. 57 (No. 24: N S J Piper), No. 58 (No. 25: W R Hawking), No. 59 (---: P T Cleave),



No. 64 (No. 26: A A H Elliott), No. 65 (No. 27: L V Lyke), No. 66 (No. 28: M J Williams), No. 67 (No. 29 final: H H Whitley), No. 68 (No. 30: L E Hines), No. 69 (No. 31: W J Hawking), No. 70 (No. 32: C G Jones), No. 71 (No. 33: W H Symons), No. 72 (No. 34 final: A J Squire), No. 77 (---: W W Wonnacott), No. 78 (No. 37: M Paltridge), No. 79 (No. 38: W J Paltridge), No. 80 (No. 39: F W Bawkins), No. 81 (No. 40: E R Kelly), No. 82 (---: D F Brown), No. 83 (No. 41: G R Cook), No. 84 (No. 42: H F M Hatch), No. 85 (No. 43: J & E H Yeo), No. 87 (No. 44: W H Voaden), No. 88 (No. 45: W Pedrick), No. 89 (No. 46 final: G P Mills), No. 98 (No. 48: K H Jewell), No. 99 (No. 49: J Chappell), No. 100 (---: W T Latchford), No. 101 (No. 50: F J Ward), No. 102 (No. 51: J D P Bickford), No. 103 (No. 52: E L Dicker), No. 104 (No. 53: P Humphrey), No. 105 (No. 54: D R & B I Chegwin), No. 106 (---: C A Weeks, E G Coombe and E B Hutchings), No. 107 (No. 55: E J N Furse), No. 108 (No. 56: C Horne), No. 109 (---: R I Ray), No. 110 (No. 57: A E Worden), No. 111 (---: C Letchford), No. 112 (No. 58: L M E Locke), No. 113 (No. 59: F J Down), No. 114 (No. 60: E G Glover), No. 115 (No. 61: K M Lee), No. 116 (No. 62: S Lias), No. 117 (No. 63: D C C M Osbourne), No. 118 (No. 64: D Furse), No. 119 (No. 65: O Beer), No. 120 (No. 66: W J Dilling), No. 121 (No. 67: G Parsons), No. 122 (No. 68: A R Slee), No. 123 (No. 69: M Trevethan), No. 124 (No. 70: W J Slee), No. 125 (No. 71: H P Coombe), No. 126 (No. 72: L W Coombe), No. 127 (No. 73: A M Dustan), No. 128 (No. 74: G E Squires), No. 129 (No. 75: M H Worden), No. 130 (No. 76: W Easterbrook), No. 131 (---: A N & H M Twining), No. 132 (No. 77: E R Smale), No. 131 (No. 78: R J Slee), No. 134 (No. 79: J Snell), No. 135 (No. 80: S S Hill), No. 136 (No. 81: W H & E B Hutchings), No. 137 (---: A W Bater), No. 138 (No. 82: T H Vanstone), No. 139 (No. 83: Maddaford & Sons Ltd), No. 140 (No. 84: W F J Pidgeon), No. 141 (No. 85: L Aimsley), No. 142 (No. 86: L J Hooper), No. 143 (No. 87: W H Glover), No. 144 (No. 88: A G Farley), No. 145 (No. 89: H Jones), No. 146 (No. 90: W C H Bird), No. 147 (No. 91: I W Ford), No. 148 (No. 92: L M Heathman), No. 149 (No. 93: I H Endacott), No. 150 (No. 94: R L Taverner), No. 151 (No. 95: E J Parsons), No. 152 (No. 96: O C Maddaford), No. 153 (No. 98: H H Heggadon), No. 154 (No. 97: F J Barnicoat), No. 155 (No. 99: C J B Watkins), No. 156 (No. 100: B Holt), No. 157 (No. 101: T W & A M Smith), No. 158 (No. 102: H G & S E J Morrish), No. 159 (No. 103: W M Alford), No. 160 (No. 104: G E V Parsons), No. 161 (No. 105: S H R Yeo), No. 162 (No. 106: N F Jones), No. 163 (No. 107: D & D Potter), No. 164 (No. 108: V H Rees), No. 165 (No. 109: T H Cousins), No. 166 (No. 110: I Brettell), No. 167 (No. 111: E G Palmer), No. 168 (No. 112: R E Smale), No. 169 (No. 114: E D Hughes), No. 170 (---: R J Letchford), No. 171 (No. 113: A C Painter), No. 172 (No. 117: W H, E A & R T Blackmore), No. 173 (No. 118: W G Medland), No. 174 (---: F J Doughty), No. 175 (No. 115: W J & W J Dean and D M Summers), No. 176 (No. 116: L G Gratton), No. 177 (No. 119: B J Hellyer), No. 178 (No. 120: A E Worden), No. 179 (No. 121: W E E Hawking), No. 180 (---: C E W White), No. 181 (No. 122: B H Middleton), No. 182 (No. 123: R W Mills), No. 183 (No. 124: A H Pickard), No. 184 (No. 125: A J Redstone), No. 185 (No. 126: S K Letheren), No. 186 (No. 127: C L M Chapman), No. 187 (No. 128: E G Medland), No. 188 (No. 129: J P Boundy), No. 189 (No. 130: F J H Smith), No. 190 (No. 131: E W Marles), No. 191 (No. 132: L M Joyce), No. 192 (No. 133: R J G S Hubber), No. 193 (---: A J Bevan), No. 194 (No. 134: S H & B D Northam), No. 195 (No. 135: W J Passmore), No. 196 (No. 136: M Wooldridge), No. 197 (No. 137: M D Fulford), No. 198 (No. 138: H Thornton), No. 199 (No. 139: R C Chastey), No. 200 (No. 140: S J T Day), No. 201 (---: P M Hill), No. 202 (No. 142: L T Northey), No. 203 (No. 143: W T Phear), No. 204 (No. 141: R W N Furse), No. 205 (No. 144: G S Palmer), No. 206 (---: G R Newcombe), No. 207 (No. 236: R N W Furse), No. 208 (---: J F & A W Wooldridge), No. 209 (No. 145: L B Gratton), No. 210 (No. 146: W Hagett), No. 211 (No. 147: R R Maddaford), No. 212 (No. 149: C E Bulley), No. 213 (No. 148: L Hodge), No. 214 (No. 150: F J Sanders), No. 215 (No. 151: G B M Maddaford),



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No. 216 (No. 152: W G & C E Hodge), No. 217 (No. 153: A H Hatten), No. 218 (No. 154: N K Hellyer), No. 219 (No. 155: H Phear), No. 220 (No. 156: C W G Strong), No. 221 (No. 157: M F Maddaford), No. 222 (No. 158: H D Petbin), No. 223 (No. 159: L M Fraser), No. 224 (No. 160: A J Yelland), No. 225 (No. 161: C M Bater), No. 226 (No. 162: C Mellet), No. 227 (No. 163 final: H H Hoare), No. 228 (No. 164: R J Ford), No. 229 (No. 165: A G Westlake), No. 230 (No. 166: J Murrin), No. 231 (No. 167: L H Refford), No. 232 (No. 168: D R Friend), No. 233 (No. 169: A Brock), No. 234 (No. 170: A W G Blatchford), No. 235 (No. 171: E E Preece), No. 236 (No. 172: D H Twining), No. 237 (No. 173: R C & M A Elliott), No. 238 (No. 174: L E F Sadler), No. 239 (No. 175: J H Woolley), No. 240 (No. 176: E S Webb), No. 241 (No. 177: R J Harry), No. 242 (No. 178: E Ash), No. 243 (No. 179: L B Voaden), No. 244 (No. 180: T J & C J Cox), No. 245 (No. 181: F Hedden), No. 246 (No. 182: S H Cordell), No. 247 (No. 183: G F Martin), No. 248 (No. 184: L Bate), No. 249 (No. 185: J S Knowles), No. 250 (No. 186: N C & L B Bate), No. 251 (No. 187: S K Hughes), No. 252 (No. 188: J A & M V Laws), No. 253 (No. 189: J V Roberts), No. 254 (No. 190: R J Jarvis), No. 255 (No. 191: A L T Jarvis), No. 256 (No. 237: L C Sargent), No. 257 (No. 192: M W & H B Westlake), No. 258 (No. 193: R J Y Bray), No. 259 (No. 194: W W J Cornish), No. 260 (No. 196: B J Douglas), No. 261 (No. 197: J S Campbell), No. 262 (No. 198: V R Vanstone), No. 263 (No. 199: E C M Comyn), No. 264 (No. 200: G A J Comyn), No. 265 (---: A W Pickett), No. 266 (No. 201: L H Wrefford), No. 267 (No. 202: C W Gay), No. 268 (No. 203: S E Trant), No. 269 (No. 204: S J Cook), No. 270 (No. 205: L H Wrefford), No. 271 (No. 206: L H Wrefford), No. 272 (No. 207: A J Radford), No. 273 (No. 195: G H Slade), No. 274 (No. 208: R Slee), No. 275 (No. 209: F T Doidge), No. 276 (No. 210: S C Osborne), No. 277 (No. 211: W J Godsland), No. 278 (No. 212: R A Reddicliffe), No. 279 (No. 213: C L Johns), No. 280 (No. 214: R Conner), No. 281 (No. 215: R K Claydon), No. 282 (No. 216: H P Oag), No. 283 (No. 217: W J Stanbury), No. 284 (No. 218: K J Every), No. 285 (No. 219 final: J Morris), No. 287 (No. 222: R B Williamson), No. 288 (No. 221: F & J Holland), No. 289 (No. 223: S R & J R Vincent), No. 290 (No. 224: N E Lee), No. 291 (No. 225: K W Watts), No. 292 (No. 226: N J Hine), No. 293 (---: N W M Weeks), No. 294 (No. 227: F W A Littlejohns), No. 295 (No. 228: F K Langbridge), No. 296 (No. 229: A Fisher), No. 297 (No. 230: I A Guscott), No. 298 (No. 231: R A & C S Cummings), No. 299 (No. 232: C J S & V N E Coombe), No. 300 (No. 233: C J Coombe), No. 301 (No. 234: L W Pennington), No. 302 (No. 235: Mayor Aldermen and Burgesses of the Borough of Okehampton), No. 303 (No. 238: N G Bevan), No. 304 (No. 239: B Grainger), No. 305 (No. 240: J & E P Cole), No. 306 (No. 241 final: M R Gloyn), No. 312 (No. 243: J J Newcombe and P J Leonard), No. 313 (No. 244: W S J Reynolds), No. 314 (No. 245: P I Pellow), No. 323 (No. 249: M M K Ryan), No. 330 (No. 256: P J Leonard), No. 331 (No. 257: H Luxton), No. 332 (No. 258: F W Green), No. 333 (No. 259: G E Hodge), No. 334 (No. 260: J A T Hodge), No. 354 (No. 280: M M K Ryan and W E Worden), No. 355 (No. 281: K A & M E Stevens), No. 356 (No. 282: A W Knapman), No. 357 (No. 283: J J Newcombe, A W Fullwood and E N G Cooke), No. 358 (No. 284: J J Newcombe, A W Fullwood and E N G Cooke), No. 360 (No. 286: W E Denning), No. 361 (No. 287: M L Medland), No. 362 (No. 288: C A Voaden), No. 365 (No. 290: G E Hodge), No. 366 (No. 291: J A T Hodge), No. 368 (---: R C White), No. 372 (No. 295: J J Newcombe), No. 373 (---: C H Medland), No. 374 (No. 296: G S & J I Dennis), No. 375 (---: F E L Weaver), No. 376 (No. 297: J A Lowne), No. 377 (No. 298: E L Alford), No. 378 (No. 299: A Newcombe), No. 379 (No. 300: P G Ansell), No. 381 (---: F M Elven), No. 382 (No. 302: L S Jordan), No. 383 (No. 303: R J Y Bray), No. 384 (No. 304: M J Stanbury), No. 385 (No. 305: T Modelski), No. 386 (No. 306: H H Glass), No. 392 (No. 313: D Luxton), No. 393 (No. 312: D & F M Luxton), No. 394 (No. 314: L T Sheasby), No. 395 (No. 315: C J Heard), No. 398 (No. 316: J G Wooldridge), No. 399 (No. 317: J G Wooldridge), No. 400 (No. 318: I G & J G Wooldridge), No. 402 (No. 320: H N Grindley), No. 403 (No. 322: K C Heard), No. 406 (No. 324: A O Greed), No. 410 (No. 327: R T Gale), No. 411 (---: C E Langan), No. 446 (No. 358: Public Trustee for W G Voaden), No. 447 (No. 357 final: Devon County Council), No. 451



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(---: H J L Cooper), No. 454 (No. 365: W J L Heard), No. 455 (No. 366: Public Trustee for J A T Hodge), No. 456 (---: Public Trustee for Miss M Luxmoore's Settlement), No. 457 (---: D R Lindwell and J L Jones), No. 458 (No. 364: B A Cantwell), No. 459 (No. 367: E J Hain), No. 460 (No. 368: L L Gibbons), No. 461 (No. 369: G B Bray), No. 462 (No. 370: M Harries and D Crowther) and No. 463 (No. 371: J A T Hodge).

8. The further MODIFICATIONS to the registrations at Entry Nos. 272, 394 and 398 mentioned in the preceding paragraph of this Decision Table are: in column 5 of the registration at Entry No. 398 (Triangle No. 316, applicant J G Wooldridge) except from the land therein described using such words and referring to such maps if any as the Devon County Council as registration authority may think fit, all or any of the land specified in column 5 of the registrations at Entry Nos. 174 and 272; and in column 5 the registration at Entry No. 272 (Triangle No. 207: applicant A J Radford) except from the land therein described using such words and by referring to such maps if any as the Devon County Council as registration authority may think fit, all or any of the land specified in column 5 of the registration at Entry No. 174; and in column 5 of the registration at Entry No. 394 (Triangle No. 314, applicant L T Sheasby) after "1752" insert "and also part 1735 containing 0.250 acres".

9. The liberty to apply in this decision granted should be exercised by an application made within THREE MONTHS from the day on which this decision is sent out or within such extended times as a Commons Commissioner may allow and should in the first instance be by letter to the Clerk of the Commons Commissioners stating with reasons the mistake or error which the applicant thinks should be corrected. A copy of the application should be sent to any person who might be adversely affected by the application being granted and for their information to the County Council as registration authority. As a result of the application a Commons Commissioner may 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 those 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.

Part II: the Triangle CL135

10. I REFUSE TO CONFIRM the following Rights Section registrations being all except No. 287 mentioned in Objection Nos. 281, 282, and 283 made by Okehampton Hamlets and Okehampton Borough Commons Committee and in Objection No. 1137 made by Devon County Council, that is to say (being the Triangle Entry Nos. corresponding with the Main Unit Land Entry Nos. specified in paragraphs 3 and 4 of this Decision Table):- 35, 36, 242, 246, 247, 250, 251, 252, 253, 254, 255, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 293, 294, 301, 310, 311, 359; and ~~281~~ and 361. 220

11. Subject to the liberty to apply hereinafter mentioned, I REFUSE TO CONFIRM the registrations at the Entry Nos. being of rights "to stray" which have not or may not have become final in the absence of any Objection, that is to say Nos. 332, 334, 335, 337, 338, 340, 341, 342, 343, 351 and 354.



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12. Subject as regards Entry Nos. 207, 220 and 316 to the liberty to apply hereinafter mentioned, I confirm the Rights Section registration at the Entry Nos. next hereinafter mentioned with the MODIFICATIONS that: (a) in column 4 the words "piscary", "shooting", "pannage", and "20 colonies of bees" where they or any words to the like occur be deleted and (b) that column 5 of the registrations at Entry Nos. 314 and 316 be modified as in the next paragraph of this Decision Table specified that is to say (being the Triangle Entry Nos. corresponding with the Main Unit Land Entry No. specified in paragraph 7 of this Decision Table):- Nos. 1, 3, 12, 4, 5, 6, 7, 8, 9, 10, 11, 13, ~~14~~, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 37, 38, 39, 40, 41, 42, 43, 44, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 98, 97, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 114, 113, 117, 118, 115, 116, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 142, 143, 141, 144, 236, 145, 146, 147, 149, 148, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 237, 192, 193, 194, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 195, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 222, 221, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 238, 239, 240, ~~241~~, ~~242~~, 243, 244, 245, 249, 256, 257, 258, 259, 260, 280, 281, 282, 283, 284, 286, 287, 288, 290, 291, 295, 296, 297, 298, 299, 300, 302, 303, 304, 305, 306, 313, 312, 314, 315, 316, 317, 318, 320, 322, 324, 327, 358, 365, 366, 364, 367, 369, 370 and 371. (368)

13. The further MODIFICATIONS to the ^{registrations} requirements at Entry Nos. 314 and 316 mentioned in the preceding paragraph of this Decision Table are: in column 5 of the registration at Entry No. 316 except from the land therein described using such words and referring to such maps if any as the Devon County Council as registration authority may think fit all or any of the land specified in column 5 of the registration at Entry No. 207; and in column 5 of the registration at Entry No. 314, after "1752" insert "and also part 1735 containing 0.250 acres".

14. Paragraph of Part I of this Decision Table (liberty to apply) should be treated as repeated in this Part II.

Dated the 17th day of November 1983

A. A. Baden Fuller

The Second Schedule (Decision Table)

CORRECTED, in paragraph 4 and 10, for "221" substitute "220";

in paragraph 12, delete "14", "241" and "242", and after "367" insert "368".

A. A. Baden Fuller

29 June 1987