



COMMONS REGISTRATION ACT 1965

Reference Nos 209/D/303
209/D/304In the Matter of Penn Moor and
Stall Moor, Cornwood, South Hams
District, DevonDECISION

Introduction

This Matter relates to about 72 Registrations under the 1965 Act. My decision as regards each of these registrations is set out in Fifth (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These disputes relate to the registrations at Entry Nos 1 to 69 inclusive (No. 33 has been replaced by Nos 82 and 83) 74 and 75 in the Rights Section and at Entry Nos 3, 4 and 5 in the Ownership Section of Register Unit No. CL 112 in the Register of Common Land maintained by the Devon County Council and are occasioned by Objection No. 261 made by English Clay Lovering Pochin & Co Ltd and noted in the Register on 28 October 1970, by Objection No. 302 made by Major F A V Parker and noted in the Register on 2 December 1970, by Objections No. 361, No. 362, No. 363 and No. 364 made by Wing Commander C W Passy and noted in the Register on 2, 4, 14 and 14 December 1970, by Objections No. 530 and No. 531 made by Cornwood Commoners Association and noted in the Register on 14 December 1970 and by Objections No. 491, No. 492, No. 493, No. 494 and No. 989 made by HRH Charles Prince of Wales, Duke of Cornwall and noted in the Register on 9 February 1971 and 23 June 1982 all of which said Objections relate to Rights Section registrations, and by Objection No. 358 (relating to the Ownership Section registration at Entry No. 3) made by Wing Commander C W Passy and noted in the Register on 7 December 1970 and by the Ownership Section registrations at Entry Nos. 3 and 5 being in conflict with that at Entry No. 4.

I held a hearing for the purpose of inquiring into the disputes at Plymouth on 6 July 1982 and 18, 19 and 20 January 1983. At the July 1982 hearing (1) English Clay Lovering Pochin & Co Ltd were represented by Mr I E Lamond solicitor of Stephens and Scown, Solicitors of St Austell, (2) Major F A V Parker was represented by Mr J A F Kittow solicitor of Harold Michelmores, Solicitors of Newton Abbot, (3) Messrs William Giles Atkins, Ian Fothergill Grant and Harry Clifford Hill as executors of and trustees of the estate of Wing Commander C W Passy were represented by Mr D J Gunn solicitor of Bond Pearce and Co, Solicitors of Plymouth (4) Cornwood Commoners Association were represented by Mr James William Northmore their chairman, (5) Mr Andrew John Wotton on whose application registrations at Entry Nos. 1, 2, 6 and 7 were made, attended in person: (6) Lady Sylvia Rosalind Pleadwell Sayer on whose



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application with Vice Admiral Sir Guy Bouchier Sayer the registration at Entry No. 8 was made, attended in person on her own behalf and as representing him;

(7) Mr Reginald Percy German on whose application the registration at Entry No. 12 was made was represented by his daughter Mrs Elizabeth Ann Northmore;

(8) Dr Henry Parsons Burrows on whose application registrations at Entry Nos. 13, 14, 15, 16, 17 and 18 were made (Mr James William Northmore and Mr John Alfred Stranger Moysey being co-applicants with him as regards Nos 13 and 14 respectively) attended in person; (9) Mr F J W Hodgson and Mr F W Woodward as trustees by appointment after her death of the will of Mrs P C Phillips (in the Register called Mrs Phyllis Phillips) on whose application registration at Entry No. 56 was made, were represented by Mr M Baldwin solicitor of Woollcombe and Yonge, Solicitors of Plymouth.

At the July 1982 hearing, one or more of the persons present asked me to record their agreement as set out in the First Schedule hereto about the registrations and Objections therein mentioned. Owing to other business I could then do no more in relation to this Matter.

At the January 1983 hearing (1) English Clay Lovering Pochin & Co Ltd were represented by Mr I E Lamond as before; (2) Major F A V Parker was represented by Mr J A F Kittow as before; (3) Messrs W G Atkins, I F Grant and H C Hill were represented by Mr D J Gunn as before (Mr Gunn said that he mistakenly said at the July 1982 hearing that he represented Mrs Passy as widow and successor in title of Wing Commander Passy, that she is now deceased and that he had throughout represented the executors and trustees as aforesaid); (4) Cornwood Commoners Association were represented by Mr J W Northmore as before except from and including 20 January they were represented by the said Mr D J Gunn;

(5) Mr A J Wotton attended in person as before; (6) Lady Sayer attended on her own behalf and as representing Sir Guy Sayer as before; (7) Mr R P German was represented by his daughter's father-in-law, Mr J W Northmore;

(8) Dr H P Burrows attended in person as before; and (9) Mr F J W Hodgson and Mr Malcolm Lascombe as trustees of the will of Mrs P C Phillips (Mr Lascombe having since the July 1982 hearing become a trustee in the place of Mr F W Woodward) were represented by Mr Roger Richards solicitor with Woollcombe & Yonge, Solicitors of Plymouth.

Additionally at the July 1983 hearing, (10) Mrs Elsie Mary Cannon on whose application jointly with her brother Mr Dennis Basil Haine Cannon (now deceased) the registrations at Entry Nos. 3 and 4 were made, was represented by the said Mr A J Wooton; (11) Admiral Sir James Eberle of the Village Farm Holne as successor in title of Mr David Miller Scott on whose application the registration at Entry No. 9 was made, attended (for part of the hearing) in person; (12) Mr K Watkins of Butterbrook, Harford, Ivybridge as successor in title of Western Machinery and Equipment Company Limited on whose application the registration at Entry No. 11 was made was represented by Mr D J Gunn; (13) Mr John Northmore Mumford on whose application the registration at Entry No. 19 was made attended in person; (14) Mr Wilfred John Edmunds on whose application the registration at Entry No. 20 was made, attended in person;



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(15) Mr Robert Edward Skelley on whose application with his father Robert Lewis Skelley (since deceased) the registrations at Entry Nos. 24 and 25 were made, and who is successor of his father in respect of the registration at Entry No. 74, was represented by Mr P W Harker, solicitor of Bellingham & Crocker Solicitors of Plympton; (16) Mr David John Skelley on whose application the registration at Entry No. 27 was made and as successor of Mr Hermon George Woodley on whose application the registration at Entry No. 31 was made, was represented by the said Mr P W Harker; (17) Mr Edgar Gordon Rendle on whose application the registrations at Entry Nos. 29 and 53 were made, and Mrs Joyce Rendle who joined with him in the application for Entry No. 29, were represented by the said Mr P W Harker; and (18) Mr Ivor Phillips on whose application the registration at Entry Nos. 64 and 65 were made, attended in person.

The land ("the Unit Land") in this Register Unit is a U shaped tract the east part of which (being or including Stall Moor) is about $3\frac{1}{2}$ miles long from Stringer's Hill and Erme head on the north to a short distance from Yadsworthy on the south, and the west part of which (being or including Penn Moor) is also about $3\frac{1}{2}$ miles long from Erme Head on the northeast towards, but some distance from, Lee Moor on the southeast. In the Ownership Section at Entry No. 1, Major Frederick Anthony Vivian Parker is registered as owner of the part of the Unit Land marked "A" on the Register map (being or including Penn Moor) except an area about 900 yards long and 450 yards wide at the west corner marked "B" on the Register map of which English Clays Lovering & Pochin & Co Ltd are at Entry No. 2 registered as owners, and these two registrations being undisputed have become final. In the Ownership Section at Entry No. 4 Wing Commander C W Passy is registered as owner of nearly all the remainder of the Unit land except that an area about $\frac{1}{3}$ rd of a mile long and $\frac{1}{4}$ of a mile wide at the north corner of the Unit Land (near Broad Rock) marked "C" on the map, of which HRH Charles Prince of Wales, Duke of Cornwall is at Entry No. 3 registered as the owner and except an area of about $\frac{1}{4}$ of a mile long and about 50 yards wide (New Waste Reservoir) of which the Mayor Aldermen and Citizens of the City of Plymouth are at Entry No. 5 registered as the owner, and except two comparatively small parts of the Unit Land of which no person is registered as the owner.

Course of proceedings

Mr Gunn (18 January) explained the ownership position and said that his submissions were, and he thought those of others too would be, on the basis that the Unit Land although in one Register Unit, was in reality two commons known as Penn Moor and Stall Moor. I have therefore for the purposes of exposition and to give precision to this decision, in accordance with what Mr Gunn said, defined in the Second Schedule hereto "the Parker Part", "the ECLP Part", "the Duchy Part", "the Passy Part", "the WA Part", "the Penn Moor Part" and "the Stall Moor Part"; exceptionally (and perhaps contrary to what Mr Gunn may have intended) I have defined "the Penn Moor Part" as NOT including "the ECLP Part", although where the context admits the Penn Moor Part may in this decision, except in the Fifth (and last) Schedule hereto, be read as including the ECLP Part. Mr Gunn then made submissions or agreements about Entry Nos. 11, 12, 19, 24, 25, 26, 27, 28, 52, 53, 58 and 75 as set out in the Fourth Schedule hereto. Mr Kittow concurred in what Mr Gunn said about Entry Nos. 11, 63 and 75 as so set out.



Mr J W Northmore (18 January) after agreeing about Entry No. 12 as stated in the Third Schedule hereto said that speaking (as he thought he could) for all those who grazed these two Moors (not speaking for those who merely wished to stray over them), they 100 per cent supported the suggestion made by Mr Gunn that the Unit Land should be split (meaning between the Stall Moor Part and the Penn Moor Part).

Mr Lamond on behalf of ECLP said (18 January) that as regards Entry No. 8 Lady Sayer and he had agreed that as regards the ECLP Part she would withdraw "cut peat and turves, take stone sand and gravel and heath and fern", in return for which ECLP would withdraw their Objection "to graze 2 cattle or ponies, sheep", and that ECLP would make a similar agreement with anyone present who reduced their claim to grazing only subject to their proving that they had a right at all; he also said that ECLP Objection No. 261 although expressed generally is limited to the ECLP Part. He called my attention to the letters to the County Council (yellow forms) about the registrations at Entry Nos. 39, 42, 47 and 51 as set out in the Third Schedule hereto, and said that as regards No. 42 the surveyor of ECLP had been informed by Woolcombe Watts & Co, solicitors of Newton Abbot that the present occupier (Mrs Jukes) withdraws the registration.

Mr P W Harker (for Mr R E Skelley) said as regards Entry No. 24, Wotter Farm is in Venville; Mr J W Northmore said that an amendment changing the registration to grazing from straying would be objected to.

Mr Kittow (for Major Parker) said that the following registrations were "Venville", Nos. 8, 9, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 55, 59, 60, 64 and 65.

About Entry No. 29 Mr Gunn (for Passy Trustees) said that he and Mr Harker (for Mr E G and Mrs J Rendle) were agreed as stated in the Third Schedule hereto.

Mr Gunn as regards Duchy Objection No. 494 (right does not exist on Duchy Part) said that he concluded those who had Venville rights can go not only on the Passy Part but also on the Duchy Part.

Next (19 January) Mr James William Northmore gave oral evidence particularly directed to his understanding of the meaning of "Venville"; he said (in effect):- He is 79 years of age, has farmed Lower Hele Farm, Cornwood since 1933 and is now and has been since 1955 Chairman of the Cornwood Commoners Association. He was not himself a Venville tenant, but his brother, his father and grandfather were Venville tenants. The Venville tenant is a person who owns and occupies land in a parish, or partly in a parish, which is a Venville parish. A Venville parish is a parish which has grazing rights on the Forest of Dartmoor. A Venville tenant has a right to drive his cattle, sheep or ponies onto the Forest of Dartmoor to graze; when these animals are put on the Forest to graze they have the right to wander onto the adjoining common and to graze lawfully; these animals cannot be impounded, but the owners of these animals have no right to drive sheep, cattle or ponies onto the adjoining common to graze. That is his



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view of Venville rights; as simple as that! He was afraid that with commons registrations there will be a lot more persons claiming to be Venville tenants who in his opinion have no right to this. In his view all those who had made the registrations mentioned in Cornwood Commoners Association Objections Nos. 530 and 531 came within this category (those claiming Venville rights with no right so to claim); being Nos. 8, 9, 34, 35, 36, 37, 38, 39, 40, 41 and 56, and Nos. 30, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51 and 55.

Questioned by Mr Kittow who referred to the decision dated 17 February 1976 made by the Chief Commons Commissioner in the matter of Coombe Down and Headland Warren (CL 148) and particularly to the difference between grazing at day and at night, Mr J W Northmore said (in effect):- Graziers now do not make any difference between day and night, and if you have got to drive your cattle onto the Forest it would be ridiculous. He was concerned whether they drive their cattle there, not whether they stray there. That was his point, he was not concerned with day or night.

In answer to questions by Dr Burrows as to who could impound animals which stray and about identifying a stray without stopping it, Mr J W Northmore said that he considered that straying animals could be driven back but not impounded and that he could identify them simply by their markings; although he also knew whether they (? some) without stopping them were strays.

In answer to questions by Mr Phillips, Mr Northmore said he knew him and his family and agreed that most cottages and villagers used to keep a few cattle in sheds; it was a common practice, but now most of them who did it, have left; for bedding they used to cut fern on the Moors.

In answer to questions by Mr Lamond, Mr Northmore said (among other things):- He would not like to say whether Venville rights were confined to grazing, because he was only concerned with local commoners using the Forest for which they would have to go a long way. He took it that taking rushes for thatching was a Venville right. He did not know what Mr Lamond meant by his questions about the difference between the Forest the Commons of Devon and other land; he agreed that Penn Moor Common is a "Common of Devon", but whether Cornwood in which it is, is a Venville parish is another matter. He agreed that the cattle of a Venville tenant could wander from the Forest but when he said "from the Forest" he meant from the Forest and not from an adjoining common.

In answer to questions by Lady Sayer, Mr Northmore said (among other things):- He thought the commons of Devon and the Forest are all one common. She had never he thought driven her cattle off the Forest onto the Commons of Devon. He thought she had not realised that in 1983 cattle can be put on a lorry one side of the Moor and driven in 3 hours or less to the other; in the old days this was not possible but he was afraid that it would happen.

Next (9 January) Dr H P Burrows mentioned ^{the}registrations at Entry Nos. 13 to 18 with particular reference to the NFU scale mentioned at the July 1982 hearing, see First Schedule. Mr Gunn said he was instructed not to contest substitution with the NFU scale of the register provided the scale did not result in the numbers exceeding those mentioned in the register.



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Dr H P Burrows then gave oral evidence in the course of which he produced the document specified in Part II of the Third Schedule hereto. He said (in effect) he had 6 holdings, meaning of inby land; 4 of these had common rights on Stall Moor of which 3 except as to the NFU scale were agreed. He understood the NFU scale was for every acre (meaning of inby land) 1 cattle or 5 sheep or 1 pony.

Mr Kittow in the course of the evidence of Dr Burrows produced a letter dated 26 May (?) under which one grazing unit equals 1 cow or bullock, or 2 young cattle (1-2 years old), or 4 calves (under 1 year), or 1 horse, or 1½ ponies, or 6 sheep (over 1 year) or 12 sheep (under 1 year), and said he understood this to be the scale for this part of Devon.

Next (18 January) Admiral Sir James Eberle made a statement to the following effect:- As to the agreement made earlier during the hearing between Lady Sayer and ECLP with regard to a very small part Penn Moor in which she would only have grazing rights, he (as successor of Mr D M Scott on whose application the registration at Entry No. 9 was made) would like to make a similar agreement in the interests of saving public time. Although he was not mandated formally to represent the Venville tenants at Holne who similarly had claimed Venville rights, he could as Chairman of the Holne Commoners Association give the confident view that the Holne commoners would be happy to reach a similar agreement with ECLP.

Next (19 January), Mr Lamond said as regards the ECLP Part:- ECLP had agreed the registrations at Entry Nos. 8 and 9, modified as stated by Lady Sayer and Admiral Sir J Eberle. ECLP accepted the registrations at Entry Nos. 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 49, 50 and 55, so far as they contained a right to graze but not at all so far as they contained other rights (Nos. 34, 35, 36, 37, 38, 39, 40 and 41 are of other rights; Nos. 42, 44, 45, 46, 49, 50 and 55 are of grazing and other rights). On behalf of ECLP he suggested that I refuse to confirm the registrations at Entry Nos. 43, 48, 54, 59 and 60 because the corresponding registration over the adjoining part of the Shaugh Prior Commons (CL 190) had not by the CL 190 decision (dated 30 May 1977 and made by the Chief Commons Commissioner under Reference Nos 209/D/60-85) been confirmed. The registrations at Entry Nos. 39, 47 and 51 had been cancelled or withdrawn (yellow forms, see Third Schedule hereto). So only the registrations at Entry Nos. 64 and 65 (Mr Phillips) were in dispute and had to be resolved. To this Mr Northmore agreed, meaning as I understood him that the Cornwood Commons Association notwithstanding Objection Nos. 530 and 531 were agreeable to the ECLP Part being subject to rights as suggested by Mr Lamond. It was implicit from discussions earlier in the hearing that both Mr Lamond and Mr Northmore contemplated that I would refuse to confirm the registrations which were of "to stray" being those at Entry Nos. 20, 21, 22, 23, 24, 25, 26, 27, 28, 32, 33 (replaced by Nos. 82 and 83), 52, 61, 66 and 75.

Next (19 January) Mr Harker said he was supporting the registrations at Entry Nos. 24 and 74. As to Lee Moor Farm (No. 74) the Duchy had accepted (at the CL 164 hearing in April, June and October 1982) that Venville dues had been paid for the parish of Shaugh Prior and had allowed Venville status to those of that parish; so there was a distinction between Shaugh Prior for which parish Venville payments had been recently made and other parishes eg Ugborough, for whom it appeared a Venville payment had been made at some time; he relied on the decision of the Chief Commons Commissioner dated 17 February 1976 in re Headland Warren (CL 148) and the High Court judgment dated 26 October 1979 given on



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appeal from his decision dated 30 May 1977 in re Hentor Warren (CL 190), particularly as showing that non usage did not establish abandonment of a right. As to Wotter Farm (No. 24), the registration should be amended by substituting "graze" for "stray"; any argument that Venville rights are straying rights is mistaken; if they were so construed, they would be no more than rights on a local common; they are more than that.

Next, contra to what Mr Harker had said, Mr Kittow said (in effect):- Such a modification was contrary to subsection (6) of section 4 and to section 13 of the Commons Registration Act 1965 and to regulation 29 of the Commons Registration (General) Regulations 1966. He did not accept that Messrs R E and R L Skelley used the word "stray" by mistake in their application; the evidence of Mr J W Northmore suggested that the use of the word "stray" was intentional. As regards the registration at Entry No. 74, the number of animals registered was excessive for the size of the holding and I should therefore reduce the numbers in accordance with levancy and couchancy.

As to excessive numbers, the notes to the Objection Form, (they are set out in Schedule I to the Commons Registration, Objections and Maps, Regulations 1968) particularise as a possible ground of objection that "the rights should comprise fewer (state how many) animals". There being no such grounds stated in any Objection and no application under rule 26 of the Commons Commissioners Regulations 1970 to amend the grounds of any Objection, I refused to hear any evidence as to the numbers of animals, but said I would hear evidence if offered as to a mistake having been made in the application for the registration at Entry No. 24 (stray instead of graze).

Next (19 January) Mr John Northmore Mumford on whose application the registration at Entry No. 19 was made, gave oral evidence in the course of which he said that his two farms, Middle and East Rock Farms, contain 133 acres and he was agreeable to his rights being limited to Penn Moor, and accepted that he had no rights over Stall Moor.

Next Mr Harker and Mr Gunn said that they were agreed about the registrations at Entry Nos. 29 and 53 made on the application of Mr E G Rendle: (a) in No. 29 "estovers, piscary, turbary and to shoot" should be deleted, and "to graze ... (as registered)" should be confirmed; and (b) in No. 53, "to graze ... (as registered)" should be confirmed with the modification that it be limited to the Penn Moor Part.

Next (19 January) Mr Harker mentioned the registration at Entry No. 31; on behalf of Mr D J Skelley, he conceded Objection No. 361, meaning he conceded that the rights did not exist over the Stall Moor Part, and then claimed that there being no Objection to the Penn Moor Part, I must confirm the registration with no more modification than for the words "over the whole of the land in this register unit" substitute "over the Penn Moor Part". Mr Northmore did not agree and after referring to Objection Nos. 361, 302, 530, 531 and 261 (none of which except 361 mentioned Entry No. 31) said that Pit Hill had no rights over Penn Moor and submitted that Mr D J Skelley should prove that he had rights.



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It seeming to me that a right to graze from Pit Hill on Penn Moor without any right to graze on Stall Moor (situated between them) was questionable, I said that I would not in view of the opposition confirm the registration on Penn Moor by default.

Next (19 January) Mr Ivor Phillips in support of the registrations at Entry Nos. 64 and 65 gave oral evidence in the course of which he produced the documents (IP/1) specified in Part IV of the Third Schedule hereto and said (in effect):- He was a local person who had always lived in the area and his father and grandfather before him. Each generation without hindrance had and when they felt fit, put various stocks, cattle and ponies and small animals such as geese and pigs, on the most convenient part of the Commons. When the registration started his father was most anxious that he should register everywhere; but he (the witness) not being a lawyer, was not familiar with the law and had not enough money to employ one, so he went to Exeter (County Council office) to ask, and after discussion decided to register a distinct right as opposed to a straying right, as "a man of Devon" and "in gross". As to Register Unit numbers, he applied for all those in the southwest of Dartmoor. Since his registrations he had discovered more about rights. He relied particularly on page 248 of Commons and Village Greens (IP/1): "Documentary evidence shows that all occupiers of land throughout the whole country of Devon, with the exception of the inhabitants of the Boroughs of Barnstaple and Totnes, may depasture commonable animals on the Commons of Devon without payment, and also on the Forest of Dartmoor on payment of certain customary fees to the Duchy of Cornwall. As these rights have not been exercised for a considerable time and may be said to have fallen into disuse, they are little more than academic and historic interest"; a part of the book written by Mr H J F Smith, Chief Land Agent of the National Trust. The majority of his property is in the parish of Whitchurch, a "Venville parish", which has regularly paid dues to the Duchy. He was surprised at the Objection to his rights over the Unit Land because his rights had been settled over the nearby Lee Moor (CL 190), and the Duchy had agreed that over the Forest (CL 164), subject to his withdrawing piscary that he had rights of grazing, turbary, estovers, and to take stone. So being in Venville he felt he should enjoy the same rights over Penn Moor as he enjoyed over the surrounding areas (CL 190 and CL 164).

Mr Phillips was questioned by Lady Sayer, by Mr Lamond (who called for his title deeds), by Mr Kittow and by Mr Northmore, in the course of which he said (in effect):- As to his right to take stone, he had no intention of taking large stones, merely enough to maintain his property. His application for registration was based on local tradition. He had grazed Penn Moor on many occasions, by bringing yearling cattle from Whitchurch, then unloading them at Tolchmoor Gate (from a lorry so I understood), from there he took them to Cholvich Town (to the north) and to Whitehill (to the south); they would have to cross Penn Moor. He did not claim ever to have exercised a right to take stone; he understood that to maintain a right, exercise of it is not necessary. He thought that the right he had registered had been enjoyed by the Men of Devon from time immemorial; people just turn out stock on the Moor. He remembered from when he was 5 years old (he is now aged 54) his father turning out stock in the Lee Moor area; it was likely therefore that they got onto Penn Moor. It was free for all, he knew someone who kept a cafe in Plymouth who kept ponies. According to researches he had done, the right came from King John.



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Next (19 January) Mr Gunn, Dr Burrows, Mr Northmore reached agreement about the registrations at Entry Nos. 13, 14, 15, 16, 17 and 18 as set out in the Third Schedule hereto.

Next (19 January) Mr Gunn as to the conflicting Ownership Section registrations said (on behalf of the executors of Wing Commander Passy on whose application the registration at Entry No. 4 was made) that they made no claim to the land hatched in red diagonal lines and lettered E on the Register map, so I could confirm the registration at Entry No. 5 (Plymouth Corporation) without any modification, and modify the registration at Entry No. 4 by excluding anything within the registration at Entry No. 5.

Next (19 January) Mr Gunn made submissions about the registrations at Entry Nos. 10, 32 and 33 (replaced by Nos. 82 and 83), Mr Northmore gave evidence about the registrations at Entry Nos. 10, 30, 33 and 57 and Dr Burrows made a statement about the registration at Entry No. 57, as set out in the Fourth Schedule hereto.

Following a statement (19 January) by Mr Gunn that he did not agree the registration at Entry No. 20, Mr Wilfred John Edmunds gave oral evidence saying (in effect):- Lower Piles being the land to which this right is attached (it adjoins the south-west corner of the Stall Moor Part) contains about 89½ acres of which about 1 acre is in the parish of Cornwood and the remainder in the parish of Harford. He considered that in respect of this 1 acre he should have a grazing right of 1 unit of the NFU scale over the Stall Moor Part. He made no claim over the Penn Moor Part.

Questioned about his evidence above summarised, Mr Edmunds said (in effect):- He knew of no-one else in Cornwood who claimed a grazing right of 1 unit, but his stock had been on to the Stall Moor Part over the years. He had never taken 1 beast from Lower Piles and put it on to Stall Moor by itself. His farm, Gribblesdown, where he resided contained about 100 acres and was situated about ½ a mile northwest of Aish in South Brent, being about 3 miles (in the direct line) from the said southwest corner. He bought Lower Piles in 1956 and had since used it as incidental to Gribblesdown.

Next (20 January), there was some discussion about the registration at Entry No. 31, mentioned earlier in this decision. I said I would adjourn the proceedings as regards this Entry No. and give my reasons in my decision; they are set out below under the heading "Pithill Farm".

Next (20 January) Mr Robert Edwin Skelley gave oral evidence in support of Entry No. 24 (Wotter Farm) saying (in effect):- The registration was done by the auctioneer; "I told him to register a grazing right, he made a mistake". His grandfather, his father and he had stocked Penn Moor. His grandfather lived in Luton (southwest of Stall Moor on the other side of the Cadover Bridge - Cornwood road) in the parish of Cornwood, and stocked Penn Moor from there; a pony and a few Devon cattle. His father did the same. Then, about 40 years ago (could be 50 years ago) he moved to Lee Moor Farm which he rented, and he rented



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Wotter Farm as well; from there you could turn them (cattle) out of the gate as they would go on to Penn Moor. When the registration was made, he did not know a lot about Venville Rights, but had learnt since; he considered that Venville Rights attached to Wotter Farm and they extended over not only Penn Moor but also Stall Moor. He was now the owner of Wotter Farm.

Questioned by Mr Kittow, Mr R E Skelley said (in effect):- At Lutton his grandfather and father had only one field, and regarded themselves as commoners (in respect of it). Lee Moor Farm does not adjoin Penn Moor, but it is "not too far away". His father sold the field at Lutton; the ponies his father and he had there went out from Wotter Farm. Lee Moor Farm is, or was, in the vicinity of Penn Moor, and Wotter Farm is further away, but "not so far". Lee Moor Farm no longer as such exists, being now part of China Clay Workings. He drove cattle on to Stall Moor and Penn Moor; there is a lane by Rook Farm and he opened the gate there; he had not done this for several years because of the cattle grid.

After answering questions by Mr J W Northmore, Mr R E Skelley in answer to questions by Mr Harker said (in effect):- He was abandoning the registration at Entry No. 74. He did not read the Entry No. 24 application before he signed it and now relied on Venville Rights and what he had done over many years.

Mr J W Northmore giving further evidence in answer to that of Mr Skelley said (in effect):- The auctioneer named by Mr Skelley would have known "what is a Venville right" and would also have known the difference between registering a straying right and a grazing right. The Cornwood Commoners Association did not object to the registration of a right to stray but would have objected to a right to graze. Mr Skelley had no right to drive his cattle on to Penn Moor although they may have strayed there from Shaugh Moor (CL 190).

Mr Harker said that no evidence would be offered to support the registration at Entry No. 25 (Olderwood Farm, Meavy).

Next (20 January) oral evidence was given by Lady Sayer in the course of which she produced the documents mentioned in Part III of the Third Schedule hereto. Her "Submission" (Lady Sayer S/1) was in part (paragraphs 1 to 11) a restatement of what had been said either by her or on her behalf by her solicitor at the hearing in May, July and November 1982 relating to Ditsworthy Warren and Ringmoor Down (CL 188) about which my decision is dated 30 June 1983 (so not available at this January 1983 Unit Land hearing). As to the Unit Land (paragraphs 12 to 14) she emphasised that the trustees of the Passy Estate and ECLP have withdrawn their Objections and that the Cornwood Commoners Association agreed through Mr Northmore that the Unit Land was part of the Commons of Devon and that Venville rights obtained on it, and then criticised him for about Venville rights putting forward an extraordinary and unique conception of his own and not borne out in any way or supported by any valid evidence. She also said (paragraph 15) that if the Association and Major Parker were still sticking to their Objections there is much irony in the situation for she had made a gift of the grazing from 145 acres of moor land lying between Penn Moor and Stall Moor (of which she was one of the owners) by removing the fences and throwing it



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open to the common. To her Submissions she added a Postscript alleging a prevalent fear that Venville rights might lead to the flooding of certain parts of the Dartmoor Commons with stock from other parts of the commons; she believed this to be an exaggerated fear, that the present chaotic free for all situation must be ended by a unified system of stock control for the whole of Dartmoor's common land by getting a new and sound Dartmoor Commons Bill enacted, and that the abuses now going on in certain parts of Dartmoor will not be stopped merely by denying the existence and scope of Venville rights. She answered questions by Mr Kittow, Mr Lamond and Mr Northmore about her "Submission".

Next (20 January) Mr Kittow made submissions against the registration at Entry No. 24 (Wotter Farm).

Next Mr I Phillips continued his evidence in the course of which he produced the conveyance (Phillips/1 and /2) specified in Part IV of the Third Schedule hereto, which relate to part only of the 58 acres of land which he owns at Whitchurch in the register described as Ash Mill and Part Ash Lands, Grenofen. As regards both his registrations "piscary" was withdrawn altogether. As regards that at Entry No. 65 so far as it related to the ECLP Part, for turbary, estovers and take stone he was agreeable to the registration limiting these rights to the part above the 1000 feet contour shown on the Register map provided the right to graze extended over the whole of the ECLP Part, and to the rights being attached to no more than his Ash Mill and part Ash lands in Whitchurch. As to the remainder of the Unit Land he thought no agreement possible and that I must therefore as regards his registrations give a decision.

Next Mr Kittow made submissions against the registrations made on the application of Mr Phillips.

Next Mr Lamond said (in effect):- ECLP accepted the agreement made or offered by Lady Sayer, Admiral Sir James Eberle and Mr Phillips as hereinbefore recorded. He submitted that in the absence of any evidence in support I should refuse to confirm registrations at Entry Nos. 34 to 41 inclusive (No. 39 was withdrawn by letter) Nos. 43, 48, 54, 59 and 60, (they being not included in the general statement made by Admiral Sir James Eberle and Nos. 44, 53 and 55; in support of these submissions he referred to: re Sutton 1982 1 WLR 647 and Corpus Christie v Gloucestershire 1983 QB 360.

Next Mr J W Northmore gave further evidence as to Entry Nos. 1, 2, 3, 4, 5, 6, 7, 12, 67, 68 and 69 (being registrations of which no objection was made by the Cornwood Commoners Association); he (and they) believed them to be in order save that numbers of the registration at Entry No. 68 should be halved to 140 cattle or 140 ponies or 700 sheep; to this Mr E W Mudge (the applicant) agreed when he spoke to him about a month ago.



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Venville
(Entry Nos. 8 and 9)

As to the evidence and arguments of Lady Sayer, I adhere generally to what I said in my said Ditsworthy Warren, Ringmoor Down (CL 188) decision dated 30 June 1983; the relevant parts of it and also the parts of my Forest of Dartmoor (CL 164) decision therein referred to should be treated as repeated herein.

I reject the definition of Venville rights and/or of the rights of common exercisable over the Unit Land given by Mr J W Northmore in his evidence, because in my view the definition of legal rights must be determined by applying the law to the evidence oral or written about what people have been doing and about the other things (if any) from which an actual grant may be established or a supposed grant can be presumed. From a legal point of view, Mr Northmore's definition is defective in that there cannot be a right of common for "every" person who owns and occupies land in a parish, and in that although there may be circumstances in which a person may be excused from liability for an animal owned by him having strayed on land over which he has a right to graze, onto land over which he has no such right, any such excuse is not a right of common but depends on the branch of the law relating to trespass by animals of which the Animals Act 1971 is part and with which I am only concerned incidentally.

Mr Northmore when defining Venville rights was, so it seemed to me, basing himself on the grazing of the Unit Land by persons occupying land in the parish of Cornwood or nearby which he as a resident farmer had seen over a period of more than 60 years. In accordance with the Court of Appeal judgment in *De la Warr v Miles* (1881) 17 Ch D 535, I disregard that he when telling me about such grazing ascribed to it a title not recognised by law; as to this see page 33 of my said Forest of Dartmoor (CL 164) decision. In accordance with the said judgment, I must concern myself with what people have been doing, and of this Mr Northmore's evidence was, although expressed (conveniently I think) by reference to his ideas of the rights which he was supposed had been exercised, an adequate exposition.

I reject the suggestion that Mr Northmore by agreeing that the Forest and the Commons of Devon were all one common established against himself the unreliability of that part of his evidence on which he asked me to infer that those of Widecombe-in-the-Moor and Holne had no rights over the Unit Land. One of the many possible meanings of the expression "one common" is that it is an area where persons and animals can move freely; in my said CL 188 decision on legal grounds therein stated I held that such possible meaning did not establish rights such as are claimed over the Unit Land at Entry Nos. 8 and 9. The circumstance that those of Widecombe-in-the-Moor and Holne consider that the rights they are exercising are Venville rights and that those of Cornwood also consider that the rights they are exercising are Venville rights does not establish that the rights they respectively exercise must be over identical areas in Dartmoor. Mr Northmore gave his evidence on the basis that Objections Nos. 530 and 531 against the Entry Nos. therein mentioned, were so he thought,



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supported by his evidence. His meaning, although expressed by stressing his ideas about Venville, was clear enough: except for strays and except as expressly mentioned at the hearing there was no grazing on the Unit Land from any farm mentioned in any registration against which Objections Nos. 530 and 531 were made; a meaning wide enough to include farms in Widecombe-in-the-Moor and Holne.

I understand Lady Sayer was because her cattle from Holne habitually graze on the area of Dartmoor which she considered to be one common, claiming that such grazing could be ascribed as being not only over the parts of Dartmoor conveniently near Holne (including the Forest CL 164) but also over the whole of the rest of the area she considered to be one common. She offered no evidence of any actual grazing over any part of the Unit Land.

Although some animals may at some time have strayed from Widecombe-in-the-Moor and Holne onto the Unit Land, I have no evidence that this has ever happened.

I accept the substance and effect of the evidence of Mr Northmore that within living memory there has not from either Widecombe-in-the-Moor or Holne been any relevant grazing on the Unit Land; meaning by relevant either that no animals from these parishes have been there at all or such animals as have been there, were either strays or there accidentally or there in circumstances not establishing that their presence was as of right.

For the reasons set out in my said CL 188 decision and my said CL 164 decision, I find that the Unit Land the Forest (CL 164) are not one common in any sense which as explained in such decision by law could be relevant to anything I have to decide. The land which is called "The Forest" does not include any part of the Unit Land, and conversely the area which Lady Sayer at the hearing assumed to be one common and about which she obtained the agreement of Mr Northmore to it being such, is not in any relevant legal sense one common; by obtaining such agreement she did not oblige me to overlook that at the hearing the Unit Land was over and over again called either "Penn Moor" or "Stall Moor" or by some combination of these names, and was never by anyone referred to or described as part of some larger area bearing a name of any kind. In short as regards grazing the facts relating to registrations at Entry Nos. 8 and 9 are essentially the same as the facts relating to CL 188 Entry Nos. 1 and 2 and accordingly the applicable legal considerations are as set out in my said two June 1983 decisions, and about them my decision is the same.

As regards cutting peat and turf, taking stone and gravel, heath and fern the evidence (or lack of it) in support of any such right as is in these registrations described are either the same or less than that as regards grazing, above discussed, and my decision is therefore the same.

As to the allegations against Mr Northmore made by Lady Sayer in her Submission and postscript. I record for his benefit during my other hearings about Dartmoor registrations, it was apparent that there are many concerned with such registrations who while accepting the existence of Venville rights have put forward a concept of their scope nearer to that put forward by him than by her; his concept in my view is neither extraordinary nor unique.



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From my decision that these registrations were not properly made it is not a necessary consequence that I should refuse now to give effect to the agreements made at the hearing between ECLP and Lady Sayer, Admiral Sir James Eberle and Mr Northmore. The 1965 Act contemplates that registrations may become final without any reference about them to a Commons Commissioner, see section 7; regulation 31 of the Commons Commissioners Regulations 1970 provides that a Commissioner may give a decision by consent without a hearing; at this Unit Land hearing there was compromisable material, in that the Chief Commons Commissioner by his decision dated 30 May 1977 re Hentor Warren (CL 190) had confirmed registrations similar to those at Entry Nos. 8 and 9 over the part of the CL 190 land which adjoins the ECLP Part; by reaching an agreement those concerned have avoided the risk of the costs of an appeal: ECLP and all persons having rights of common or other rights in or over the ECLP Part may lawfully make a grant of a right of common such as is registered at Entry Nos. 8 and 9. Upon these considerations I shall give effect to the said agreements.

In accordance with the considerations above set out, my decision about the registrations at Entry Nos. 8 and 9 is as more precisely stated in the Fourth Schedule hereto.

Man of Devon
(Entry Nos. 64 and 65)

Mr Phillips based his claim as a "Man of Devon" in part on documents mentioned by Lady Sayer which he could not particularise. Among the said documents the most relevant are I think:- (1) Worth's Dartmoor (1957, 2nd edition 1967, 3rd impression 1981), where mention is made at page 348 of rights of "foreignors and wreytors", meaning "... all the inhabitants of Devon, except those of Barnstaple and Totnes, and excepting also the Forest men and the Venville men .. for sheep the men of Devon paid nothing either in the Forest or in the Commons of Devon ... Whatever cattle were the subject of grazing charges were of necessity entered into the agistment roll, and were thus scripti ... The foreigners, of the rest of Devon could depasture cattle on the Commons of Devon free of charge, but only if they deposed on oath that the cattle did not stray off the commons into the Forest ..."; for these rights reference is made to the Dartmoor Preservation Association (DPA) publication of 1890 which comprises mainly a report by Stuart Moore on the rights of common upon the Forest of Dartmoor and the Commons of Devon, particularly pages 88, 27, 48, 164, 27, 96 and 95. (2) A paper read by Dr P Birkett in 1885 (printed at pages xi to xxxiii of DPA/1890 supra), in which he quotes from a Royal Charter of 1205 by which King John purported to disafforest all Devonshire as to the metes and bounds of Dartmoor and Exmoor: "We will also, and do grant, that the aforesaid men of Devon and their heirs, shall have the customs within the regards of those moors and they were accustomed to have in the time of the aforesaid King Henry ...". (3) In his report Mr S Moore at page 3 says with reference to the said 1204 charter "This charter may be looked upon as the foundation of the rights of common claimed by the men of Devon upon Dartmoor"; at page 27 quotes from



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the verdict of the jurors at a 1382 inquisition: "... as to coals and turf as well, the aforesaid tenants, as strangers (extranei) of the whole county of Devon may hire one pit yearly for making coals there, and digging turfs for five pence"; at page 47 quotes from "Instructions for my Lord Prince's most honourable council concerning my Lord Prince's Forest of Dartmoor and in the moors and wastes to the same belonging" (undated, Worth suggests c.1542) "... Also every man of the Sheire of Devonshyre shall comyn with their said cattell in the aforesaid more and wast, whiche wast and comyns lyeth from the Forrest unto the cornedychis, and is callyed the Comyns of Devonshire and paye nothing"; at page 48 quotes "... upon the condycyon that the said comymers wylbe depoyssyd upon a bocke unto the Kynges officers that there cattell dyd not come and pasture upon the bondes of the Forrest"; at page 88 quotes from a deposition made in proceedings in 1702 by Daniel Honnawill "... the foreigners and wreytors are all the inhabitants of Devon except of Barnstaple and Totnes"; at pages 95 and 96 extracts from Court Rolls of the Manor of Lydford in 1382 of complaint about Robert Stoke claiming a right "non scripti" and in 1443 a complaint about Robert Breston wintering out of Venville and non scripti".

To establish a right of common, it must be capable of being properly pleaded, see *Baylis v Tyson - Amshurst* (1877) 6 Ch D 500, and my said CL 164 decision at page 232. To begin with I shall assume that the right claimed by Mr Phillips was pleaded as he put it: "for a man of Devon" or "an inhabitant of Devon" or "an occupier of land in Devon". The expression "Man of ..." was considered in *Iveagh v Martin* 1961 1 QB 232 and it was said that the common law meaning of a "man of Bosham" must be limited to include only those persons who held land directly from the lord of the manor and did not include other inhabitants of the manor; this definition applicable to the circumstances of that case cannot be applied to the circumstances here under consideration because there never has been a manor "of Devon". In the context of the documents produced or referred to by Mr Phillips, the expression can I think only mean an inhabitant of the county of Devon or a member of some such numerous fluctuating body similarly defined. In *Beckett v Lyons* 1967 1 Ch 451 the Court of Appeal decided that a fluctuating body like the inhabitants of the County Palatine of Durham could not acquire prescriptive right to a profit a prendre; that there considered being to collect sea washed coal from three strips of the foreshore of the County of Durham. The expression "profit a prendre" includes a right of common; so *Beckett v Lyons* in effect decides that a right expressed to be exercisable by a Man of Devon, by law cannot be proved by use for however long.

It may be that by Royal Charter a right of common may be granted to a County; but such a grant could by law only be effective either as impliedly incorporating the County, or as a charitable trust, see *Goodmen v Saltash* (1882) 7 AC 633 and the numerous later cases about it. Mr Phillips claims and evidence were not consistent with any such corporate or charitable grant.

Neither the book extracted by Mr Phillips (IP/7), nor any of the statements above extracted are precise enough to lead to the conclusion that their authors thought that the inhabitants of the County of Devon could graze on Dartmoor as they pleased. Even if these authors did so think and were in their day considered as authorities, their authority has now been over-ruled by *Beckett v Lyons*, supra. At some of my hearings about Register Units in Dartmoor mention



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has been made of strangers (meaning persons who are neither generally accepted as being in Venville or as having rights of common over the Forest appurtenant to their farms) having grazed on Dartmoor and of such grazing (usually for the summer only) having been on payment to and with the permission of Agisters or Moormen appointed by the Duchy. In the absence of special circumstances of which there was no suggestion, grazing on payment cannot be as of right, see *Gardner v Hodgson* 1903 AC 229.

I accept Mr Phillips' contention that the authors of the 1978 Commons and Village Greens (Phillips/1) would have been mistaken if they thought (they did not so say) that the rights of a Man of Devon, because they had not been exercised "for a considerable time", would by law have been extinguished; such a statement would be contrary to *Tehidy v Norman* 1971 2QB 528. But this contention does not help him if (as is my opinion) a right of a Man of Devon neither has been nor is by law capable of being proved.

I reject therefore Mr Phillips' evidence that what he and his father and before them his grandfather had been doing, has been no more than what a great many other people in Devonshire have been doing for many years. Even if such evidence had been multiplied and supported by numerous witnesses, it would not, because by law it could not, establish any right for a Man of Devon.

As was held in *De la Warr v Miles* (1881) 17 CLD 534, I must consider whether the claims of Mr Phillips can be supported on the evidence before me under some other legal heading without regard to his use of the expression "Man of Devon".

His registration at Entry No. 65 is "in gross". Such a right by law to be valid must be subject to a limit of some kind. In my opinion the limitation on the owner of the right (incorporeal) to the animals from time to time levant and couchant on, or coming from lands from time to time in his ownership (a corporeal right) is not such a limit. The usual limitation of a right in gross is by the number of the animals; Mr Phillips said nothing to suggest that either he or his father and grandfather before him were grazing as of right by reference to any such numerical limitation. A right in gross can only be conveyed by writing, see sections 52 and 53 of the Law of Property Act 1925 replacing the Statute of Frauds 1677; there was no evidence that the right has ever been so dealt with.

My decision is that no right in gross has been proved and that the registration at Entry No. 65 was not properly made.

Mr Phillips said alternatively he supported the registration at Entry No. 64 because he was in Venville and because in proceedings made about other Register Units, similar registrations had been conceded and either had been, or apparently would be accepted by a Commons Commissioner; he mentioned particularly a concession by the National Trust relating to Hentor Warren (CL 190) and accepted by the Chief Commons Commissioner in his said 1977 decision, and the concession of the Duchy relating to the Forest (CL 164) which would be accepted by me, as he thought (rightly see my decision of 30 June 1983).



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The concessions mentioned by Mr Phillips were by way of compromise and their acceptance by a Commons Commissioner is not a cogent argument in proceedings like these where his rights have been objected to, and no concession has been made. So my decision in accordance with the evidence has become requisite.

The extent by which rights over Dartmoor outside the Forest (CL 164) are established by the dominant tenement having been considered by the Duchy as "in Venville" has been set out by me in my said CL 164 and CL 188 decisions, and the relevant parts should be treated as repeated herein. So far as applicable to Mr Phillips' claims, such decisions show that the mere circumstance that some of the lands mentioned in column 5 of his registration are in Venville does not establish that the registration was properly made.

As above appears I am against Mr Phillips so far as he seeks to support his registration on grounds applicable to all the Register Units over which he has claimed rights. Nevertheless I must consider whether in relation to the Unit Land particularly, the registration at Entry No. 64 can as an ordinary right of common appurtenant be supported by use as of right.

As to this, the use relied on must under the Prescription Act 1832 be 30 years before the relevant Objections, ie before 1970; see section 16 of the Commons Registration Act 1965. In my opinion under the common law, or a presumed grant in accordance with *Tehidy v Norman* supra, it must also be before 1970 either by analogy, or because in the circumstances of this case there could not have been any use as of right after the Objections. The use by Mr Phillips after he acquired land in Whitchurch he described was too little to be noticed by others grazing or by the owners, and therefore to be otherwise than "secret" in the sense in which the word is used in the context of "as of right". Alternatively it was not for long enough; he acquired part of his Whitchurch land in 1969 (Phillips/2 and /3), and on the evidence given at this January 1983 hearing, I cannot infer that he acquired the remainder before 1960 (at a later hearing he produced a conveyance dated 1960 under which he acquired this remainder). There was no evidence that any of his predecessors as owners of his land in Whitchurch from it grazed Penn Moor as he said he did, and on appearance (their relative situation) it is unlikely; so I decline to reflect backwards any of his activities to his predecessors. His grazing on Penn Moor could not sensibly be regarded as appurtenant to the other lands mentioned in column 5 of this registration. My conclusion is therefore that no right such as is registered at Entry No. 64 was established by use.

Nevertheless for the reasons stated above in the penultimate paragraph under the heading "Venville", I shall give effect to the agreement made at the hearing between him and ECLP and Mr Northmore as hereinbefore recorded.

In accordance with the considerations above set out, my decision as regards to the registrations at Entry Nos. 64 and 65 is as more precisely stated in the Fourth Schedule hereto.



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Pithill Farm
(Entry No. 31)

Mr Harker having pointed out that the only Objections particularly directed to this registration were the Passy Objection No. 361 the grounds of which were directed to the Stall Moor Part and the Duchy Objection NO. 989 the grounds of which were directed to the Duchy Part, contended that his client being agreeable to the registration being modified so as to exclude these Parts it necessarily followed that the registration would if so modified be proper and that I therefore must confirm it as so modified.

According to the maps available to me, Pithill Farm is in the valley of the River Erne about 2 miles from the nearest point of the Stall Moor Part and about 3. miles from the nearest point of the Penn Moor Part; whether it is possible or impossible or more or less convenient to get from the Farm to Penn Moor otherwise than over Stall Moor, I cannot say merely by looking at the maps available.

Whether I am obliged to give a decision as matters stood at the hearing in accordance with Mr Harker's contention is a matter of law depending on the true effect of the Commons Registration Act 1965 and the Regulations made under it particularly the Commons Registration (Objections and Maps) Regulations 1968. The Regulations contemplate that any person may object that the right does not extend over all the land over which it is stated to be exerciseable, see Note 9(B) sub-paragraph (3) to Form 26 set out in the Schedule to the said Regulations; I conclude that such an Objection is within section 5 of the Act. Section 7 of the Act provides that an undisputed registration shall become final and requires the registration authority to indicate that fact in the Register. In my opinion Section 7 does not apply, to a part Objection under the said sub-paragraph (3). If contrary to this opinion the instant registration became final as regards the Penn Moor Part and Devon County Council as registration authority came under an obligation to indicate such finality in the Register, they should not have referred the registration (the form is prescribed by the Commons Commissioners Regulations 1971) to a Commons Commissioner, without indicating that the reference related only to so much of the Unit Land as was mentioned in the grounds of registration. I am not alone in this opinion as is I think shown by every registration authority since the Act came into operation referring to Commons Commissioners numerous disputes arising on occasions by objections in accordance with the said sub-paragraph (3) without any indication either that they related only to land in the Register Unit mentioned in the Objection or that as regards the rest, the registration had become final. Further if it be Mr Harker's case that as regards the Penn Moor Part, the instant registration has become final under section 7, it would follow that as regards such Part there never was need of any reference to a Commons Commissioner and I have no jurisdiction to give any decision about it; instead Mr D J Skelley should bring proceedings against the County Council to compel them to indicate on the Register that notwithstanding that a Commons Commissioner has given no decision the instant Registration has as regards the Penn Moor Part become final.



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But there remains the question whether assuming that the instant registration was properly referred to a Commons Commissioner as regards the Penn Moor Part, the Commons Commissioner is without any exception whatever obliged to confirm the registration as regards that Part merely because it is not in any Objection expressly disputed. As to this I accept that as a general rule of practice if an Objection relates to part only of a Register Unit and if the persons concerned to support the registration are agreeable to a modification excluding that part, the Commissioner should having no good reason for doing otherwise assume the propriety of the registration as regards the part to which no objection has been made; indeed I have often confirmed registrations on this basis; for example where numerous rights have been registered over large areas of land and there is an objection to a small part only (possibly a mapping mistake) it would usually be oppressive to require those who had applied for registrations to prove their propriety over the remainder of the land. But I have had many other cases where to apply such general rule would be unjust; for example where the Objection relates to nearly all the Register Unit and the evidence shows that to leave the registration as applicable to the comparatively small remainder would be nonsense. Further regulation 26 the Commons Commissioners Regulations 1971 confers on a Commons Commissioner power to amend the grounds of an objection and therefore if they be in accordance with the said sub-paragraph (3) I could enlarge the grounds so as to extend them to the whole of the Unit Land, and must therefore I have jurisdiction to consider the whole. Once a matter has come within the jurisdiction of a Commons Commissioner his powers are as set out in section 6 of the 1965 Act either to confirm the registration with or without modification or refuse to confirm it; the power is generally expressed; but subject to the obligation to "inquire into" the matter.

The question I am considering was discussed in *re Sutton* 1982 1 WLR 647 and *re West*, Times Newspaper 17 October 1983; although I find the judgments of these cases not easy to reconcile, the instant case seems to be nearer to *re Sutton* and leads me to the conclusion that I should treat it as exceptional to the general rule above mentioned and "inquire into" the matter.

It being clear that those concerned were not ready for me to conduct any such inquiry, I adhere to what I said at the hearing. As to the adjournment, for details see the Fifth (and last) Schedule hereto.

Wotter Farm
(Entry No. 24)

This registration is of a right to stray and was made on the application of Mr R E Skelley and his late father Mr R L Skelley. Below under the heading "Others", I deal separately with Entry No. 25 made on the application of the same persons because Mr Harker said no evidence would be offered about Olderwood Farm, and with Entry No. 74 made on the application of Mr R L Skelley because Mr R E Skelley said that Lee Moor Farm had ceased to exist and indicated that nobody claiming under his father was interested in supporting the registration.

A registration of a right "to stray" is irregular for the reasons set out under the heading "Straying" in my said June 1983 decision about the Forest (CL 164). So it follows that unless the Wotter Farm registration can be



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modified by substituting "graze" for "stray" Objections Nos. 302, 361 and 989 wholly succeed and the registration should at least be modified by excluding the Parker Part, the Passy Part and the Duchy Part from it. Upon the considerations set out above under the heading "Pithill Farm", unless as aforesaid, I consider I should avoid the registration altogether because a right such as is now registered can not sensibly (I have no evidence to the contrary) exist over the remainder of the Unit Land.

Mr Harker recognising that I must so decide, applied for such a substitution thereby raising two questions: (1) whether I ought to make such a modification, and (2) whether if the registration was so modified the resulting registered right was established.

As to (1):-

Of a possible mistake Mr R E Skelley provided no evidence other than his brief statement above recorded of what he told the auctioneer and about his own failure to read the application form when he signed it, meaning as I understood him that I should modify the registration because the auctioneer failed to do what he was by him told to do. I accept the evidence of Mr J W Northmore that the auctioneer (named at the hearing) was experienced enough to know at least that in the result of an application to register a right there would be a difference between "graze" and "stray", and I infer that if he did not already know he would at least before proceeding have inquired about the situation of Wotter Farm in relation to the Unit Land. If Mr R E Skelley said to him no more than what he told me he had said, the auctioneer in fact did what he was told, in that he effectively applied for the registration of a right attached to Wotter Farm to graze on the CL 190 and CL 164(S) lands. Mr R E Skelley said nothing about his father's part in the application. From the careless way in which Mr R E Skelley gave his evidence about this aspect of the case, I think it likely that to the auctioneer he said nothing to indicate that he thought the application should make a distinction between the Unit Land and the CL 190 and CL 164(S) lands, and left it to the auctioneer to prepare the application as he thought best. However this may be, I find that the auctioneer made no such mistake as Mr R E Skelley alleged.

Of course the auctioneer may not have foreseen that I should take the view that a right to stray was not registrable; but such a lack of foresight (shown by many others in and around Dartmoor) is not in law a mistake in any now relevant sense.

So even assuming I have power (as I think I have in appropriate circumstances) to modify a registration at the request of an applicant, I would not on the evidence I have exercise it for the benefit of Mr R E Skelley; so I need not express any opinion as to Mr Kitow's submissions that I have no such power.

As to (2), in case I am mistaken as to (1), I now consider whether a right to graze was established.

It was not suggested it could be established otherwise than by use as of right. For the reasons stated above under the heading "Man of Devon" I am



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concerned with such use during the 20 years before 1970. During all this period Mr R L Skelley was (or with Mr R E Skelley was) in possession both of Wotter Farm and Lee Moor Farm. Any grazing by them of animals on the Unit Land cannot be as of right from Wotter Farm if it was done secretly, meaning in the context of the words "as of right" done openly in the sense stated at page 42 of my said June 1983 CL 164 decision. Lee Moor Farm being between the Unit Land and Wotter Farm, an ordinary person concerned with the Unit Land would unless he had some reason for thinking otherwise assume that any grazing by Messrs Skelley was in exercise of a right attached to Lee Moor Farm. No reason was put forward suggesting that he would think otherwise. So even assuming that the grazing by Messrs Skelley on these two farms was openly done by Messrs Skelley, about which I feel some doubt, I conclude that it was not in exercise of a right attached to Wotter Farm.

I have not overlooked that at Entry No. 74 is a registration made on the application of Mr R L Skelley of a grazing right attached to Lee Moor Farm. Even although this right has been objected, and no one has come forward to support it, I will assume for the benefit of Mr R E Skelley in relation to his claim about Entry No. 24 that such a right could have been established by use as of right; but they cannot merely by giving up the tenancy of Lee Moor Farm and continuing at Wotter Farm transfer the benefit of the use made by them of the Unit Land from one farm to the other.

I accept Mr Northmore's evidence if the registration had been of a right to graze, the Commoners Association would have objected to it; I must therefore consider the supposedly modified registration on the assumption that it has been so objected to. My conclusion is that the right has not been established.

For the above reasons my decision is that this registration at Entry No. 24 could be avoided.

Lower Piles
(Entry No. 20)

This registration is of a right "to stray" over all the Unit Land from the part of CL 195 (Harford Moor) lying south of the assumed Forest boundary.

As I understood Mr Edmunds he claimed that I should first modify the registration by not only substituting "graze" for "stray" and dividing the number of animals by 90, but also by reducing the Lower Piles of 89½ described in column 5 as being in Cornwood and Harford to the 1 acre in Cornwood, and that he based his claim to the resulting registered right on the assumption apparently being made by Mr J W Northmore and others at the hearing that to all lands in Cornwood situated near to the Stall Moor Part there certainly was attached right to graze on such Part of the Unit Land.

A right (customary or otherwise) of common for all persons in possession of land in a parish (or similar area) is not by law recognised and is therefore incapable of proof; but this does not prevent numerous persons each of whom is in possession of land in a parish proving each of them has a right of



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common attached to his land identical with the right which each of the others has attached to his land. The distinction is explained in *de la Warr v Miles* (1881) 17 ChD 535. Numerous rights had by as many different persons may perhaps be supported by evidence of a general character applicable to all or some of them. But in law proof that numerous persons in a parish have identical rights is neither conclusive nor by itself cogent evidence that other persons in possession of land in the parish have identical rights. So I reject Mr Edmunds claim so far as it is based on the proposition because he owns land in the parish of Cornwood adjoining the Stall Moor part, there is necessarily attached to his land a right of common over it.

As regards Mr Edmunds' 1 acre in Cornwood, I have no evidence that his application was not in accordance with his intentions when he made it, and therefore find that he made no mistake within any now relevant meaning of the word. Having no reason for modifying the registration as he suggested, I now deal with it on the basis that it is and has always been of a right "to stray" attached to the 89½ acres of Lower Piles.

The registration is only in question by reason of Objection No. 989 the grounds of which were that the rights claimed did not exist on the Duchy Part. In my opinion for the reasons set out above under the heading "Pithill Farm" the circumstances are that the grounds are so limited does not preclude me from considering whether the registration is proper as against the rest of the Unit Land. For the reasons given in my said June 1983 Forest (CL 164) decision under the heading "straying" I am of the opinion that in the absence of special circumstances the registration of a right "to stray" should be avoided as being contrary in law. I know of no special circumstances here applicable. Whether animals of Mr Edmunds lawfully on Harford Moor will be able without being impounded or otherwise harassed to stray on to the Stall Moor Part (as I suppose they have done in the past) is not a matter of which I am concerned in these proceedings. As regards this registration my decision is that being of "to stray" it should be avoided not only as regards the Duchy part but as regards all the Unit Land.

Others

About the other Rights Section registrations not hereinbefore dealt with under particular headings, I had the evidence of Dr H P Burrows and Mr J N Munford dealing particularly with their registrations, and the evidence of Mr J W Northmore dealing with the grazing position generally (Venville rights) and with many of the registrations particularly. No evidence was offered on behalf of the Passy Trustees, Major Parker or ECLP, although Mr Gunn, Mr Kittow and Mr Lamond by their questioning of those who did give oral evidence by negotiating agreements, did much to clarify the position and shorten the hearing. Nevertheless about many of the other registrations, and about the various parts of the Unit Land and the lands to which rights were alleged to be attached, I had little or no information. So apart from presuming that those rights which were not supported by any evidence should at least be modified to the extent requisite to satisfy the grounds of objection, as regards these registrations, in some respects my decision must be somewhat arbitrary. Upon the considerations set out above under the heading "Pithill", I conclude that I can and should give a decision



which accords with my view that a right "to stray" is not registerable, and with the realities of grazing on the Unit Land so far as I can deduce them from looking at the Register map, having on several occasions seen from the Cornwood-Wotter Road parts of the Unit land distantly and seen also the intervening buildings and other lands southwest of it apparently used in association with the production of china clay.

The registrations at Entry Nos. 34, 35, 36, 37, 38, 39, 40, 41, and 56; and at Nos. 30, 42, 43, 44, 45, 46, 47, 48, 49, 51 and 55 are listed in Objections Nos. 530 and 531 made by the Cornwood Commoners Association. The grounds of Objection are generally stated: "No such rights exist; the right is not exercisable over CL 112", giving to those concerned to support them fair warning that they are altogether in question. I consider that in the absence of any evidence in support of these registrations or of any concession or agreement made at the hearing or on behalf of the Association, I ought to conclude that these registrations were not properly made. As an additional reason for so concluding I have Mr Northmore's general evidence about the Association, from which I infer that he and others with local knowledge considered the registrations to be irregular. Of the said registration at No. 56, I have the agreement mentioned in the First Schedule to which I shall give effect. In the absence of any agreement by the Association, I shall pay no attention to Mr Gunn's withdrawal in July 1982 of Passy Objection No 361 as regards Nos. 34 to 51, or to Mr Kittow's statement on 18 January that Nos. 34 to 51 and 55 were in Venville, or to Mr Lamond's statement on 19 January that ECLP accepted in part Nos. 42, 44, 45, 49 and 55; as to being in Venville, the mere circumstance that in the locality of the land to which the alleged rights are attached, the owners are said to be in Venville does not cogently establish that they have rights over the same parts of Dartmoor as those in Cornwood who also consider themselves in Venville; and putting together all that Mr Lamond said at various times during the hearing, I consider that on behalf of ECLP he did not ever concede (except as regards Nos. 8 and 9 above mentioned) any registration. Even as regards the ECLP Part, I disregard the statement of Admiral Sir James Eberle that Holne Commoners would be happy to reach an agreement with ECLP similar to that made by him and Lady Sayer, because in my view he did not (as he himself clearly indicated) conclude any agreement on their behalf and because there is a difference between a decision based on agreement (eg. an agreed decision may not be appealable) and a decision not so based; but in case any of those persons described by Sir J Eberle as "Venville tenants at Hone" have been misled by the procedure I adopted, I give them liberty to apply in accordance with the last paragraph of the Fifth Schedule hereto. So except as before stated about No. 56, my decision is that none of these registrations was properly made.

The registrations At Entry Nos. 1 (A J Wotton), 2 (A J Wotton), 3 (D B H and E M Cannon), 4 (D B H and E M Cannon), 5 (E M Cannon), 6 (A J Wotton), 7 (A J Wotton), 11 (Western Machinery and Equipment Co Ltd), 12 (R P German), 13 (H P Burrows and J W Northmore), 14 (H P Burrows and J A S Moysey), 15 (H P Burrows), 16 (H P Burrows), 17 (H P Burrows), 18 (H P Burrows), 19 (J N Mumford), 30 (A E Williams), 67 (E W Mudge), 68 (E W Mudge), and 69 (John Luckett) were all particularly mentioned at the hearing. As hereinbefore or in the Fourth Schedule hereto appears all these registrations were supported by Mr J W Northmore on behalf of the Commoners Association and the persons who had made objections relating to such registrations were about my decision agreed (I treat Mr Gunn's agreement or acquiescence as equivalent to an



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agreement of the Duchy). My decision is accordingly as set out in the Fourth Schedule hereto.

The registrations at Entry Nos. 10, 25, 27, 28, 32, 54, 58, 59, 60, 74 and 75 being those not before mentioned to which objection was made by Major Parker, Wing Commander Passy and the Duchy were not at the hearing supported by any argument or evidence; reason enough for my refusing to confirm them as regards the Parker Part, the Passy Part and the Duchy Part. The rest of the Unit land is compared with these parts small and for grazing inconveniently situated. Additionally the registrations at Entry Nos. 25, 27, 28, 32 and 75 are of "to stray" which I consider I should in the absence of any contra evidence (I had none) avoid for the reasons set out under the hearing "Straying" in my said June 1983 Forest (CL 164) decision. Additionally as regards Nos. 54, 59 and 60, there is the ECLP Objection expressed generally. Upon these considerations my decision is that none of these registrations should have been made as regards any part of the Unit land.

The registrations at Entry Nos. 26, 29, 33 (replaced by Nos. 82 and 83), 52, 53 and 57 are those not mentioned in the three preceding paragraphs to which objection was made by Wing Commander Passy and the Duchy. I consider I should give effect to the agreement hereinbefore and in the Fourth Schedule hereto stated as made as regards Nos. 29 and 53 by Mr Gunn and Mr Harker. As to the others in the absence of any evidence or argument in support, I conclude I should avoid at least as regards the Passy Part and the Duchy Part. As to avoiding them altogether I have that Nos. 26, 33 and 52 are of "to stray" which for the reasons set out under the said CL 164 heading "straying" ought to be avoided altogether, and as to No. 57, I have Mr Northmore's statement that it is in effect a duplicate. Accordingly my decision is that these registrations (except Nos. 29 and 53) ought to be avoided as regards all parts of the Unit Land.

The registration at Entry Nos. 63 and 66 are those not mentioned in the four preceding paragraphs to which objection was made by Major Parker and the Duchy. As to No. 63, I accept Mr Kittow's submission that in the absence of evidence the registration should be modified so as to exclude the Penn Moor Part; having regard to the practicability of grazing the Stall Moor Part and the ECLP Part together, I shall exclude the ECLP Part as well as the Penn Moor Part. As to No. 66, being of a right "to stray" upon considerations like those set out in the two preceding paragraphs consider that this registration should be avoided as regards all parts of the Unit Land. My decision is accordingly as set out in the fourth Schedule hereto.

The registrations at Entry Nos. 21, 22, 23, 61 and 62 (being the only registrations not mentioned in the five preceding paragraphs) are only in question by reason of Duchy Objection No. 989. I have no note or recollection of anyone at the hearing saying anything about these registrations. In the absence of any evidence or argument I conclude that they should be avoided at least as regards the Duchy Part. But in favour of avoiding them altogether have the Nos. 21, 22, 23 and 61 are of "to stray", and I have that No. 62 is apparently a duplicate of No. 3 which I am as above stated confirming with a small modification. Upon these considerations my decision is that ~~both~~ these registrations should be avoided altogether as regards all parts of the Unit Land.



Ownership

The only persons concerned with Objection No. 358 and with the conflict between the Ownership Section registration at Entry No. 3 (HRH Charles Price of Wales, Duke of Cornwall) and at Entry No. 4 (Wing Cdr C W Passy) were as recorded in

The First Schedule hereto agreed. That I shall avoid the registration at Entry No. 4 to the extent that it conflicted with the registration at Entry No. 5 (the Lord Mayor Aldermen and citizens of the City of Plymouth) was on 19 January conceded by Mr Gunn, so there was no need for the Plymouth Corporation or their successors to attend the hearing. As set out in the Fifth Schedule hereto I shall give effect to the said agreement and concession.

In the result no person will in the Ownership Section be registered as owner of the Duchy Part and of the 2 other parts of the Unit Land of which at present no person is registered as owner. However persons who can prove that they are the owners of these unregistered lands will not be permanently prejudiced by my decision, because under section 8 of the Commons Registration Act 1965 the question of the ownership of these unregistered lands will in other proceedings be referred to a Commons Commission.

In case I have misunderstood the ownership position, I gave liberty to apply as to ownership; any application should be made in accordance with the last paragraph of the Fifth Schedule hereto.

Final

Because much of this decision relates to persons who were not represented at the hearing, and is dependent upon agreements and statements about which there may be some mistake or error which ought to be corrected without putting those concerned to the expense of an appeal, I give liberty to apply to any person who might be affected by such mistake or error. Any application should be made as stated in the last paragraph of the Fifth 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.

TURN OVER



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FIRST SCHEDULE
(July 1982 hearing)

By one or more of the persons present at the hearing I was asked to record their agreement as below set out about the registrations and Objections hereinafter particularly mentioned.

Entry No. 1 Andrew John Wotton; Great Stert, Sparkwell

Mr Kittow said that it had been agreed that Great Stert contained 174 acres that "cut bracken and rushes" should be deleted and that for the words "To graze 100 cattle 400 sheep" there should be substituted "To graze 174 grazing units on the NFU scale". This was agreed by Mr A J Wotton, and by Mr J W Northmore, Mr Gunn and Mr Lamond.

Entry Nos 2, 6 and 7; Mr Andrew John Wotton; part of Great Stert Farm, land in Cornwood, and another part of Great Stert Farm

Mr Gunn said that as regards these registrations the Objection of Wing Commander Passy No. 363 was withdrawn.

Entry Nos 3, 5, 8, 9, 33 to 51 inclusive, 55, 59 and 60

Mr Gunn said that the said Objection of Wing Commander Passy (No. 361) to these registrations was withdrawn, they (? all of them other than Nos 3 and 5) having been made by Venville tenants.

Entry Nos 13 to 18; Dr H P Burrows; Lower Healy Farm and Ford Waste, High Hele Farm, land at Tor, land at Stone, Combe Farm with Combe Waste and Harrowthorn, and Watercombe Farm

Mr Gunn said that as regards these registrations the Objection of Wing Commander Passy (No. 364) was withdrawn. However the question was raised as to whether the grazing rights should not be expressed by reference to the NFU scale and Dr Parsons said he would try to agree the acreage for the purposes of this scale with Mr J W Northmore and inform me at the next hearing.

Entry No. 12; Mr R P German; Wakehams Rook

Mr Gunn said that as regards this registration Wing Commander Passy's Objection (No. 361) was withdrawn. And it was agreed between Mrs E A Northmore and Mr J W Northmore that the registration should be amended if possible so as to be by reference to the NFU scale and to accord with the registrations above mentioned of Dr H P Burrows.

Entry No. 56; Mrs Phyllis Phillips; land at Sparkwell

Mr Kittow said that this land was 25 acres and the registration should be on the NFU scale for 25 acres. Mr Baldwin referred to a letter (yellow form) dated 14 January 1971 signed by Michelmores, Hughes & Wilbraham, Chartered Surveyors, of Tavistock as agents for Mrs P Phillips and sent to Clerk of the Council, County Hall with reference to Objection Nos 361 and 302 agreeing to the registration at Entry No. 56 being cancelled; he said that as regards this Register Unit this letter was signed by mistake. Mr Kittow said the registration was agreeable if the words "turbary estovers" were deleted and if for the words "to graze 40 cattle and 20 ponies



100 sheep" these were substituted "to graze 25 grazing units on the NFU scale"; Mr Baldwin, Mr Lamond and Mr J W Northmore and Mr Gunn agreed this deletion and substitution.

Ownership Section Entry Nos 3 and 4 Duchy of Cornwall; Wing Commander C W Passy

Mr Gunn said that the Duchy had agreed to sell its interest to Mrs Passy and so would not be pursuing its claim to registration as owner; he handed in a document signed by his firm on behalf of Mrs Passy* and by Mr T Etherton as counsel for the Duchy. Mr Etherton who happened to be present at this July hearing because he was engaged in a hearing before and after it relating to CL 188; he said that this agreement was mentioned at the last hearing meaning 24 May when these CL 112 proceedings were first listed. Mr Gunn and Mr Etherton agreed that I could give effect to the said agreement by refusing to confirm the registration at Entry No. 3. It was noted that the conflict between the registrations at Entries Nos 4 and 5 had still to be resolved.

* Note: In view of Mr Gunn's statement at the January 1983 hearing that he always represented Messrs Atkins, Grant and Hill, I have treated this agreement as having been made on their behalf.

SECOND SCHEDULE
(Definitions)

1. In this decision (a) "the Parker Part", (b) "the ECLP Part", (c) "the Duchy Part" and (d) "the WA Part" mean the part of the land in this Register Unit on the Register map hatched in red: (a) diagonal lines and thereon marked "A", (b) diagonal lines and thereon marked "B", (c) diagonal lines thereon marked "C", and (d) diagonal lines (two pieces) thereon marked "E", respectively, being the parts of which in the Ownership Section (a) Major Frederick Anthony Vivian Parker, (b) English Clay Lovering Pochin & Co Ltd, (c) HRH Charles Prince of Wales, Duke of Cornwall, and (d) the Lord Mayor Aldermen and Citizens of the City of Plymouth are respectively registered as the owners at Entry Nos 1, 2, 3 and 5.
2. In this decision "the Passy Part" means the part of the land in this Register Unit on the Register map hatched red (horizontal lines) excepting the WA Part and being the part of which in the Ownership Section Wing Commander C W Passy is registered as the owner excepting the WA Part.
3. In this decision the Penn Moor Part means the Parker Part together with the part which is approximately triangular, which is not hatched on the Register map, of which the south and east sides are on the Register map marked by red lines starting from near to Yealm Head and running approximately westwards and northwards respectively, and of which no person is in the Ownership Section registered as the owner. The Penn Moor Part does not include the ECLP Part.
4. In this decision "the Stall Moor Part" means the Passy Part and the Duchy Part and the WA Part together with the part which is approximately triangular, which is not hatched on the Register map, of which the north and east sides are on the Register map marked by red lines running from Erme Mead Ford approximately westwards and (across Erme Head) southwards and of which no person is on the Ownership Section registered as the owner.



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THIRD SCHEDULE
(documents produced)

Part I: produced at July 1982 hearing

-- 6 July 1982 Paper headed "CL 112 Ownership Section Entry Nos 3 and 4. Ownership Section dispute between Mrs Passy and Duchy of Cornwall"; signed by Burd Pearce & Co solicitors for Mrs Passy and T Etherton counsel for Duchy.

Part II: by Dr H P Burrows

HPB/1 29 September 1961 Conveyance by Wing Commander C W Passy to Dr H P Burrows.

Part III: by Lady Sayer

Lady S/1 19 January 1983 Submission with postscript on Venville Rights.

Lady S/2 16 February 1977 Copy reference by County Council with plan 1/25,000 showing (on reduced scale) land mentioned in Parker Objection No. 302 and showing also High-House Waste.

Part IV: by Mr Phillips

IP/1 1967 Extract (page 50) from Common Land, Harris and Ryan.

IP/1 1967 Extract (pages 246 to 251 inclusive) from
vis Commons and Village Greens, D R Denman,
R A Roberts and H J F Smith.

Phillips/ -- Copy Duchy of Cornwall receipts:- (i) No. 300:
1 "Commons of Whitchurch rp, Commons of
(i) Sampford Spiney 5p, Venville rents" of
7 June 1976 "Whitchurch & Sampford Commoners" 50p for
5 years "at 29 September 1979"; and
(ii) No. 376 "Plasterdown (Sampford Spiney,
(ii) Whitchurch, Venville,) rent dues paid up to
15 August 1964 1974" 20p at 29 September 1964.

Phillips/ 11 April 1969 Copy conveyance by Reginald Charles Fuge to
2 Ivor Phillips of land containing about 6 acres
formerly part of Ash Farm at Grenofen,
Whitchurch (OS No. 1242)



Phillips/ 11 April 1968

3

Copy conveyance by Reginald Charles Fuge to Ivor Phillips of lands containing about 20½ formerly part of Ash Farm (OS Nos. 560, 336 and Part 337).

FOURTH SCHEDULE
(Rights Section registrations)

No. 1

Andrew John Wotton; Great Stert, Sparkwell; tenant; cut bracken and rushes, graze 120 cattle 400 sheep; "over the whole of the land comprised in this register unit".

Representation:- Mr A J Wotton attended in person

Parker Objection No. 302, no rights exist as claimed on Parker Part. Passy Objection No. 363, "Great Stert has owned rights of grazing only on Stall Moor since 1685. Whence the numbers of livestock? I object to more than 100 cattle 250 sheep 25 (?) ponies".

Mr Kittow, Mr Wooton, Mr J W Northmore, Mr Gunn and Mr Lamond were agreed as stated in the First Schedule hereto.

CONFIRM with MODIFICATION in column 4 delete "to cut bracken and rushes" and for "120 cattle and 400 sheep" substitute "174 grazing units on the NFU scale".

No 2

Andrew John Wotton, part Great Stert Farm, Sparkwell; tenant; cut bracken and rushes, graze 360 sheep; "over the whole of the land comprised in this register unit".

Representation:- Mr Wotton attended in person

Passy Objection No. 363, grounds see No. 1 above.

Mr Gunn said Passy Objection was withdrawn see First Schedule hereto

CONFIRM without any modification.

No. 3

Dennis Basil Haines Cannon and Elsie Mary Cannon; part Hanger and Houndle Farm, Cornwood; tenants; cut bracken and fern, graze 160 sheep; "over that part of the land comprised in this register unit known as Stall Moor ... together with straying rights onto that part of this register unit known as Penn moor ...".

Representation:- Mrs E M Cannon (Mr D B H Cannon having died) was represented by her brother Mr A J Wotton.



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Passy Objection No. 361, as to Stall Moor rights claimed do not exist.

Passy Objection is withdrawn. see First Schedule hereto.

CONFIRM with MODIFICATION in column 4 for "part of land comprised in this register unit known as Stall Moor" substitute "the Stall Moor Part as in this Rights Section defined", and delete "that part of this register unit known as Penn Moor and"

No. 4

Dennis Basil Haines Cannon and Elsie Mary Cannon; Uppaton, Cornwood; tenants; cut rushes and bracken, graze 485 sheep; "over that part of this registered unit known as Stall Moor ... together with straying rights onto ... that part of this register unit known as Penn Moor".

Representation:- by Mr A J Wotton, see No. 3 above.

Passy Objection No. 361, as to Stall Moor rights claimed do not exist.

Nothing said about Passy Objection at July 1982 hearing. Mr J W Northmore said (20 January) in order.

CONFIRM with MODIFICATION in column 4 for "part of the land comprised in this register unit known as Stall Moor" substitute "the Stall Moor Part as in this Rights Section defined" and delete "that part of this register unit known as Penn Moor and"

No. 5

Elsie Mary Cannon; land (OS 1051) at Cornwood; owner, cut bracken and rushes, graze 45 sheep; "over that part of the land comprised in this register unit known as Stall Moor ... together with straying rights on ... and that part of this register unit number known as Penn Moor".

Representation:- by Mr A J Wotton, see No. 3 above.

Passy Objection No. 361, as to Stall Moor rights claimed do not exist.

Passy Objection was withdrawn, see First Schedule hereto

CONFIRM with MODIFICATION in column 4 for "part of land comprised in this register unit known as Stall Moor" substitute "the Stall Moor Part as in this Rights Section defined", and delete "and that part of this register unit number known as Penn Moor".

No. 6

Andrew John Wotton; land OS Nos 158, 979, 915, 976, 977 at Cornwood; tenant; cut bracken and rushes, graze 160 sheep; "over the whole of the land comprised in this register unit".

Representation:- Mr A J Wotton attended in person.



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Passy Objection No. 363, for grounds see No 1 above.

Passy Objection was withdrawn, see First Schedule hereto.

CONFIRM without any modification

No. 7

Andrew John Wotton; part Great Stert Farm (OS Nos 1102 and 1309), Sparkwell; owner; cut bracken and rushes, graze 80 sheep; "over the whole of the land comprised in this register unit".

Representation:- Mr A J Wotton attended in person.

Passy Objection No 363, for grounds see No. 1 above.

Passy Objection was withdrawn, see First Schedule hereto.

CONFIRM without any modification

No. 8

Sir Guy Sayer and Lady S R P Sayer; Old Middle Cator, Widecombe-in-the-Moor; owners; cut peat and turves, take stone sand and gravel and heath and fern; graze 2 cattle or ponies, 10 sheep; "over the whole of the land comprised in this register unit".

Representation:- lady Sayer attended in person on her own behalf and as representing Sir G B Sayer

ECLP Objection No. 261, the rights do not exist at all. Parker Objection No. 302, no rights exist as claimed on the Parker Part. Passy Objection No. 361, as to Stall Moor rights claim do not exist. Cornwood Commoners Objection No. 530, no such right exists, the right is not exercisable over CL 112. Duchy Objection No. 494, the rights claimed do not exist on the Duchy Part.

Passy Objection No 361 was withdrawn, see First Schedule hereto.

CONFIRM with MODIFICATION in column 4 delete "to cut peat and turves, to take stone sand and gravel, and heath and fern" and for "the whole of the land in this register unit" substitute "the ECLP Part in this Rights Section defined".

No. 9

David Miller Scott; the Village Farm, Holne; owner; turbary, estovers, dig stone and sand, graze 52 bullocks or ponies, 208 sheep; "over the whole of the land comprised in this register unit".

Representation Admiral Sir James Eberle as successor in title of Mr Scott attended (part of the hearing) in person.



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ECLP Objection No. 8, the rights do not exist at all. Parker Objection No. 302, no rights exist as claimed on the Parker Part. Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Cornwood Commoners Objection No. 530, no such right exists, the right not exercised over CL 112. Duchy Objection No. 494, right does not exist on Duchy Part.

CONFIRM with MODIFICATION in column 4 delete "Turbary, estovers, to dig stone and sand", and for "the whole of the land in this register unit" substitute "the ECLP Part as in this Rights Section defined"

No. 10

John Ford Northmore; land at Lovaton, Meavy; owner; graze 10 cattle 30 sheep; "over that part of this register unit known as Stall Moor".

Parker Objection No. 302, no rights exist as claimed on the Parker part. Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy Objection No. 989, the rights claimed to not exist on the Duchy Part.

Mr Gunn claimed (19 January) that in the absence of evidence this registration should be avoided. Mr J W Northmore said that as far as he could remember nobody had from Lovaton grazed on Stall Moor.

CONFIRMATION REFUSED

No. 11

Western Machinery and Equipment Company Limited; Hall Farm and Yadswothy Farm, in Harford and Cornwood; owner; turbary, estover; graze 500 sheep, 100 cattle 25 ponies; "over that part of the land comprised in this register unit known as Stall Moor".

Representation:- Mr K Watkins as successor in title of Western Machinery and Equipment Co Ltd was represented by Mr D J Gunn.

Parker Objection No. 302, no rights exist as claimed on the Parker Part. Passy Objection No. 364, "as to Stall Moor the grazing rights only conveyed to Western Machinery, Dr Burrows & Mr Rndle are clearly stated in the appropriate conveyances; no rights of turbary piscary &c were conveyed ... objects to estover, piscary, turbary &c". Duchy Objection No. 989, the rights do not exist on the Duchy Part.

Mr Kittow (for Major Parker) and Mr Gunn (for Passy Trustees and Mr Watkins) agreed (19 January) that the rights should be limited to the Stall Moor Part and excluded from the Penn Moor Part.

CONFIRM with MODIFICATION in column 4 for "that part of the land comprised in this register unit known as Stall Moor", substitute "the Stall Moor Part as in this Rights Section defined".

No. 12

Reginald Percy German; Wakehams Rook, Cornwood; Tenant; turbary, cut bracken and rushes, graze 15 cattle 70 sheep (or any equivalent based on 5 sheep = 1 beast); "over the whole of the land comprised in this register unit".

Representation:- Mr R P German was represented by his daughter's father-in-law, Mr J W Northmore.

Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy Objection No. 989, rights claimed do not exist on the Duchy Part.

Mr J W Northmore said (18 January) that he agreed to the registration being modified by excluding the Stall Moor Part, and Mr Gunn (for Passy Trustees) said that such exclusion would satisfy him.

CONFIRM with MODIFICATION in column 4 for "the whole of the land comprised in this register unit" substitute "over the Penn Moor Part and the ECLP Part as in this Rights Section defined"

No. 13

Dr Henry Parsons Burrows and James William Northmore; Lower Hele Farm and Ford Waste, Cornwood; owner/tenant; turbary, cuts bracken and rushes, graze 120 cattle 5 ponies 500 sheep (or any combination based on 5 sheep = 1 beast); "over the whole of the land comprised in this register unit".

Representation:- Dr H P Burrows attended in person.

Passy Objection No. 364, for grounds see No. 11 above. Duchy Objection No. 989, the rights claimed do not exist on the Duchy Part.

Mr Gunn Dr Burrows and Mr Northmore agreed (19 January), amend so as to relate to Penn Moor only, and add a right to graze 50 cattle 5 ponies 250 sheep on Stall Moor only.

CONFIRM with MODIFICATION in column 4 "To graze: 15 cattle 70 sheep (or any combination based on 5 sheep = 1 beast) over the whole of the land comprised in this register unit", substitute "over the whole of the land comprised in this Register Unit and to graze 15 cattle 70 sheep (or any combination based on 5 sheep = 1 beast) over the Penn Moor Part and the ECLP Part as in this Rights Section defined and to graze 50 cattle 5 ponies and 250 sheep (or any combination based on 5 sheep = 1 beast) over the Stall Moor Part as in this Rights Section defined".

No. 14

Dr Henry parsons Burrows/John Alfred Stranger Moysey; Higher Hele Farm, Cronwood; owner/tenant; turbary, cuts bracken and rushes, graze 98 cattle 490 sheep (or any combination based on 5 sheep = 1 beast), "over the whole of the land, comprised in this register unit".

Representation and Objections as at No. 13 above



Mr Gunn, Dr Burrows and Mr Northmore agreed (19 January), amend so as to relate to Penn Moor only and add a right to graze 50 cattle 5 ponies 200 sheep on Stall Moor only

CONFIRM with MODIFICATION in column 4 for "to graze 98 cattle 490 sheep (or any combination based on 5 sheep = 1 beast) on the whole of the land comprised in this register unit", substitute "over the whole of the land comprised in this register unit and to graze 98 cattle 490 sheep (or any combination based on 5 sheep = 1 beast) over the Penn Moor Part and the ECLP Part as in this Rights Section defined, and to graze 50 cattle 5 ponies 200 sheep over the Stall Moor Part as in this Rights Section defined.

No. 15

Dr Henry ^Parsons Burrows; land at Tor, Cornwood; owner; turbary, cut bracken and rushes, graze 5 sheep 2 cattle; "over the whole of the land comprised in this register unit".

Representation and Objections as at No. 13 above.

Mr Gunn, Dr Burrows and Mr Northmore agreed (19 January) that the registration required no modification.

CONFIRM without any modification.

No. 16

Dr Henry ^Parsons Burrows; land at Stone, Cornwood; owner; turbary, cut bracken and rushes, graze 5 cattle 25 sheep (or any combination based on 5 sheep = 1 beast); "over the whole of the land comprised in this register unit".

Representation and Objections as at No. 13 above.

Mr Gunn, Dr Burrows and Mr Northmore agreed (19 January) that the registration required no modification.

CONFIRM without any modification

No. 17

Dr Henry parsons Burrows; Combe Farm with Coombe Waste and Harrowthorn Plantation, Cornwood, owner, turbary, cut bracken and rushes, graze 60 cattle 175 sheep (or any combination based on 5 sheep = 1 beast); "over the whole of the land comprised in this register unit".

Representation and Objections as at No. 13 above.

Mr Gunn, Dr Burrows and Mr Northmore agreed (19 January) that this registration required no modification.

CONFIRM without any modification.

No. 18

Dr Henry parsons Burrows; Watercombe Farm, Cornwood; owner; turbary, cut bracken and rushes, graze 85 cattle 10 ponies 275 sheep (or any combination based on 5 sheep = 1 beast); "over the whole of the land comprised in this register unit".

Representation and Objections as at No. 13 above.

Mr Gunn, Dr Burrows, and Mr Northmore agreed (19 January) that to this registration (which now includes both Stall Moor and Pann Moor) should be modified by adding graze 50 cattle, 5 ponies 200 sheep over Stall Moor.

CONFIRM with MODIFICATION in column 4 add at the end "and to graze 50 cattle 5 ponies 200 sheep over the Stall Moor Part as in this Rights Section defined.

No. 19

John Northmore Munford; Middle and East Rook Farms, Cornwood; tenant, turbary, cut bracken and rushes; graze 63 cattle 350 sheep (or any combination based on 5 sheep = 1 beast); "over the whole of the land comprised in this register unit".

Representation:- Mr J N Munford attended in person

Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy Objection No. 989, rights claimed to not exist on the Duchy Part.

Mr Gunn (for Passy Trustees) submitted (18 January) modify so as to exclude right from the Stall Moor Part. Mr Munford in the course of his oral evidence agreed to his rights being limited to the Penn Moor Part.

CONFIRM with the MODIFICATION in column 4 for "the whole of the land comprised in this register unit", substitute "the Penn Moor Part and the ECLP Part as in this Rights Section defined".

No. 20

Wilfred John Edmunds; Lower Piles in Harford and Cornwood; owner; stray 90 units (NFU scale); "over the whole of the land comprised in this register unit ... from that part of CL 195 laying south of the assumed forest boundary"

Representation:- ^{MR} W J Edmunds attended in person

Duchy Objection No. 989, rights claimed do not exist on the Duchy Part.

CONFIRMATION REFUSED

No. 21

Albert Edward Coles and Rosamond Isabel Coles; West Coombeshead Farm, Harford; owners; stray 20 cattle 150 sheep (or equivalent: 5 sheep = 1 beast); "onto the shole of the land comprised in this register unit ... from register unit No. CL 195".

Representation:- none



Duchy Objection No. 989, the rights claimed to not exist on the Duchy Part.

CONFIRMATION REFUSED

No. 22

Mary Louisa Cole; Broomhill Farm, Harford; owner; stray 94 cattle or 94 ponies or 470 sheep with followrs; "onto that part of the land comprised in this register unit known as Stall Moor ... from CL 195".

Representation:- none

Duchy Objection No. 989, the rights do not exist on the Duchy Part

CONFIRMATION REFUSED

No. 23

Mary Florence Douglas Pennant; Lower Cadleigh, Ivybridge, Ermington; owner, stray 7 cattle 35 sheep (or equivalent 5 sheep = 1 beast); "on the whole of the land comprised in this register unit ... from register unit No. CL 195.

Representation:- none

Duchy Objection No. 989, the rights do not exist on the Duchy Part

CONFIRMATION REFUSED

No. 24

Robert Edward Skelley/Robert Lewis Skelley; Wotter Farm, Shaugh Prior; owner and tenant/tenant; stray 72 cattle 360 sheep (or equivalent: 5 sheep = 1 beast); "on to the whole of the land comprised in this register unit ... from register unit Nos. CL 190 and CL 164(S)".

Representation:- Mr R E Skelley was represented by Mr H P Harker, his father Mr R L Skelley being now deceased.

Parker Objection No. 302, no rights exist as claimed on the Parker Part. Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy Objection No. 989, right does not exist on the Duchy Part.

Mr Gunn (for Passy Trustees) submitted (18 January) modify so as to exclude right from Stall Moor part, unless avoided altogether because straying only.

CONFIRMATION REFUSED

No. 25

Robert Edward Skelley/Robert Lewis Skelley; Olderwood Farm, Meavy; owner and tenant/tenant; stray 53 cattle 265 sheep (or equivalent 5 sheep = 1 beast); "on to the whole of the land comprised in this register unit ..." from Part of CL 191 (Wigford Down).



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Representation and Objections as at No. 24 above.

Mr Gunn submitted (19 January) as at No. 24 above. Mr Harker expressly offered no evidence.

CONFIRMATION REFUSED

No. 26

Mrs Beatrice Emily Vanstone; Lower Cadworthy Farm, Meavy; tenant; stray 5 cattle 150 sheep (or any combination on the basis 1 beast = 5 sheep); "on to the whole of the land comprised in this register unit ... from Wigford Down, part CL 191".

Representation:- none

Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy Objection No. 989, the rights claimed do not exist on the Duchy Part.

Mr Gunn (for Passy Trustees) submitted (18 January) modify so as to exclude right from Stall Moor part unless avoided altogether because straying only.

CONFIRMATION REFUSED

No. 27

David John Skelley; formerly part of Callisham Farm, Meavy; owner; stray 10 cattle 3 ponies 65 sheep (or equivalent; 5 sheep = 1 beast); "on to the whole of the land comprised in this register unit ... from CL 191".

Representation:- Mr D J Skelley was represented by Mr P W Harker

Parker Objection No. 302, no rights exist as claimed on the Parker Part. Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy Objection No. 989, the rights claimed do not exist on the Duchy Part.

Mr Gunn (for Passy Trustees) submitted (18 January) modify so as to exclude right from Stall Moor Part unless avoided altogether because straying only.

CONFIRMATION REFUSED

No. 28

Norman Kenneth Skelley; Callisham Farm, Meavy; owner; stray 100 cattle 500 sheep (or equivalent: 5 sheep = 1 beast); "on to the whole of the land comprised in this register unit ... from register unit CL 191".

Representation:- none

Parker Objection No. 302, no rights exist as claimed on the Parker Part. Passy Objection No. 361, as to Stall Moor, rights claimed do not exist. Duchy objection No. 989, the rights claimed do not exist on the Duchy Part.



Mr Gunn (for Passy Trustees) submitted (18 January) modify so as to exclude right from Stall Moor Part unless avoided altogether because straying only

CONFIRMATION REFUSED

No. 29

Edgar Gordon Rendle and Joyce Rendle; Torr Farm, Cornwood; owners; estovers, piscary, turbary, to shoot, grace 50 cattle 1,000 sheep 10 ponies (or any combination of 1 bullock or pony = 5 sheep); "over the whole of the land comprised in that part of this register unit known Stall Moor together with straying rights on to that part of this register unit known as Penn Moor".

Representation:- Mr E G and Mrs J Rendle were represented by mr P W Harker

Passy Objection No. 364, as to Stall Moor the grazing rights only conveyed to Western Machinery, Dr Burrows & mr Rendle are clearly stated in the appropriate conveyances; no rights of turbary piscary &c were conveyed ... objection ... as far as they applied estover piscary turbary &c. Duchy Objection No. 491, right of piscary does not exist on the Duchy Part. Duchy Objection No. 493, right for shooting does not exist. Duchy Objection No. 989, the rights claimed do not exist on the Duchy Part.

Mr Gunn (for Passy Trustees) and Mr Harker (for Messrs Rendle) were (19 January) agreed that estovers, piscary, turbary and shooting were withdrawn.

CONFIRM with MODIFICATION in column 4 delete "Esotvers, Piscary, Turbary, To shoot", and for "over the whole of the land comprised in that part of this Register Unit known as Stall Moor", substitute "over the Stall Moor Part as in this Rights Section defined", and delete "on to that part of this register unit known as Penn Moor and".

No. 30

Albert Edward Williams; Mountain Inn, Cornwood; owner; estovers, piscary, pannage, turbary, graze 12 ponies and 12 bullocks; "over the whole of the land comprised in this register unit".

Representation:- none

Passy Objection No. 361 as to Stall Moor rights claimed do not exist. Thornwood Commons Objection No. 531, no such right exists, the right is not exerciseable over CL 112. Duchy Objection No. 491 the right of piscary does not exist on the Duchy Part. Duchy Objection No. 492, the right for pannage does not exist on the Duchy part. Duchy Objection No. 989, the rights claimed do not exist on the Duchy Part.

Mr Northmore said (19 January), the land to which the rights is attached is small having on it an Inn from which no rights have been exercised

CONFIRMATION REFUSED

No. 31

Herman George Woodley; Pithill Farm, Cornwood; owner; graze 20 cattle 100 sheep; "over the whole of the land comprising this register unit".

Representation:- Mr D J Skelley as sucessor of Mr H G Woodley was represented by Mr P W Harker

Passy Objection No. 361, as to Stall Moor, rights claimed do not eixst.
Duchy Objection No. 989, rights claimed do not exist on the Duchy Part.

FURTHER CONSIDERATION of this registration ADJOURNED to a date and place to be fixed by a Commons Commissioner.

No. 32

Eden James Hungerford Morgan; Filham House Estate and Part Broadaford Farm, Ugborough; owner; stray 100 cattle 300 sheep or any combination based on 1 beast = 5 sheep; "on to the whole of the land comprised in this register unit ... from CL 156 and CL 164(S)".

Representation:- none

Parker Objection No. 302, no rights exist as claimed on the Parker Part.
Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy Objection No. 989, the rights claimed do not exist on the Duchy Part.

Mr Gunn submitted (19 January) that straying rights should be excluded

CONFIRMATION REFUSED

No. 33 (replaced by Nos 82 and 83)

Patricia Mary Donner; Rutt Farm, Ivybridge; owner; stray 50 cattle 200 sheep or any combination based on 1 beast = 5 sheep; "on to the whole of the land comprised in this register unit ... from CL 156 and CL 164(S)". Note:- Replacements rights between 2 parts Rutt Farm; Mrs P M Donner and Mr Herbert John and Mrs Hannah Elisabeth Harris.

Representation:- none

Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy Objection No. 989, rights claimed do not exist on the Duchy Part.

Mr Gunn submitted (19 January) that straying rights should be excluded.
Mr J W Northmore said he could not say that there is any grazing from Rutt Farm.

CONFIRMATION REFUSED

No. 34

Holne Parish Lands Charity; Church House Inn, Holne; owner; turbary, estovers, dig stone and sand; "over the whole of the land comprised in this register unit".

Representation:- none

ECLP Objection No. 261 the rights do not exist at all. Parker Objection No. 302, no rights exist as claimed on the Parker Objection Part. Passy Objection No. 361, as to Stall Moor, rights claimed do not exist. Cornwood Commoners Objection No. 530, no such right exists, the right is not exerciseable over CL 112. Duchy Objection No. 494, the right does not exist on the Duchy Part.

CONFIRMATION REFUSED

No. 35

David Miller Scott; Waterpark Holne; owner; turbary, estovers, dig stone and sand; "over the whole of the land comprised in this register unit".

Representation and Objections at at No. 34 above.

CONFIRMATION REFUSED

No. 36

H D and E M Pearce Gould; Little Cross, Holne; owners; turbary, estovers, dig stone and sand; "over the whole of the land comprised in this register unit".

lack of representation and Objections as at No. 34 above.

CONFIRMATION REFUSED

No. 37

Lewis Olver Perkins; Sparrows Hall, Holne; owner; turbary, estovers, dig stone and sand; "over the whole of the land comprised in this register unit".

Lack of representation and Objections as at No. 34 above.

CONFIRMATION REFUSED

No. 38

Alexander George Cousins; Stonehanger, Holne; owner; turbary, estovers, dig stone and sand; "over the whole of the land comprised in this register unit".

Lack of representation and Objections as at No. 34 above.

CONFIRMATION REFUSED

No. 39

Lt-Colonel Philip Robert Lane-Joynt; Tumbly, Holne; owner, turbary, estovers, take stone and sand; "over the whole of the land comprised in this register unit".

Lack of representation and Objections at at No. 34 above.

Letters to County Council (yellow forms) signed by applicant: 28/12/70, ref Ob 261, agree to my registration being amended/cancelled; 28/12/70 ref Ob 302 and 361 agree to my registration being cancelled; 27/5/71, ref Ob 494, agree to my registration being cancelled.

CONFIRMATION REFUSED

No. 40

Robert Ewing Adam; No. 1 Church Park Cottages, Holne; owner; turbary, estovers, take stone and sand; "over the whole of the and comprised in this register unit".

Lack of representation and Objections as at No. 34 above.

CONFIRMATION REFUSED

No. 41

Leonard Jackson; the Hook, Holne; owner; turbary, estovers, take stone and sand; "over the whole of the land comprised in this register unit".

Lack of representation and Objections as at No. 34 above.

CONFIRMATION REFUSED

No. 42

Edwin Hopcroft Woodward and Isabella Amelia Woodward; Pixies House, Buckfastleigh West; owners; estovers, turbary, take sand and gravel, grace 33½ bullocks or ponies and 133½ sheep; "over the whole of the land comprised in this register unit".

Representation:- none

ECLP Objection No. 261, rights do not exist at all. Parker Objection No. 302, no rights exist as claimed on the Parker Part. Passy Objection No. 361, as to Stall Moor, rights claimed do not exist. Cornwood Commoners Objection No. 531, no such right exists, a right is not exerciseable over CL 112. Duchy Objection No. 494, the rights claimed do not exist on the Duchy Part.

Letter to County Council (yellow forms) signed by E H Woodward: 1/2/71, ref Ob 261, agree to my registration being cancelled; 28/12/70, ref Ob 530, agree to my registration being cancelled; 9/3/71 ref Ob 494, agree to my registration being amended/cancelled.

CONFIRMATION REFUSED

No. 43

Francis Arthur Perryman; land (OS Nos 580, 581, 582, 584 and 593) Holne; owner; turbary, estovers, take stone and sand, graze 6 bullocks or 6 ponies and 24 sheep; "over the whole of the land comprised in this register unit".

Lack of representation and Objections as at No. 42 above.

CONFIRMATION REFUSED

No. 44

James Barnes Townsend; land (OS Nos 61, 65, 66, 67, 68, 70 and 72), Holne; owner; turbary, estovers, take stone and sand, graze 10 bullocks or ponies and 40 sheep; "over the whole of the land comprised in this register unit".

Lack of representation and Objections as at No. 42 above.

CONFIRMATION REFUSED

No. 45

Florence and Albert Edward Tozer; Forge House and Nos 1 and 2 Forge Cottages, Holne; owners; turbary, estovers, take stone and sand, graze 2 bullocks or 2 ponies and 8 sheep; "over the whole of the land comprised in this register unit".

Lack of representation and Objections as at No. 42 above.

CONFIRMATION REFUSED

No. 46

Raymond George Mortimore and Anne Bouvery Mortimore; Hazelwood, Holne; owner; turbary, estovers, take stone and sand, graze 2 bullocks or 2 ponies and 3 sheep; "over the whole of the land comprised in this register unit".

Lack of representation and Objections as at No. 42 above.

CONFIRMATION REFUSED

No. 47

Perge Albert Norrish, Seals Stoke, Holne; owner; turbary, estovers, take stone and sand, graze 40 bullocks or ponies and 160 sheep; "over the whole of the land comprised in this register unit".

Lack of representation and Objections as at No. 42 above.

Letters to County Council (yellow forms) signed by W H Norrish: 30/11/70 ref Ob 261, agree to my registration being cancelled; 21/6/71, ref Ob 361 and 302 agree to my registration being cancelled; 18/6/71, ref Ob 531, agree to my registration being cancelled; 18/6/71 ref Ob 494 agree to my registration being amended

CONFIRMATION REFUSED

No. 48

George Ernest Jonathon Gawthorne; Holne Cott, Holne and Widecombe-in-the-Moor; owner; turbary, estovers, take stone and sand, graze 12 bullocks or ponies and 18 sheep; "over the whole of the land comprised in this register unit".

Lack of representation and objections as at No. 42 above.

CONFIRMATION REFUSED

No. 49

Hugh Clarkson and Mary Isobel Clarkson; Fore Stoke Farm, Holne; owners; turbary, estovers, take stone and sand, graze 42 bullocks or ponies and 168 sheep; "over the whole of the land comprised in this register unit".

Lack of representation and Objections as at No. 42 above.

CONFIRMATION REFUSED

No. 50

Mary Isobel Clarkson; land (OS Nos 332, 333 and 312) Holne; owner; turbary, estovers, take stone and sand, graze 5 bullocks or ponies and 20 sheep; "over the whole of the land comprised in this register unit".

Lack of representation and Objection as at No. 42 above.

CONFIRMATION REFUSED

No. 51

William Henry Norrish; land (OS Nos 3363 and others) West Buckfastleigh; owner; turbary, estovers, take stone and sand, graze 12 bullocks or ponies and 48 sheep; "over the whole of the land comprised in this register unit".

Lack of representation and Objections as at No. 42 above.

Letter to County Council (yellow forms) signed by applicant: 30/11/70 ref Ob 261 agree to my registration being cancelled; 21/6/71, ref Ob 361 and 302 agree to my registration being cancelled; 18/6/71, ref Ob 494, agree to my registration being amended.

CONFIRMATION REFUSED

No. 52

Elsie Elizabeth Daw; part Wotter Farm, Shaugh Prior; owner; stray 11 cattle or 11 ponies or 55 sheep or any proportionate combination; "on to the part of the land comprising this register unit known as Stall Moor" from CL 190.

Representation:- none



Passy Objection No. 361, as to Stall Moor rights claimed do not exist.
Duchy Objection No. 989, rights claimed do not exist on the Duchy Part.

Mr Gunn (for Passy Trustees) submitted (18 January) modify so as to exclude right from Stall Moor Part unless avoided altogether because straying only.

CONFIRMATION REFUSED

No. 53

Edgar Gordon Rendle; Lutton Cornwood; tenant; graze 6 cattle or 6 ponies or 30 sheep or any proportionate combination; "over that part of this register unit known as Penn Moor".

Representation:- Mr E G Rendle was represented by Mr P W Harker

Passy Objection No. 364, "as to Stall Moor, the grazing rights only conveyed to Western Machinery, Dr Burrows and Mr Rendle clearly stated in the appropriate conveyances; no rights of turbary piscary &c were conveyed ... object so far as they apply to estovers piscary turbary &c". Duchy Objection No. 989, the rights claimed do not exist in the Duchy Part.

Mr Gunn and Mr Harker were agreed (19 January) that the registration be confirmed limited to the Penn Moor Part.

CONFIRM with MODIFICATION in column 4 for "that part of this register unit known as Penn Moor and" and substitute "the Penn Moor Part and the ECLP Part as in this Rights Section defined"

No. 54

Peter Gerald Ansell; Upcott House, Okehampton, owner part, tenant remainder; 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".

Representation:- none

ECLP Objection No. 261, rights do not exist at all. Parker Objection No. 302, no rights exist as claimed on the Parker Part. Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy Objections Nos 494 and 989, right does not exist on the Duchy Part.

CONFIRMATION REFUSED

No. 55

Eleanor Nancy Smallwood; Holne Court Farm, Holne; owner; turbary, estovers, take stone and sand, graze 106 bullocks or ponies, 426 sheep; "over the whole of the land comprised in this register unit".

Representation:- none



ECLP Objection No. 261, the rights do not exist at all. Parker Objection No. 302, no rights exist as claimed on the Parker Part. Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Cornwood Commoners Objection No. 531, no such right exists, the right is not exerciseable over CL 112. Duchy Objection No. 494, the right does not exist on the Duchy Part.

CONFIRMATION REFUSED

No. 56

Phyllis Phillips; land (OS No. 9832 and others) at Sparkwell; owner; turbary, estovers, graze 40 cattle, 20 ponies, 100 sheep; "over the whole of the land comprised in this register unit".

Representation:- none

parker Objection No. 302, no right exists as claimed on the Parker Part. passy Objection No. 361, as to Stall Moor rights claimed do not exist. Cornwood Commoners Objection No. 530, no such right exists, the right is not exerciseable over CL 112; Duchy Objection No. 989, rights claimed do not exist on the Duchy Part.

As to agreement about this registration see First Schedule hereto.

CONFIRM with MODIFICATION in column 4 delete "turbary estovers" and for "40 cattle 20 ponies 100 sheep" substitute "25 grazing units on the NFU Scale".

No. 57

Reginald Francis Ford Steer; land (OS Nos 533 and 359) Cornwood; part tenant part owner; turbary, pannage, graze 2 cattle or 10 sheep; "over that part of the land comprised in this register unit known as Stall Moor".

Representation:- none

Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy Objection No. 492, right for pannage does not exist on the Duchy Part. Duchy Objection No. 989, rights claimed do not exist on the Duchy Part.

Mr J W Northmore said (19 January) that the land to which this right is attached is the same land as that mentioned at Entry No. 15, so this registration is a duplicate, and that Mr Steer at the date of the registration was the occupier. Dr Burrows said that Mr Steer is still occupier, but ~~has~~ ^{his} (Dr Burrows') tenant.

CONFIRMATION REFUSED

No. 58

Charles Douglas Serpell; Baccamore Farm, Sparkwel; owner; graze 775 sheep or 115 bullocks; "over that part of the land comprised in this register unit known as Penn Moor".

Representation:- none



Parker Objection No. 302, no rights exist as claimed on the Parker Part.
Passy Objection No. 361, as to Stall Moor rights claimed do not exist. Duchy
Objection No. 989, the rights claimed do not exist on the Duchy Part.

Letter dated 22 November 1982 to Clark of Commons Commissioners from
Serpell Son & Savey on behalf of C I Serpell sole executor and trustee of
late C D Serpell: "... He no longer claims as owners of Baccamore Farm grazing
rights over these moors (meaning Penn Moor and Stall Moor)".

Mr Gunn (for Passy Trustees) drew attention (18 January) to said 1982 letter.

CONFIRMATION REFUSED

No. 59

Allen Amy Joyce Worthington; Mill Cottage, South Zeal and Great Close,
Allens Down, Zeal Head and Binney Mead, South Tawton; owner; turbary, estovers,
piscary, take wild animals, birds, fruit, stone, sand and gravel, rushes,
heather, bracken, graze 55 sheep, 1 cattle, 7 ponies; "over the whole of the
land comprised in this register unit".

Representation:- none

ECLP Objection No. 261, the rights do not exist at all. Parker Objection
No. 302, no rights exist as claimed on the Parker Part. Passy Objection
No. 361, as to Stall Moor rights claimed do not exist. Duchy Objection
No. 494 and 989, the right does not exist on the Duchy Part.

CONFIRMATION REFUSED

No. 60

Vera Ellen Knapman; Mill Farm, South Tawton; owner; turbary, estovers, piscary,
take wild animals, birds and fruit, stone, sand and gravel, rushes, heather
and bracken, graze 70 sheep, 20 cattle, 10 ponies; "over the whole of the
land comprised in this register unit".

Lack of representation and Objection as at No. 59 above.

CONFIRMATION REFUSED

No. 61

William Matthews and Annie Amelia Matthews; East Combeshead Farm, Harford;
owners; stray 67 ponies and 67 cattle or 400 sheep and their progeny; "on
that part of the land comprised in this register unit known as Stall Moor".

Representation:- none

Duchy Objection No. 989, the rights claimed do not exist at all on the
Duchy Part.

CONFIRMATION REFUSED

No. 62

Dennis Basil Haines Cannon and Elsie Mary Cannon; Uppatown Farm, Cornwood; tenants; cut bracken and rushes, graze 485 sheep; "over that part of the land comprised in this register unit known as Stall Moor ... together with straying rights on to ... and Penn Moor, part of this register unit".

Representation:- none

Duchy Objection No. 989, the rights claimed do not exist on the Duchy Part.

CONFIRMATION REFUSED

No. 63

William Ronald Norrish; Sherrell Farm, Cornwood; tenant own right, known as trustee for estate of J R Norrish; turbary, cut bracken and rushes; graze 100 cattle or 500 sheep or any combination thereof (1 cattle beast = 5 sheep); "over the whole of the land comprised in this register unit".

Representation:- none

Parker Objection No. 302, no rights exist as claimed on the Parker Part.
Duchy objection No. 989, the rights claimed do not exist on the Duchy Part.

Mr Kittow (for Major Parker) submitted (19 January) that rights should be excluded from Penn Moor Part.

CONFIRM with MODIFICATION in column 4 for "the whole of the land comprised in this register unit", substitute "the Stall Moor Part as in this Rights Section defined.

No. 64

Ivor Philips; Ashmill and Part Ash lands Greofen Whitchurch; 8 Beechfield Avenue, Yelverton, Buckland Monachorum; The Corner, Yelverton, Buckland Monachorum; and 1 and 1A Weston Park Road, Plymouth; owner, turbary, estovers, piscary, take stone, graze 68 stock units (NFU scale); "over the whole of the land comprised in this register unit".

Representation:- Mr Philips attended in person.

ECLP Objection No. 261, rights do not exist at all. Parker Part Duchy Objection Nos. 494 and 989, the rights claimed do not exist on the Duchy Part.

CONFIRM with MODIFICATION in column 4 delete "piscary", for "the whole of the land comprised in this register unit" substitute "as regards turbary estovers and taking stone over so much of the ECLP Part as in this Rights Section defined which is above the 1,000 ft contour as shown on the Register map, and as regards grazing over the whole of the ECLP part as in this Rights Section defined"; and in column 5 delete from "8 Beechfield Avenue Yelverton ..." to "... in the County Borough of Plymouth".

No. 65

Ivor Philips (described in Register as "man of Devon"); gross; turbary, estovers, piscary, take stone, graze 68 stock units (NFU scale) "over the whole of the land comprised in this register unit".

Representation and Objections as at No. 64 above.

ECLP Objection No. 261, rights do not exist at all. Parker Objection No. 302, no rights exist as claimed on the Parker Part. Duchy Objections Nos. 494 and 989, the rights claimed do not exist on the Duchy Part.

CONFIRMATION REFUSED

No. 66

Robert Edwin Skelley, Robert Lewis Skelley and Winifred Buller Skelley; Broomage Farm, Sparkwell; owners; stray 12 cattle or 60 sheep or any combination (1 cattle beast = 5 sheep); "on to the whole of the land comprised in this register unit".

Representation:- none

Parker Objection No. 302, no rights exist as claimed on the Parker Part. Duchy Objection No. 989, rights claimed do not exist on the Duchy Part.

CONFIRMATION REFUSED

No. 67

Edward William Mudge; Hanger, Cornwood; tenant; graze 20 cattle or 20 ponies or 100 sheep; "over that part of the land comprised in this register unit known as Stall Moor".

Representation:- none

Duchy Objection No. 989, rights claimed do not exist on the Duchy Part.

Mr J W Northmore said (20 January) in order.

CONFIRM with MODIFICATION in column 4 for "that part of the land comprised in this register unit known as Stall Moor" substitute "the Stall Moor Part as in this Rights Section defined".

No. 68

Edward William Mudge; Cholwichtown Farm, Cornwood; tenant; graze 280 cattle or 280 ponies or 1,400 sheep (or a proportionate combination); "over that part of the land comprised in this register unit known as Penn Moor".

Representation:- none



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Duchy Objection No. 989, the rights claimed do not exist on the Duchy Part
Mr J W Northmore said (20 January) in order subject to halving numbers.

CONFIRM with MODIFICATION in column 4, for "280 cattle or 280 ponies or 1,400 sheep" substitute "140 cattle or 140 ponies or 700 sheep", and for "that part of the land comprised in this register unit known as Penn Moor" substitute "the Penn Moor Part and the ECLP Part as in this Rights Section defined".

No. 69

John Luckett; Lutton Farm, Cornwood; tenant; graze 94 cattle or 94 ponies or 470 sheep (or a proportionate combination); "over the whole of the land in this register unit".

Representation:- none

Duchy Objection No. 989, the rights claimed do not exist on the Duchy Part.

CONFIRM without any modification

Nos. 70 to 73 inclusive

Cancelled 31/7/73

No. 74

Robert Lewis Skelley; Lee Moor Farm, Shaugh Prior; tenant; turbarry, cut bracken and rushes, graze 35 cattle and 175 sheep (or any combination 1 beast = 5 sheep); "over the whole of the land comprised in this register unit".

Representation:- Mr R E Skelley who as son of Mr R L Skelley was represented by Mr H P Harker, was not interested in this registration either as successor of his father or at all (the farm has ceased to exist).

Parker Objection No. 302, no rights exist as claimed on Parker Part. Passy Objection No. 362, as to Stall Moor rights claimed do not exist. Duchy Objection No. 989 the rights claimed do not exist on the Duchy part.

CONFIRMATION REFUSED

No. 75

The National Trust; Trowlesworthy Warren Farm, Shaugh Prior; owner; stray 80 bullocks 1,000 sheep 60 ponies; "on to the whole of the land comprised in this register unit" from CL 190.

Representation:- none

Parker Objection No. 302 no rights exist as claimed on Parker Part. Passy Objection No. 362, as to Stall Moor, rights claimed do not exist. Duchy Objection No. 989, rights claimed do not exist on the Duchy Part.



Mr Gunn (for Passy Trustees) and Mr Kittow (for Major Parker) said (19 January) they had been told some time ago by a representative of the National Trust that they would not be pursuing this registration.

CONFIRMATION REFUSED

Nos. 76 to 80 (inclusive)

Cancelled 11/7/73.

Nos. 82 and 83

See No. 33 above.

FIFTH SCHEDULE
(Decision Table)

1. For the purpose of enabling some of the modifications hereon directed to be conveniently registerable, I DIRECT Devon County Council as registration authority to make Entries in the Rights Section which by reference to such maps if any as they may think fit to provide are to the following effect:-
• In this Rights Section, the expressions "the ECLP Part", "the Penn Moor Part" and "the Stall Moor Part" have the meanings, respectively, given to these expressions in the Second Schedule hereto.
2. For the reasons set out under the headings "Venville", "Man of Devon", "Wotter Farm" and "Lower Piles", I CONFIRM the registrations at Entry Nos. 8, 9 and 64 with the MODIFICATION set out in the Fourth Schedule hereto, and I REFUSE TO CONFIRM the registrations at Entry Nos. 20, 24 and 65.
3. For the reasons set out under the heading "Pithill Farm", I ADJOURN the further consideration of the registration at Entry No. 31 to a day and place to be fixed by a commons Commissioner. Of the adjourned hearing notice will be given only to the following persons:- (1) Major F A V Parker, Messrs W G Atkins, I F Grant and H C Hill, ECLP and Mr D J Skelley or their successors in title so far as is known in the office of the Commons Commissioners or to their solicitors who at this hearing represented them (2) Mr J W Northmore as chairman of the Cornwood Commons Association or so far as is known in the office of the Commons Commissioners ~~the~~ successor as chairman or to Bond Pierce & Co as their solicitors; (3) Devon County Council as registration authority; (4) Lady S R P Sayer who at the hearing asked to be so notified; and (5) such other persons as may write to the office of the Commons Commissioners requesting that they be given such notice.
4. For the reasons set out under the heading "Others" I REFUSE TO CONFIRM the registrations at Entry Nos. 10, 21, 22, 23, ~~24~~ 25, 26, 27, 28, 30, 32, 33 (including Nos. 82 and 83), 34 to 52 inclusive 54, 55, 57 to 62 inclusive, 66, 74 and 75; and I CONFIRM with the MODIFICATIONS (if any) set out in relation thereto in the Fourth Schedule hereto the registration at Nos. 1 to 7 inclusive, 11 to 19 inclusive, 29, 53, 56, 63, 67, 68 and 69.



5. For the reasons set out under the heading "Ownership", I REFUSE TO CONFIRM the Ownership Section registration at Entry No. 3; I CONFIRM the Ownership Section registration at Entry No. 4 with the MODIFICATION in column 4, after "... register map" and "excepting from such portion that part of it which is also hatched in red diagonal lines _____

_____ and lettered "E" on the register map."; and I CONFIRM to the Ownership Section registration at Entry No. 5 without any modification.

6. Any application under any liberty to apply in this decision granted should be made within 3 months from the day on which this decision is sent out (or such extended time as a Commons Commissioner may allow) and should in the first instance be by letter to the Clerk of the Commons Commissioners stating the mistake or error and the applicants reasons for thinking it should be corrected. A copy of the application should be sent to any person who might be adversely 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.

Dated the 2nd day of March — 1984.

a. a. Baden Fuller.

Commons Commissioner