



Reference Nos 209/D/345
209/D/346
209/D/347

In the Matter of South Tawton Common,
Ash Common, Gooseford Common,
Firestone Common, Addiscott Common,
Pixies Garden Common, Ramsley Common
and waste, Week Hills and manorial waste,
Waste at Ford Lane, and Taw Green, all
in South Tawton, West Devon District,
Devon.

DECISION

Introduction

This matter relates to 166 registrations under the 1965 Act. My decision as regards each of the registrations is set out in the Third (and last) Schedule hereto. The disputes which have occasioned this decision, the circumstances in which they have arisen, and my reasons for my decision are as follows.

These disputes relate to the registrations at Entry No. 1 in the Land Section, at Entry Nos. 1 to 51 inclusive, 53 to 161 inclusive 167 and 168 (Nos. 52, 162, 163, 164, 165 and 166 have been cancelled, and Nos. 30, No. 32, No. 100, No 103, No. 109 No. 113, and No. 121 have been replaced by Nos. 185 and 186, Nos. 173 and 174, Nos 176 and 177, Nos. 182 and 183, Nos. 188, 189 and 190, Nos 179 and 180 and Nos. 170 and 171) in the Rights Section and at Entry Nos. 1, 2 and 3 in the Ownership Section of Register Unit No. CL176 in the Register of Common Land maintained by the Devon County Council and are occasioned by the Objections made by the persons and noted in the Register on the days specified in the First Schedule hereto and by the said Ownership Section registrations being in conflict.

I held a hearing for the purpose of inquiring into the disputes at Exeter on 8 and 9 November 1983. At the hearing:- (1) Mr C J W Godfrey of Wallon House, Drewsteignton, Devon as owner of Coldstone (near to and northeast of Ash Common) in succession to Major C B Andrews who made Objection No. 200, was represented by Mr Jonathan Bennett, chartered surveyor with ~~Lox~~ & Sons, Estate Agents of Exeter; (2) Mrs Daisy Cooper who made Objection No. 276 and applied for the Rights Section registration at Entry No. 16 was represented by Mr F J Woodward solicitor of Burd Pearse Prickman & Brown, Solicitors of Okehampton; (3) the Attorney-General for the Duchy of Cornwall who made Objections Nos. 447, 448, 449, 450, 451 and 452, was represented by Mr C Sturmer the Land Agent for their Dartmoor Estate; (4) Mr Jack Worth Reddaway who made Objection No. 498 and applied for the Rights Section registration at Entry No. 78, was also represented by Mr F J Woodward; (5) South West Water Authority as successors of North Devon Water Board who made Objections Nos. 505, 514 and 522 were represented by Mrs F G Canning, solicitor in their Legal Department; (7) Lady Sylvia Rosalind Pleadwell Sayer who with Vice Admiral Sir Guy Bouchier Sayer applied for the Right Section registration at Entry No. 3 attended in person and as representing him; (8) Admiral Sir James F Eberle as successor of Mr D M Scott who applied for the Rights Section registration at Entry No. 4, was represented by Lady S R P Sayer; (9) Mr Clifford George Courtier who applied for the Rights Section registration at Entry No. 18 was also represented by Mr F J Woodward



(10) Messrs Arthur John Mortimore and Maurice Henry Mortimore who applied for the Rights Section registration at Entry No. 31 were represented by Mr R Keast solicitor of Stephens & Scown, Solicitors of Exeter; (11) Mrs Eleanor Nancy Smallwood who applied for the Rights Section registration at Entry No. 90 was also represented by Lady S R P Sayer; (12) Miss Kathleen Margaret Fetherston Terry who applied for the Rights Section registration at Entry No. 131 was represented by Mr H W Lewis of Creaver Cottage, Gidleigh; (13) Mr Frederick John Ward who applied for the Rights Section registration at Entry No. 132 was also represented by Mr F J Woodward; and (14) South Tawton Commoners Association which came into existence in February 1981, were also represented by Mr F J Woodward.

The land ("the Unit Land") comprises 11 pieces. (1) The largest, South Tawton Common is about $2\frac{1}{2}$ miles long from north to south and for the most part between 1 and 2 miles wide; its west side adjoins Belstone Common (part of CL73), its southwest side adjoins the Forest of Dartmoor (CL164) and its southeast side adjoins Throwleigh Common (CL19). (2) The next largest part is Ramsley Common, the north side of which (about $\frac{1}{4}$ of a mile) adjoins or is near the A30 road from Exeter to Okehampton and which extends southwards from it for about $\frac{1}{2}$ a mile. (3) The other parts all much smaller, are situated in various parts of the parish of South Tawton, some a mile or more from any other; one of these, Ash Common is about 200 yards long and 100 yards wide, situated near Ash Bridge about $\frac{1}{2}$ mile east of Throwleigh. (4) Another comprising several pieces of land ("the Ford Lane Waste") shown on inset maps A and B (to the register map) and being a strip at Ford Lane a little under a $\frac{1}{4}$ of a mile long from north to south and nowhere more than about 50 yards wide extending southwards from near the said A30 road. (5) Another is Pixies Garden Common, situated between South Tawton Common and Ramsley Common. (6), (7), (8), (9), (10) and (11) The others, not particularly mentioned at the hearing are: Taw Green about 2 miles north of South Tawton Village; Gooseford Common about 2 miles southeast of the Village; Firestone Common, south of and adjoining the A30 road by Firestone Cross; Addiscott Common (2 pieces) a short distance north of Firestone Cross; and Weeks Hill waste, a roadside strip near East Weeks.

In the Rights Section there are 162 effective registrations (not counting replacements) all of which are in dispute. In the Ownership Section: at Entry No. 1 HRH Charles Prince of Wales Duke of Cornwall is registered as the owner of the greater part of South Tawton Common being the part lettered A on the register map, being all except a piece ("the Fursdon Piece") nearly 1 mile long from northwest to southeast with a variable width averaging about $\frac{1}{4}$ of a mile situated along and within the northeast boundary of South Tawton Common, and except two pieces ("the two near Belstone Pieces") which are delineated on the plans annexed to the Westlake, Cooper, and Reddaway Objections Nos 63, 276 and 498; at Entry No. 2 Mr George Hume John Fursdon is registered as owner of the Fursdon Piece lettered B on the register map, of most of the Ford Lane Waste, of Ramsley Common and of Pixie Garden Common; and at Entry No. 3 Messrs Ivar Anthony Gough Svensson and Rodney John Wark are registered as owners of about half of the Ford Lane Waste.

Course of the Proceedings

At the beginning of the hearing Mr Woodward said that the Parish Council would not be pursuing their Objection No. 865 to the registrations at Ownership Section Entry Nos 1 and 2, that neither they nor the Commoners Association were against effect being given to Westlake, Cooper and Reddaway Objections Nos 63, 276 and 498 to the Land Section registration of the near Belstone Pieces and had no



comment on the Svensson/Wark Objection No. 60 to the Land Section registration of the Ford Lane waste; and of course both Mrs Cooper and Mr Reddaway were for my giving effect to their Objections Nos 276 and 498. Mr Woodward also said that Mrs Wonnacott who made Objection No. 888 to the registration at Ownership Section Entry No. 1 had recently died over 90 years of age.

Mr Sturmer said that the Duchy Objection No. 447 (rights do not exist) was withdrawn; and on the basis of the letter specified in Part I of the Second Schedule hereto suggested that I confirm the Ownership Section registrations at Entry Nos 1 and 2, the one (the Duchy) without any modification and the other (Mr Fursdon) with the modification that all in No. 1 be removed from the No. 2 registration.

Next Mrs Canning produced the conveyance dated 14 January 1965 and referred to the conveyance dated 21 October 1947 and the other documents specified in Part II of the Second Schedule being those she produced at a hearing held by me in July 1983 about Belstone Common and other lands in Register Unit No. CL73; she asked that all such documents be treated as produced at this Unit Land hearing. She pointed out that if the Land Section Objection No. 505 succeeded, the land mentioned in Ownership Section Objection No. 514 would be removed from the Register (and so cease to be affected by the Ownership Section). She asked for leave to amend the grounds of Objection No. 522 by including an additional plan as specified in paragraph 2 of the Third (and the last) Schedule hereto showing coloured green a strip so located that its middle line would be the water pipe which now runs from the Ford Lane reservoir northwards towards Ford. She suggested that effect should be given to Objection No. 505 as so amended by subjecting all the Rights Section registration to a "Water Authority Provision" which would be to the effect that the right to dig or take stones sand and gravel would not extend to or so as to interfere with any water pipes or water apparatus on or under the parts of the Unit Land coloured green on the plans enclosed with Objection No. 522 (amended as aforesaid).

Nobody at the hearing objected to the amendment by Mrs Canning asked for and I allowed it under regulation 26 of Commons Commissioners Regulations 1971.

Next, Mr Keast said he wished to know whether he could assume that the registration at Rights Section Entry No. 31 would be confirmed if he did not attend the hearing any more. This registration is not particularly mentioned in any of the Objections specified in Part II of the First Schedule hereto and is only in dispute as a result of the operation of sub-section (7) of section 5 of the 1965 Act on the Objections specified in Part I of such Schedule. I understood Mr Keast did not object to my giving full effect to all or any such last mentioned Objections with the consequential result that Entry No. 31 would cease to apply to any land which might be removed from the Land Section; and also understood that no-one at the hearing was subject to this consequential result against the registration at Entry No. 31 being confirmed. So I recorded that unless later in the hearing some good reason appeared (none did) there was no need for Mr Keast to attend further.

Next (8 November) in support of the Rights Section registration at Entry No. 132 (right in gross to graze 60 sheep made on the application of Mr F J Ward) and against County Council Objection No. 1146 (right does not exist at all), Mr Woodward produced the documents specified in Part III of the Second Schedule hereto.

Next (8 November) Mr Woodward claimed that the Rights Section registration at Entry No. 18 (including a right expressed as "... to stray 80 cattle, 250 sheep,



20 ponies over the whole of the land in this register unit ...") made on the application of Mr C G Courtier should be modified there (having been a mistake) by substituting "graze" for "stray". In support of this claim he referred to the letter (FJW/4) of the South Tawton Commoners Association and the document specified in Part IV of the Second Schedule hereto.

Next Lady Sayer requested me in my decision to deal with the question whether notwithstanding that the County Council cannot modify the registration (meaning No. 18), I can modify it in the circumstances of this case.

Next (9 November), after Mr Woodward had submitted that I had the power impliedly challenged by Lady Sayer's said request, Mr C G Courtier gave oral evidence in support of the modification in the course of which he referred to the document specified in Part IV of the Second Schedule hereto. He said (in effect):- When applying for the registration his intention was to have a right to stray onto the Forest (CL164) and a right to graze on South Tawton (the Unit Land). An official in the County Council offices told him that they were sorry they had made a mistake, they apologised for it but there was no possibility of themselves making any amendment and it would have to come before some Commons Commissioner.

Mr Woodward having indicated that he would offer evidence against other Rights Section registrations, Lady Sayer intervened to ask on what legal grounds Mr Woodward had raised objections out of time on behalf of the Commoners Association who did not apply (object) within the statutory time.

Mr Woodward said that the Duchy Objection No. 447 and the County Council Objections Nos 798 and 1146 had put the Rights Section registrations therein mentioned in question and the Parish Council felt they could rely on these Objections and that he could therefore on their behalf support them. It was only a few days before the hearing that the Parish Council had discovered that the Duchy Objection would be "withdrawn". At the hearing I ruled that in accordance with the judgment in re Sutton 1982 1 WLR 647 at page 657, I would hear any evidence offered. On this basis, Lady Sayer and Mr Woodward agreed that he should begin and call his evidence first.

Next Mr Woodward referred to my decisions dated 30 June 1983 and made in the matter of the Forest of Dartmoor (CL164) and of Ditsworthy Warren etc (CL188) and to the Memorandum of Evidence dated May 1956 submitted by the Dartmoor Commoners Association to the Royal Commission on the law relating to Common Land, and to re Ilkley and Burley Moors, Times newspaper 16 February 1983, Current Law Feb 1983, paragraph 416H; and made submissions generally against all the registrations specified in the said Objections Nos. 798 and 1146, and particularly against those at Entry Nos. 3, 4 and 90.

Next (9 November) oral evidence was given by Mr Robert James Michael Plant who is, and has since March 1979 been, clerk of South Tawton Parish Council, and has had access to all their past records and minutes, in the course of which he produced the document specified in Part IV of the Second Schedule hereto. He said (in effect):- His Council always thought they could support the County Objections because his Council had requested the County to register South Tawton Common, had by them been informed of all Objections and had so read their February 1973 letter (PC/2); that they so thought appears from what happened at the February 1973 meeting (see PC/3). His Council always strongly opposed



registrations by people outside the Parish, because it would have meant that the Common would have been grossly overstocked. When the Objections (Nos. 447, 798 and 1146) were made they thought (there was then no Commoners Association) that the common rights (of people in the Parish) would be safeguarded and that the Parish Council could support the Objections. After meeting in October 1983, South Tawton Commoners Association and South Tawton Parish Council decided to instruct Mr Woodward to represent them at the Commons Commissioner's hearing. It was from him that they then first learnt that the Duchy had withdrawn their Objection.

In answer to questions by Lady Sayer, Mr Plant added that he had no record of any approach being made by the Parish Council to the Duchy, he had not seen a booklet on Common Land prepared in 1966 by the Ministry of Land and National Resource and the Central Office of Administration, and had not noticed the Press Reports of the decisions of the Chief Commons Commissioner relating to Register Units Nos. CL 148 and CL 190.

Next, oral evidence was given by Mr Thomas John Holman of Addiscott Farm who is aged 66 years (the elder brother of Mr J Holman, chairman of South Tawton Commoners Association who signed the October 1983 letter (FJW/4); he said (in effect):- He had known the Moor, meaning South Tawton Common and the Forest (the nearby part of CL 164) all his life, having started to go out with his father when he was 10 years old; he had been actively concerned in the grazing of the Moor for 56 years. He or somebody from his family went on it 2 or 3 times a week; so straying stock (people outside the Parish) would be reported to him by some member of his family; so it had been continually all his life. Sometimes he went on the moor on a horse, sometimes driven, sometimes walked out. As to the registrations at Entry Nos. 3 and 4 (Old Middle Cator in Widecombe-in-the-Moor and Village Farm in Holne), he had never seen stock from these lands on South Tawton Common. As regards the registration at Entry Nos. 53 to 70 and 90, the same. As regards all such registrations from these lands there had been no taking of stone, sand or gravel or turbarry or estovers. If there had from them been any grazing or exercise of such rights he would have known; if from these lands he had seen any such stock he would have driven them back, but it did not happen. It was not practical to exercise rights (over South Tawton Common) from Holne, Buckfastleigh, or Widecombe-in-the-Moor. If there had been any grazing from these places he would have noticed it.

Next (9 November) Lady Sayer stated her case in support of the registration at Entry Nos. 3, 4 and 90, in the course of which she produced the document specified in Part V on the Second Schedule hereto. Later she gave oral evidence confirming the contents of such documents and answered questions about them by Mr Woodward.

Next (9 November) I considered Ash Common particularly. As to this against Objection No. 200 further oral evidence was given by the said Mr R J M Plant and Mr C G Courtier in the course of which the documents specified in Part VII of the Second Schedule hereto were produced. Then in support of the Objection oral evidence was given by the said Mr J Bennett in the course of which he produced the documents specified in Part VIII of the said Schedule.

Next (9 November) Mr Colin Sturmer who is and has since 1970 been the Land Agent of the Duchy for their Dartmoor Estate and been in their employment since 1965,



gave oral evidence in support of Objections Nos 448, 449, 450, 451 and 452. He asked that the oral evidence he had given about there being no right for shooting, piscary, pannage, taking wild animals and birds and taking ground game which he had given at hearings in July 1983 before me about Okehampton Common (CL 155) and Belstone Common (CL 73) to be treated as having been given at this Unit Land hearing and produced the documents specified in Part IX of the Second Schedule hereto.

After the hearing on 12 November I inspected Ash Common, it having been agreed at the hearing that I might do so unattended.

Water Authority

My notes and recollection of the amendment which as above mentioned I allowed to the grounds of Objection No. 522 are lacking in precision as to the width and locality of the strip intended to be made subject to it. I have arbitrarily estimated its width as 35 feet from the plans enclosed with Objection No. 505, and located it as specified in paragraph 2 of the Third Schedule hereto. When preparing this decision it occurred to me it may be that the strip as defined in such paragraph, or at least some part of it may, always has been outside the Unit Land as defined by the Register map, or alternatively may henceforth be outside by the operation of sub-paragraph (A) of paragraph 1 of the Third Schedule hereto; I disregard this possibility as being for practical purposes of no consequence. In case there has been some mistake in my definition, I give to the Water Authority and any other person concerned liberty to apply for an alteration in paragraph 2 of the Third Schedule, such application to be made within the time limit and otherwise as specified in paragraph 10 of such Schedule.

As regards the substance of Objections Nos 505 as so amended and 522, no-one at the hearing suggested that I should give effect to them otherwise than as proposed by Mrs Canning. Substantially her proposals are the same as those made by her in July 1983 at a hearing held by me in relation to Belstone Common being part of Register Unit No. CL 73, and very similar to those made by her at other hearings held by me relating to register units in the Dartmoor National Park. For the reasons set out in my CL 73 decision dated 2 November 1983 and my decisions relating to the other register units, I consider I can and should as regards the Unit Land adopt her suggested Water Authority provision, and give a decision as set out in paragraph 1(a) and 2 of the Third Schedule hereto.

Venville

Lady Sayer (as I understood her) claimed first that the proceedings were irregular as regards the registrations at Entries Nos 3, 4 and 90 in that by hearing argument and evidence on behalf of South Tawton Parish Council or South Tawton Commoners Association I was in effect allowing them to make an Objection out of time; and secondly if there had been no such irregularity on the evidence and argument as it would then have stood my decision must necessarily have been in favour of these registrations.

As a consequence of Duchy Objection No. 447 and County Objections Nos 798 and 1146, pursuant to Section 5 of the 1965 Act the disputes so arising have been referred to a Commons Commissioner, the references being dated 11 November 1977. There is nothing in the Act or in any regulations made under it empowering the County Council as registration authority or anyone else to cancel these references



or empowering me as a Commons Commissioner to treat them as void because the Duchy by their representative state their Objection to have been "withdrawn", or because the County as objector did not "pursue" their Objection by attending the hearing. I consider therefore that the references at the hearing still subsisted and that I was by the 1965 Act required to inquire into the disputes which occasioned them, and for this purpose became obliged to consider any possibly relevant argument and evidence. The 1965 Act and the Regulations made under it would I think be seriously defective if this was not so; many persons have not objected to registrations thinking it enough that somebody else made an objection; it would be strange indeed if an objection validly made was lost for some reason having nothing to do with the merits of the registration objected to, and if an objection became altogether void from the day on which it was made merely because the objector said it was "withdrawn" or failed to attend the hearing. I consider I should follow the judgment in *re Sutton* 1982 1 WLR 647 and also the observations of Lord Denning MR about hearings before a Commons Commissioner in *Corpus Christi v Gloucester* 1983 1 QB 360 at page 367. For these reasons, in my view the arguments made and the evidence called by Mr Woodward were regular.

The evidence and arguments put forward by Lady Sayer were less detailed than those put forward on her behalf by a solicitor at my hearing in 1982 relating to Ditsworthy Warren and other lands in Sheepstor (CL 188). At this Unit Land hearing she added nothing new to the evidence which she had given or to the arguments on her behalf put forward at the CL 188 hearing and my decision even without the argument of and the evidence called by Mr Woodward would have been for the reasons set out in my CL 188 decision dated 30 June 1983 that the Unit Land registrations at Entry Nos 3, 4 and 90 were not properly made.

I accept the evidence called by Mr Woodward as above summarised and find that no right such as are specified in the registrations at Entry Nos 3, 4 and 90 have been exercised over South Tawton Common and that it is practically impossible for them to be so exercised. In considering the contentions of Lady Sayer, I accept for the purposes of this case that the rights so registered extend at least over common lands in Widecombe-in-the-Moor and in Holne and over the whole of the Forest of Dartmoor (CL 164); but I reject her suggestion that grazing by an animal from Widecombe-in-the-Moor or from Holne over any of these common lands or over any Quarter of the Forest must be deemed to have been an exercise of rights over South Tawton Common, merely because it adjoins the Forest and there is no fence between them.

In the absence of any evidence against a Rights Section registration, it may be that the withdrawal of the only objections to it can in proceedings under the 1965 Act be treated as having been made after discussion and investigation and as therefore providing some evidence that the registration was properly made, or at least as showing that a Commissioner should give full effect to the applicant's statutory declaration in support of it. But in this case, Mr Sturmer was not asked by why Duchy had withdrawn their Objection; and having not only the evidence of the Parish Council against the registrations but also Lady Sayer's reasons (mistaken I think as above explained) for supporting them, I decline to infer from the Duchy withdrawal that there is any good reason why I should not give effect to the evidence of the Parish Council and conclude that the rights do not exist over South Tawton Common.

Lady Sayer said that the rights were not claimed over any other part of the Unit Land.



I am not persuaded by anything in the statement Lady Sayer/401 that I ought for the purpose of my decision about the Unit Land or any other register Unit, change the views I expressed in any of my Dartmoor decisions published before this November 1983 hearing. Lady Sayer said that the key case mentioned in her statement was Walkhampton Common CL 192 about which I have made a decision dated 13 February 1984.

My decision is therefore that the registrations at Entry Nos 3, 4 and 90 were not properly made.

Other outside South Tawton lands

The registrations at Entry Nos 53 to 70 inclusive all relate to rights allegedly attached to lands outside South Tawton. They were not supported by any evidence or argument. I have (as above recorded) the evidence of Mr Plant against them. The considerations above set out under the heading Venville are generally applicable to them. My decision is therefore that these registrations too were not properly made.

Mr F J Ward, Entry No. 132

The registration is of a right in gross to graze 60 sheep over South Tawton Common. The grounds of County Objection No. 1146 are that: "it does not exist at all"; the County Solicitor in his November 1983 letter (FJW/3) said that his Council would not be represented at the hearing and

"I should add that I do not agree that the County Council had no power to make the objection. As the National Park Authority with the very wide powers of Section 11 of the National Parks and Access to the Countryside Act they have a considerable interest in the management of livestock husbandry and, as you know, they have resolved to promote a Bill in the next session of Parliament for this purpose. One clause will prevent the severance of common rights from the land with which they are held, since it is considered by the Dartmoor Commoners Association that rights in gross are inimical to the proper management of the livestock on the commons: there is in no in-by land to which the animals can be brought should the commons need to be cleared. I regard Section 5(3) as an enabling clause when the County Council have no other interest. In this case they have a substantial interest as the National Park Authority.

The suggestion that the Objection was beyond the powers of the Council is based, on subsection (3) of section 5 of Commons Registration Act 1965:-

Where any land or rights over land are registered under section 4 of this Act but no person is so registered as the owner of the land the registration authority may, if it thinks fit, make an objection to the registration notwithstanding that it has no interest in the land.

Because HRH Charles Prince of Wales and Mr G H J Fursdon are registered as owners, it was argued by Mr Woodward (as I understood him) that the Objection No. 1146 is void and of no effect. Apart from the said subsection (3), there is nothing in the 1965 Act or in any Regulation made under it in any way limiting the persons who may make an objection; anyone in the world may object. Obviously, when considering the merits of any objection, the interest and motives of the objector



are relevant to the credibility of any evidence offered in support of it; and note 12 to the objection form, being No. 26 prescribed by the Commons Registrations (Objections and Maps) Regulations 1968, warns objectors that they may be ordered to pay costs if their objections disclose "no valid grounds". I find it difficult to understand why Parliament thought it necessary to enact the said subsection (3); it may be they thought the land owners would in the ordinary way object to any irregular Rights Section registration, or that it was expedient to enact that the registration authority might object without being at risk as to costs merely because they had no interest in the land. However this may be, I see no reason for applying the subsection to circumstances not expressed in it and deducing from it that a registration authority is the only person in the world who has no power to make an objection if there happens to be an Ownership Section registration. Accordingly my conclusion is that Objection No. 1146 was not beyond the powers of the County Council.

The above quoted part of the said County November 1983 letter explains their motives for not conceding the invalidity of Objection No. 132, but contains no matters of fact or law in themselves casting any doubt on the registration. I am therefore only concerned to determine whether the evidence put before me on a balance of probabilities establishes the regularity of the registration.

The facts set out in the declarations of Mr F J Woodward and Mr F J Ward (FJW/1 and /2) are:- Mr F J Ward who was born in 1928 was by the time he was 10 years old regularly going out with his father Mr R L H C Ward (he died 27 January 1982) to look at and shepherd his flock of sheep on South Tawton Common; he was frequently present when his father helped his (Mr F J Ward's) uncles Messrs William and John Reddaway (his mother's brothers; she died 19 April 1964) bring in and shear and dip their sheep which were grazed on South Tawton Common and also other sheep belonging to them grazed on Belstone Common and the Forest of Dartmoor. The history of the relevant grazing of Mr R L H C Ward (as told by him to Mr Woodward and confirmed by Mr F J Ward) is to this effect:- For some considerable time before 1929 Messrs W and J Reddaway in partnership grazed South Tawton Common; he (Mr R L H C Ward) "helped them with shearing and dipping etc." He from them in 1929 bought 40 and in 1930 bought a further 30 Scotch sheep so that they "would continue to run with their sheep". In 1946 he (Mr R L H C Ward) gave a half share of the sheep he had bought and was grazing on South Tawton Common to Mr F J Ward. To this history Mr F J Ward added that when in 1946 his father gave him a half share he was his partner in the flock until 1964 when he gave him his other half. Mr F J Ward said that the entirety of the flock of sheep then belonged to him and he had run them on South Tawton Common for his own benefit ever since to the present day; now his sheep were leared at Smallbrook and Wood Hill near Metherell Hill and Cawsand Beacon on the South Tawton side of the area known as Taw Marsh; he does not at present keep them out on South Tawton Common all the year round; during part of the year they are kept inland in his fields in Belstone Parish and in Sampford Courtenay Parish.

So far as my experience goes, all rights of grazing over Register Units in the Dartmoor National Park are ordinary rights of common appurtenant; that is they are exercised from the land to which they are appurtenant; they differ from rights in gross which are not appurtenant to any land. At other hearings held by me an attempt was made (by Mr I Phillips) to establish a right in gross for a



"Man of Devon"; I rejected this claim for the reasons set out in my decision dated 2 March 1984 re Penn Moor and Stall Moor CL 112. The claim now made is (as far as I know) unique in the Dartmoor National Park and calls therefore for consideration of the law applicable.

A right of common is a profit a prendre recognised by law as possibly existing as a legal estate, see Law Property Act 1975 section 1. An ordinary right of common appurtenant passes with the land to which it is appurtenant or attached without express mention in the conveyance, see section 62. A right of common in gross cannot as a general rule (the exceptions are not now relevant) pass from one person to another except by deed, see sections 52 and 53. A right of common not established by an express grant, can be established by prescription at common law or by a presumed modern grant in accordance with the law as set out in *Tehidy v Norman* 1971 2QB 528; a right of common in gross, unlike a right of common appurtenant cannot be established under the Prescription Act 1832, such Act not being applicable to rights in gross. Without any deed or writing animals may be given by one person to another (eg by delivery with an orally expressed intention). A right of common in gross does not pass with a gift of the animals by which such right is being exercised.

As to whether the right claimed has existed from time immemorial, the general literature about Dartmoor produced at my hearings relating to the Forest of Dartmoor (CL 164) and to Sheepstor (CL 188) and mentioned in my decisions dated 30 June 1983, is against there having been any right of common in gross, except possibly for a Man of Devon; if uniquely there was such a right over such a right over South Tawton, it would have been mentioned. The evidence about the right claimed is against it ever having existed before 1929, even assuming it then existed. I conclude that prescription at common law is not applicable.

For a grant to be presumed merely from use, there must have been an exercise of the rights "as of right" within the legal meaning of these words, for 20 years, see *Tehidy v Norman* supra. The Objection is dated 31 July 1972; thereafter any exercise cannot, so it seems to me have been as of right as against the County Council; I am therefore concerned with a period beginning in or before July 1952. Grazing by Mr R L H C Ward and Mr F J Ward in succession is not enough; to qualify the grazing must be as of right, that is the person grazing must believe he is exercising a right such as is claimed, see *Beckett v Lyons* 1967 1 Ch 449 at page 469. Further the grazing must have been such that others concerned with the grazing on South Tawton Common could have or must be taken to have a reasonable opportunity of becoming aware of a right being exercised, see my decision dated 30 June 1983 re Forest of Dartmoor (CL 164) at page 42.

As to Mr R H L C Ward having acquired a right by 20 years exercise before 1964, his dealings with his son without any deed or writing are against his belief that he had any right in gross. There is no rule prohibiting Messrs W and J Reddaway exercising their rights of common appurtenant over South Tawton Common with animals which are not their own (although in certain circumstances such grazing might be objectionable or at least cause difficulties); it would I think be generally known that Mr R L H C Ward was their brother-in-law. Something more than grazing his animals originally owned by them, is needed to show to others concerned with South Tawton Common that Mr R L H C Reddaway was exercising a right



in gross; his activities are more consistent with his exercising rights resulting from an agreement with Messrs Reddaway about the exercise of their rights over South Tawton Common.

Further a right in gross must be limited in some way. Save in exceptional circumstances which do not here exist, the only practical limit is to a number certain. There is no evidence that either Mr R H L C or Mr R L Ward ever thought of their right being limited to 60 (mentioned in the registration) or any other certain number; nor that anyone concerned with South Tawton Common ever thought of the Common being a stinted or gated pasture like so many in the North of England or as any right over it being limited by a number certain such is requisite for a right in gross.

That Mr R L H C Ward was secretary of the Dartmoor Scotch Sheepbreeders Association either neutral or if anything against a right in gross. Mr F J Ward's claim is not based on a special right for the person who as secretary or otherwise acted generally for the benefit of all the Commoners. The extract from the earmark book which describes Mr R L Ward as of "Domehayes", Okehampton is more consistent with a right of common appurtenant than the right now claimed.

My conclusion is that Mr R L H C Ward never exercised a right of common in gross as of right between 1929 and 1964 being the period during which animals in which he had an interest were grazing.

As to grazing by Mr F J Ward himself, I doubt whether he can in the absence of any deed made by his father in favour of himself claim that his grazing was in exercise of the same right as that exercised by his father. But even assuming that such a claim can be made, his grazing is more consistent with a purported exercise of a right appurtenant to his land in Belstone and in Sampford Courtenay than of a right in gross.

That South Tawton Commoners Association conceded the right does not I think establish it, in the absence of any supporting evidence by those concerned with its exercise.

For the above reasons my decision is that the registration at Entry No. 136 was not properly made.

I should record that at the hearing, because nobody then present suggested that the rights claimed by Mr F J Ward were not established by the documents produced by Mr Woodward, I then gave very little consideration to their effect and did not put to him my reasons above stated against them. So I give to Mr F J Ward liberty to apply to reopen the hearing so that on his behalf evidence and arguments may if he is so advised be adduced against my said decision; but I am not encouraging him to make any such application because except when a pasture is stinted or gated, I believe it to be practically difficult to establish a right of common in gross merely by usage. Any such application should be made within the time limit and otherwise as specified in paragraph 10 of the Third Schedule hereto.



Ash Common

The southeast side (about 100 yards long) of the land coloured pink on the plan enclosed with Objection No. 200 (elsewhere in this decision called "Ash Common" but under this heading called "the Disputed Part") adjoins the road which runs downwards from East Ash and after passing Ash Common crosses Ash Bridge where it joins with the loop road from Langston on the southwest to Trowleigh on the northwest; away from its southeast side, Ash Common extends for about 180 yards to the northwest. On an extract OS Map for June the Disputed Part is No. 201 containing 3.724 acres being bounded on the southwest by the Brook and adjoining marshy land and on the northeast by the Old Mill Leat. It is about $\frac{1}{4}$ of a mile from Gooseford Down to the nearest part of the Unit Land and nearly 2 miles from the nearest part of South Tawton Common. Within less than 80 yards of the northeast corner stands the dwellinghouse and farm buildings known as Coldstone.

Mr Plant (said in effect):- The information leading to the Parish Council's support of the registration of this part of the Unit Land (as of other parts) was supplied by Mrs E B Wonnacott who was born on 13 November 1886. When the registration was made she was an active member of the Parish Council of which she had when she retired in 1976 been a member for 43 years; she had for 50 years of her life lived in the Parish. The registration was supported by the Parish Council (their members had local knowledge), see the February 1983 letter and the minute of the February 1983 meeting (PC/2 and PC/3).

Mr C G Courtier said (in effect):- In 1966 his father gave him the greater part of (113.119 acres) of West Gooseford Farm which is about $\frac{1}{4}$ of a mile north of Ash Common (the deed of gift dated 8 December 1965 being PC/5); his father retained the remaining part (3.935 acres) which was held on the family trust of which he is now the tenant. The land with such deed expressed to be conveyed includes OS No. 302 (containing 2.76 acres) which is about $\frac{1}{2}$ of a mile north of the Disputed Part; the deed refers (acknowledgement for production) to the next mentioned 1926 conveyance. By the 1926 conveyance (PC/6) Mr J P Moore on sale conveyed to Mrs E R R Endacott the field being part of Gooseford, otherwise Higher Gooseford but now known as Middle Gooseford containing 2.76 acres being OS No. 302.

"Together with all such rights of grazing over the Moor known as Gooseford Common as may belong or be appurtenant to the hereditaments hereby conveyed in common with all persons having a like right And also together with All that right of Common on Whiddon Down and all other rights in and upon Firestone Common and Ash Common and all right members and appurtenances belonging to the hereditaments."

He had borrowed from Mrs P M Warden the 1969 conveyance (PC/7) by which National Provincial Bank Limited as trustee of the will of Arthur Melville Jones died 11 July 1958 and whose trustees acquired Higher Gooseford and a conveyance dated 7 March 1966 to Mrs Warden piece of land being OS No. 40 together with the dwellinghouse known as Higher Gooseford and field containing 4.247 acres being OS No. 408 "together with ... words identical with those above quoted from the 1926 conveyance".



In answer to questions by Mr Bennett, Mr Courtier said (in effect):- They (meaning I suppose those at West Gooseford) had never exercised rights (meaning over the Disputed Part), because any animal put there would have gone being driven down the road by the then so called owner, in these early days Mr George French. In later years during the early 1960s they supplied Miss Cooke with straw for the harvest field and she herself kept a number of horses on the smallholding adjoining the common; when they were there with the straw in the height of summer and keep was rather short, his father (on 2 occasions) suggested to her that she might stock the Common but she knew for obvious reasons that they would have been driven off. He (the witness) gathered that Mr French took "a squatters right" over a number of years and anything put on "The Common" he moved. He (Mr French) later offered it to a neighbour (of the witness) Mr Moss of East Ash Manor who being a local knew the situation and withdrew from the purchase. He (the witness) could not personally go back beyond Mr French. Mrs P M Warden had not exercised the right for the simple reason that anybody who had would have their animals driven off by the so-called owner or occupier of "the Common". Only a short time ago a man who used to work for them is well in his 70's said that it (the Disputed Part) had been a Common as long as he knew. The present "so-called owner of the Common" had been seen asking elderly persons in the village questions about it. He (the witness) had seen other conveyances mentioning "Ash Common".

Mr Courtier concluded by describing the Disputed Part as it now is and explaining that Mr Moss' field mentioned by him was against its northwest side and separated from it by a high hedge.

Mr J Beneett in the course of his oral evidence said (in effect):- Mr French referred to was in occupation as owner from 3 April 1951 to 19 June 1964; before that there were 4 previous owners going back to 1909 when it was owned by Mr Shopland who also owned Coldstone. He (the witness) acted for Mr C J W Godfrey who had been the present owner since January 1982 and who took over the Objection of Major C B Andrews who was a previous owner since 1964 and who is now deceased. Mr Godfrey therefore relied on the 1982 statutory declaration (CJWG/2) then produced by the witness.

Mr Webber (in his declaration) said (in effect):- He was born in 1892 and resided for some 65 years at East Week, South Zeal. "In about the year 1911 ... this field (meaning the Disputed Part) ... belonged to Coldstone ... it was a fenced and privately owned field just as it is today. In my school days the said field was much as it is today marshy and full of rushes but from that time until now the field has always be fenced in the same manner and has always be in private ownership and not common ground."

Mr Bennett questioned by Mr Woodward said (in effect):- As to Mr Godfrey, he is the senior partner of Fox and Sons (with whom the witness is now employed). As to Mr Godfrey's title deeds, he (the witness) had not seen them but had a 1970 letter from solicitors of London to Major Andrew, of which he then produced a copy (CJWG/2). As to Mr Webber, he (the witness) knew that Mr Godfrey went to see him 2 or 3 days before he made the declaration.



Mr Bennett concluded by saying that he had not been concerned with the Disputed Part between 1951 and 1964.

The above summarised evidence is in some respects conflicting, so I start by considering the two particularised grounds stated in the Objection, both of which were properly emphasised by Mr Bennett.

As to "enclosed for many years".

During my inspection it was apparent that in one sense of the word, the Disputed Part is "enclosed" in that there now is and apparently for many years has been along its south side between it and the only nearby public highway (a road fit for motor traffic) *a* $\longrightarrow$ substantial hedge apparently of some age. But on the question whether land is common land, enclosure against a highway may be of no significance because such enclosure may facilitate grazing by commoners, by preventing their animals straying onto the highway and getting lost or injured. In the said hedge providing easy access from the highway (and therefore for a person having a grazing right) there is a gateway (with a gate). In the sense of the word "enclosed" as meaning an arrangement of fences and gates indicating that the Disputed Part has been incorporated as part of adjoining farm lands so as to be farmed with them in the ordinary way, I observed on my inspection: there is no convenient or obvious access to it otherwise than through the said gateway; along its east side there is a substantial hedge much overgrown except at its north corner, following the line of the Old Mill Leat (now out of repair) and practically impenetrable except at such corner; at the corner (the point nearest to Coldstone buildings) there is a fence which although not difficult for a human to climb over or go through is apparently sheep and cattle proof, $\longrightarrow$ (by pulling away part of it a pony or other animal might get through); there is an apparently cattle and sheep proof fence along the northwest side (I do not know whether the field on the other side is part of Coldstone) a short length of which by the said north corner is similar to the fence opposite Coldstone buildings above described; the Disputed Part is apparently on the damp side (as at the hearing described by Mr Courtier) not only near the Brook but also in places on the other side (near the Old Mill Leat) and there are many brambles; it seems to have been ridden over by horses who got there through the said gate. The general appearance of the Disputed Part in my view provides evidence that it is now and always has been common land and is against it belonging in any now relevant way to the lands around Coldstone farm building or any other adjoining farm.

Upon the above considerations I reject the contention that the Objection Part is not common land because it is now and has been enclosed.

As to "no common rights exist or have been exercised over it".

I have no evidence that common rights have been exercised over the Objection Part. But rights of common are not merely by non-exercise lost "by abandonment" or otherwise, see *Tehidy v Norman* 1971 2QB 528. So I am concerned to balance the other evidence for or against there having been common rights over it.



The claim (not particularly mentioned in the grounds of the Objection) that the Disputed Part in 1911 belonged to Coldstone and is and always has been in private ownership and not common ground as said by Mr Webber, should I think if relied on have been supported by production of or at least some detailed evidence about the title deeds of Coldstone. The 1970 letter (CJWG/2) was apparently written with the view to specify everything extractable from the title deeds against the Disputed Part being subject to rights of common; I shall therefore do Mr Godfrey no injustice if I assume that save as set out in such letter his title deeds if not against are certainly not otherwise for the contentions on his behalf put forward by Mr Bennett.

In the 1970 letter, the Disputed Part is identified with that in a conveyance dated in 1920 described as "known as Ash Common, otherwise Colstone or Catson Bushes". It is situated near Ash Bridge marked on the Ordnance map on which the Register map is based, and is not far from "East Ash" also so marked. In the Land Section the Disputed Part is called "Ash Common", the registration having been made by the County Council as registration authority. Mr Courtier when giving evidence consistently described the Disputed Part either as "Ash Common" or "The Common". During my inspection I observed that the general appearance of the land particularly the roughness of the grass and the apparently difficult owing to dampness, grazing was consistent with it being common land within the popular meaning of these words; of small value for grazing and appropriate for some public use, such as a recreational ride on horse-back. On these considerations I find that the Disputed Part has as far as living memory extends been known as "Ash Common". This finding is in my view some evidence that the Disputed Part is land subject to rights of common.

The 1970 letter indicates that the Disputed Part was by the 1920 conveyance expressed to be conveyed distinctly from the land therein called "Colstone". This casts doubts on Mr Webber's statement that in 1911 the Disputed Part (by him called "the field") then belonged to Coldstone in any ordinary or accepted sense of the word "belonged".

The 1970 letter indicates that the Disputed Part was in 1909 treated as owned by Mr John Endacott of East Ash, Mr Frank May of East Ash and Mr Edmund Henry Shopland of Ditchet in Rose Ash and that such ownership was in their capacity as "Lords of the manor or the reputed manor of East Ash" and that as such for their entitlement of Coldstone (the main farm) was no more than a chief rent of 1/4d. The writer of the letter observes: "it seems clear to me that the field has been known as Ash Common in the past and indeed many years ago rights of common may have been exercised over it".

In the 1970 letter the successive owners of Coldstone are said to be: before 1920 the said Mr Shopland, then Mr George Ould, from 1942 Miss Geldart, from 1948 Lt Col Edward Williams, from 1951 Mr French and from 1964 Mr C B Andrews. I had no evidence that any of them had "occupied" the disputed part in any sense which could now be relevant: from anything said by Mr Courtier, I decline to infer any such occupations; Mr Bennett had not I think (he did not claim to have) any personal knowledge how the Disputed Part was used or occupied and when as above recorded he spoke of Mr French's occupation as owner, he was I think doing no more than referring to what Mr Courtier had said shortly before.

In favour of the Disputed Part being Common Land I have the said 1926 and 1929 conveyances (PC/6 and PC/7).



Balancing the conflicting considerations as best I can and notwithstanding the statement in the 1970 letter "the Tithe Map could well lead an officious busybody to suppose that it was common land", my conclusion is that the Disputed Part in 1970 (the date of the Objection) was common land and that rights of common over it then did exist.

The general evidence given at the hearing by Mr Plant and Mr Courtier about all the other parts of the Unit Land was to the effect (except as elsewhere in this decision mentioned) all such parts were one common and the rights which were locally accepted as extending over South Tawton Common extended over all. The grounds of Objection No. 200 do not put in question any particular registration as regards the Disputed Part. I conclude therefore that all such registrations as elsewhere in this decision I find were properly made as regards South Tawton Common were also properly made as regards the Disputed Part.

On → the above considerations my decision is that the said Objection wholly fails.

The two near Belstone Pieces

These Pieces are together specified in one or more of Objections Nos 63, 276 and 498.

At the beginning of the hearing Mr Woodward (as above stated) said that all those he represented agreed that I should give effect to these objections. At the hearing nobody suggested otherwise. The pieces are not included in the part of South Tawton Common of which the Duchy are registered as owners in the registration at Ownership Section Entry No. 1; some indication perhaps that they are special.

As a general rule when an objection has been made, it is I think for those who wish to support the registration by it challenged, to adduce evidence → that it was properly made. There having been none such, my decision is that these three Objections wholly succeed.

I record that after the hearing the documents lists specified in Part X of the Second Schedule hereto were sent to the office of the Commons Commissioners as likely to be of assistance and interest to me in the preparation of my decision and as showing that the two near Belstone Pieces have for many years been dealt with as privately owned land free from rights of common. I doubt whether I can properly base any part of my decision about the Unit Land on documents which were not produced at the hearing without giving those present an opportunity of considering them. As I have reached my decision without them and they are said to confirm my decision, I say no more about them.



Ford Lane Waste

Objection No. 60 puts in question the Land Section registration of this part of the Unit Land to the extent of the land edged red on the plan annexed to the Objection. Of this part (so edged), being the same as that lettered C on the Register map ("the Ford Lane lettered C pieces"), Messrs I A G Svenson and R J Wark (the Objectors) are in the Ownership Section at Entry No. 3 registered as owners. The Ford Lane lettered C pieces are included in the part of the Unit Land lettered B on the register map being that of which Mr G H J Fursdon is in the Ownership Section at Entry No. 2 registered as owner.

I have a note that at the beginning of the hearing Mr Woodward said that he had "no comment" on this Objection, but I have no note or recollection of he or anyone else at the hearing giving any evidence about this Objection or about the Ownership Section conflict or saying anything about Ford Lane Waste.

The grounds of the Objection, "30 years title" (see the First Schedule hereto) suggest that the Ford Lane lettered C pieces are in fact private land. The signing of the Objection by the Objectors may perhaps be some evidence supporting this suggestion.

If I adjourned the hearing so far as this matter relates to the Ford Lane lettered C pieces for lack of information about them I would put those concerned to some trouble and expense. I consider therefore I should give a decision on the information I have.

Objection having been made of the Ford Lane lettered C pieces, it is I think for those concerned to support the registration by giving evidence showing that they were properly made as regards these pieces. In the absence of any such evidence my decision that this objection No. 60 succeeds.

I realise that this decision is somewhat arbitrary. Because my lack of information about this pieces may be due to some oversight, I give to any person who was represented at the hearing or entitled to be heard at it liberty to apply set aside this part of this decision and that for this purpose the hearing be continued. Such liberty should be exercised within the time limit and otherwise in accordance with paragraph 10 of the Third Schedule hereto.

As to the ownership of the Ford Lane lettered C pieces, see below under the heading Ownership.

Shooting, piscary, etc

Duchy Objections Nos. 448, 449, 450, 451 and 452 put in question every registration so far as it contains the right for shooting, for piscary, for pannage, to take wild animals and birds, and to take ground game.

Nobody at the hearing objected to Mr Sturmer giving evidence (as above recorded) by reference to evidence he had given about claims to such right at other hearings relating to register units in other parts of the Dartmoor National Park and nobody challenged such evidence. My decision is therefore the same as it was in such



other cases, that is to say that these Objections wholly succeed and that the registrations referred to in them were not properly made to the extent at least that they contain such rights. The grounds of the said Objections are expressed to be limited to the part of the Unit Land of which the Duchy is registered as owner. However such rights would not sensibly exist over the remainder, and I shall accordingly treat the inclusion of such rights in any registration as improperly made not only as regards the Duchy owned part but also as regards the remainder.

West Gooseford, Entry No. 18

For Mr Courtier it was claimed that he and/or the County Council as registration authority had made mistake which I should correct.

Mistake in popular speech is a comprehensive word covering a great variety of circumstances. As to such circumstances and as to legal proceedings arising out of them much has been written. I reject altogether the contention that a Commons Commissioner when confirming a registration can modify it so as to bring it into line with what the applicant then says he would like it to be, merely because the applicant says its present form is due to a mistake.

A registration is a public document and I must first consider what the registration now means having regard to evidence by law properly admissible for the interpretation of public documents, such as the locality and nature of the lands described in it, and without regard at all to what the applicant thought its effect would be when he applied for it or what he, having subsequently discovered the views taken by the Commons Commissioners about registrations of "to stray", now thinks he would like it to be.

The registration so far as relevant is of a right attached to West Gooseford "to stray" cattle, sheep, ponies "... over the whole of the land comprised in this register unit together with stray rights on to CL164." The corresponding registration in the CL164 register (No. 426) is slightly differently worded: "to stray" cattle, sheep and ponies "onto the whole of the land comprised in this register unit from CL176". The only part of the Unit Land which adjoins the CL164 land is South Tawton Common, a tract of about three square miles. West Gooseford is from the nearest point of South Tawton Common, in a straight line at least one and a half miles distant and by any road to it much further. The two registrations in column 2 are recorded as both having been made on a composite application dated 20 June 1968. Because such application is not quoted in the register, there may be some doubt whether it is properly admissible in determining the meaning of the registration; so to begin with I will disregard it.

My first conclusion is that on such properly admissible evidence giving the word "stray" any one of its ordinary dictionary meanings, the registration is nonsense; "stray" implies that an animal is where it or its owner does not want it to be; animals could not sensibly from West Gooseford get on to South Tawton Common unless their owner put them, or encouraged them to go, there.

I have not overlooked that in the registers of common lands in the Dartmoor National Park there are numerous (many hundred I would say on my perusal of them as a



Commons Commissioner) of registrations of rights "to stray". All of them (at least all I have noticed) are in connection with a registered right "to graze"; that is, there is a registration of a right to graze over one register unit (or part of a unit or two or more units) and also a registration of a right to stray over some other register unit, the units being such that there is no fence or other obstruction preventing an animal going from one to the other, so that an animal grazing on the grazing area can sensibly be expected to stray (within one of the ordinary dictionary meanings of the word). Notwithstanding that the Commons Commissioner have refused to confirm a right to stray because an excuse for trespass is not a right of common, the idea of there being a right to stray from a grazing area, on to an adjoining area has as a matter of ordinary speech a reasonably precise meaning and is not nonsense.

The registration at Entry No. 18 in the respects above mentioned is therefore extraordinary; as far as I can recollect the registrations I have seen relating to land in the Dartmoor National Park it is in these respects unique. There are rules of law as to the effect to be given to documents (applicable to public documents such as registrations) which are nonsense according to the dictionary meaning of the words used in them. There is no general rule that they are all to be treated as void; on the contrary the Courts in general try to give them a sensible meaning. As to the registration at Entry No. 18, the decision of the Court of Appeal in *Crow v Wood* 1971 1QB 77 gives guidance. The Court was concerned with a right in a deed dated 1941 described as to "stray" onto Bilsdale West Moor (Yorks). The dispute was about fencing. Denning MR in his judgment treated the right with which the Court was concerned as being a right to graze and put the word "stray" in inverted commas showing I think that he was quoting from the deed and using a word which he considered not altogether appropriate. Davies LJ in his judgment treated the right as a "right to pasture", and does not mention "stray" at all. Both treated the right with which they were dealing as coming within the words "privileges, rights and advantages" in the Conveyancing Act 1881. I deduce from these observations that whatever may be the dictionary meaning of the word "stray" it is permissible when the context requires to give it the meaning, graze. As regards the registration at No. 18, the context in my opinion does so require.

In the application (form CR9) dated 17 (received 20) June 1968, the word "grazing" appears in Part 5 and the word "stray" appears not altogether appropriately in Part 4 as applicable ^{to} ~~to~~ CL164 and not as applicable to CL176. So the application if it is admissible in evidence, supports my opinion.

So my conclusion is: the registration as it now stands according to its true meaning is in effect what Mr Courtier wants, but as a registration appearing in a public document it is confusing and it is therefore contrary to the public interest that it should remain.

One way of preventing the confusion would be for Mr Courtier to commence proceedings in the High Court for a declaration that the word "stray" in the registration on its true construction means "graze". On the evidence and information before me I conclude the Court would make such a declaration in proceedings properly constituted (that is, such that all the commoners and all other persons concerned with the land were either defendants or in some way represented). I suppose that if such a High Court declaration was made the County Council as registration authority, would as of course note it somewhere in the Register, or alternatively the High Court might as incidental to its declaration direct them to do this.



The question is therefore whether I can produce the same result by confirming the registration with the modification that for the word "stray" there should be substituted to word "graze".

I express no opinion as to whether the County Council as registration authority either can or should under regulation 36 of the Commons Registration (General) Regulations 1966 (SI 1966 No. 1471) or otherwise, correct "the mistake" which I think has been made. But I reject the suggestion that the absence of any such power in them is relevant to the question whether a Commons Commissioner can do it.

Against having such a power I have: (a) none of the Objections contained in their grounds any suggestion that this is a relief which the Objectors are in any way interested; (b) under the 1965 Act my confirmation (or not) ^{is} required by reason only of the Duchy Objection to shooting and piscary and by the operation of sub-section (7) of section 5 as a result of the Land Section Objections Nos. 60, 63, 200, 276, 498 and 505 the grounds of which have nothing to do with the matter under discussion; and (c) section 7 of the Act which provides for the finality of registrations to which no objection has been made before a date now long past, contemplates that the mistaken and confusing registrations shall (as has happened in many instances) become final. But for my having such a power, sub-section (1) of section 6 which confers on a Commons Commissioner a power of modification is generally expressed, as also is the said sub-section (7). I have in other cases concluded that a Commons Commissioner should refuse to conform registrations patently contrary to law.

I accept that as a general rule Commons Commissioner in exercise of his jurisdiction should not go outside the grounds of objection for to do otherwise would in general be unjust. Nevertheless, I think I should correct the registration at No. 18 because: (a) notwithstanding section 7, Parliament must have contemplated that the registers set up by the Act should if possible not be confusing; (b) there is no reason why I should not under general words do what the High Court would do under a slightly different procedure; and (c) the High Court procedure would be expensive to Mr Courtier because all the Commoners and other persons would have to be served or given some sort of notice, while under the procedure applicable to Commons Commissioners copies of this decision must (whatever it contains) be sent to all such persons, and by giving liberty to apply they can challenge any decision of mine, a procedure far more economical to all concerned.

My decision is therefore that subject to the liberty to apply below specified my confirmation of the registration at Entry No. 18 is with the modification for the word "stray" there be substituted the word "graze" (for the reasons set out under the previous heading there will be another modification deleting "piscary shooting"). I give to every person represented or entitled to be heard at the hearing, to every person who applied for any registration in this Register Unit and to their successors in title liberty to apply to have the hearing re-opened and so much of this decision as relates to the said substitution set aside, such liberty to be exercised within the time limit and otherwise in accordance with paragraph 10 of the Third Schedule hereto.

Straying

The registrations (except No. 18 dealt with above) which are expressed as "to stray" are listed in paragraph 5 of the Third Schedule hereto.

For the reasons set out under the heading "Straying" in my decision dated 30 June 1983 re Forest of Dartmoor (CL164) and consistently with the principles set out



under the previous heading of this decision about Entry No. 18, I consider that all these registrations (except as aforesaid about No. 18) were not properly made. But because the applicants and their successors in title may have failed to attend or be represented at the hearing under the impression that in their absence these registrations would certainly be confirmed I give to them liberty to apply to have this hearing re-opened and to have this part of this decision set aside, such liberty to be exercised within the time limit otherwise as set out in paragraph 10 of the Third Schedule hereto.

Ownership

As to the Duchy Ownership Section registration at Entry No. 1:-

Objection No. 865 made by South Tawton Parish Council was as above recorded at the hearing withdrawn.

Nobody at the hearing supported Objection No. 888 made by Mrs E E B Wonacott. From the information I have it seems likely that she made the Objection in some supposed public interest which she and she only could support. In the absence of any evidence or representations by her personal representatives and in the absence of any support for her Objection by anybody else, my decision is that such Objection wholly fails.

Objection No. 514 was made by North Devon Water Board. The land to which the Objection relates will for the reasons above stated under the heading Water Authority be removed from the Register and the Ownership Section registration as far as it relates to it be cancelled by the County Council as registration authority pursuant to sub-section (3) of section 6 of the Commons Registration Act 1965. So I give no decision about this Objection.

As to the conflict between this registration and that made at Entry No. 2 made on the application Mr G H J Fursdon, I consider I can properly as suggested by Mr Sturmer (as above recorded) act on the letter specified in Part 1 of the Second Schedule hereto.

So my decision is that the registration at Entry No. 1 was, subject to the modifications consequential on the removal of some of the Unit Land from the Register in accordance with the decisions above recorded, properly made.

The registration as Ownership Section Entry No. 3 made on the application of Messrs I A G Svensson and R J Wark applies only to the Ford Lane lettered C pieces which for the reasons above set out under the heading Ford Lane Waste will be removed from the Register. So I give no decision about the conflict between this registration and that at Entry No. 2. If those concerned with the ownership of the Ford Lane lettered C pieces cannot agree, their differences will have to be settled outside anything provided by the 1965 Act (eg by the High Court).

The registration made on the application of Mr G H J Fursdon at Ownership Section Entry No. 2 is only in question by reason of its apparent conflict with the registrations at Entry Nos. 1 and 3. Such conflicts being resolved as under this heading before stated, my decision is that this registration was otherwise properly made.



Others

The registration at Rights Section Entry No. 47 made on the application of Mr Peter John Leonard is in the Register recorded as being in conflict with that at Entry No. 152 made on the application of Mr Ray Robert Kelly. I have no note or recollection of any evidence or argument at the hearing as to how this conflict should be resolved. The registrations are essentially the same as those at Entry Nos. 90 and 180 in the Rights Section of Register Unit No. CL73 (Brennamor Common, East Cleave, Belstone Common etc) about which I gave a decision dated 2 November 1983. In such decision I preferred the registration at Entry No. 180. For the reasons set out in my said decision I as regards the Unit Land register prefer the registration at Entry No. 152 and conclude that the registration at Entry No. 47 was not properly made.

The other conflicts mentioned in the Rights Section of the Register do not having regard to my decisions as above recorded → still exist and I therefore need say nothing about them. About all the other Rights Section registrations that is to say those at the Entry Nos listed at the end of paragraph 7 of the Third Schedule hereto, subject to my giving ~~effect~~ → to the Duchy Objections mentioned under the heading shooting piscary etc nobody at the hearing suggested that they were not properly made. It was implicit in the evidence of Mr Plant and Mr Courtier and the absence of any Objection mentioning them particularly that they were properly made. My decision is accordingly.

Final

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

Because this decision may contain clerical errors and errors due to my incorrectly recording agreements and concessions made to me and possibly other errors which ought to be corrected without putting the parties to the expense of an appeal, I give liberty to apply to any person who may be affected by any such error. Such application should be made within the time limit and otherwise in accordance with paragraph 10 of the Third Schedule hereto.

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



FIRST SCHEDULE
(Objections)

Part I: Land Section

No. 60 made by Ivor Anthony Gough Svensson and Rodney John Wark and noted in the Register on 15 July 1970; grounds (in effect), land edged red on plan annexed ("the Ford Lane lettered C pieces") was not common land at date of registration and the rights of common claimed do not exist and G H J Fursdon was not entitled to apply for registration; freehold title vested in the objectors who can deduce more than 30 years title.

No. 63 made by Wilfred George Westlake (executor of W W Westlake) and noted in the Register on 15 July 1970; grounds (in effect), land hatched black on attached plan (the more northerly of the two near Belstone pieces) was not common land at the date of registration.

No. 200 made by Major C B Andrews and noted in the Register on 23 November 1970; grounds, the land coloured pink on enclosed plan ("Ash Common") was not common land at the date of registration; it has been enclosed for many years, and no common rights exist or have been exercised over it.

No. 276 made by Mrs Daisy Cooper and noted in the Register on 23 November 1970; grounds (in effect), OS 1941 (2.09 acres) edged red on annexed plan (the more northerly of the two near Belstone pieces) is not common land; it is owned in fee simple in possession, apart by objector and the remainder by the Executors of Walter Wilfred Westlake.

No. 498 made by Mr Jack Worth Reddaway and noted in the Register on 23 November 1970; grounds (in effect), OS 2533 (.99 acres) edged red on annexed plan (the more southerly of the two near Belstone pieces) is not common land; it is owned by the objector in fee simple in possession.

No. 505 made North Devon Water Board and noted in the Register on 14 January 1971; grounds (in effect), parts coloured pink on enclosed plan (the Ford Lane reservoir, the Ramsley 2,000 gallon tank, and the South Tawton 7/8 wells and the near recorder house pieces" were not common land at the date of registration.

Part II: Rights Section

Note: by subsection (7) of section 5 of the 1965 Act, the Land Section Objections are to be treated as objection to the Rights Section registrations.

Nos 447, 448, 449, 450, 451 and 452 made by HRH Charles Prince of Wales, Duke of Cornwall and noted in the Register on 16 December 1970, applicable to part lettered A on Register map (all South Tawton Common except about 1/20th or less near to and within its north-east side and lettered B on the Register map except the two near Belstone pieces and except the South Tawton 7/8 wells and the



near recorder house pieces are the grounds being:-

(447) right does not exist applicable to Nos. 3, 4, 53 to 70 inclusive and 90;

(448) right for shooting does not exist, applicable to Nos. 13, 14, 16, 18, 20, 21, 37, 40, 41, 42, 44, 45, 46, 47, 48, 71, 73, 74, 77, 78, 79, 80, 81, 82, 84, 86, 89, 105, 110, 112, 113, 122, 126, 127, 143, 145, 160 and 161;

(449) right for piscary does not exist, applicable to Nos. 2, 5, 7, 8, 10, 11, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 37, 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 71, 72, 73, 74, 77, 78, 79, 80, 81, 82, 84, 85, 86, 87, 88, 89, 91, 92, 93, 95, 96, 97, 100, 101, 103, 105, 107, 108, 110, 111, 112, 113, 121, 122, 126, 127, 129, 139, 143, 145, 147, 153, 155, 159, 160, 161 and 168;

(450) right for pannage does not exist, applicable to Nos. 7, 9, 12, 84, 89, 105, 139 and 143;

(451) right to take wild animals & birds does not exist, applicable to Nos. 84, 107, 108 and 111;

(452) right to take ground game does not exist, applicable to Nos. 7, 8, 23, 100, 101, 103, 139.

Nos. 798 and 1146 made by Devon County Council noted in the Register on 3 February 1971 and 11 September 1972; grounds, the right does not exist at all applicable to Nos. 3 and 4 and applicable to Nos. 53 to 70 inclusive, 90 and 132.

Nos. 522 made by North Devon Water Board noted in the Register on 23 February 1971; grounds rights of common does not extend over the parts coloured green on plan enclosed being (1) a strip extending northwards from the Ramsley 2,000 gallon tank (2) strips connecting the said 7/8 wells and three nearby comparatively small sections of the River Taw, applicable to all the Rights Section registrations as specified in the schedule attached to the Objection.

No. 1145 made by Devon County Council and noted in the Register on 11 September 1972; grounds the right to take ground game does not exist at all; applicable to Nos. 7, 8, 23, 100, 101, 103, 105 and 139.

Part III: Ownership Section

No. 514 made by North Devon Water Board noted in the Register on 7 January 1971; grounds the persons named as owners are not owners of the South Tawton 7/8 wells and the near recorder house pieces; applicable to Entry No. 1.

No. 865 made by South Tawton Parish Council and noted in the Register on 27 November 1970; grounds person named as owner not owner; applicable to Entry Nos. 1 and 2.



No. 888 made by Mrs E B Wonnacott noted in the Register on 7 January 1971; grounds the person named as owner was not the owner of the land CL 176; only applicable to Entry No. 1.

Objections deemed by regulation 7 of the Commons Commissioners Regulations 1971 by reason of Entry Nos. 1 and 2 and Nos. 2 and 3 being in conflict.

SECOND SCHEDULE
(Documents produced)

Part I: on behalf of the Duchy

Duchy/1	31 October 1983	Letter from Stratton & Holborow, Chartered Surveyors of Exeter written on behalf of Mr G H J Fursdon, recording his agreement with the Ownership Section registrations made by the Duchy.
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Part II: on behalf of South West Water Authority

FGC/306	21 October 1947	Conveyance and grant of easement by the King's Most Excellent Majesty to North Devon Water Board.
FGC/308	27 October 1949	Vesting Deed made by Devon Water Board of common rights in parts of Belstone Common, Belstone Green, Moor Plot and Brenamoore Common, Belstone.
FGC/308 bis	14 January 1965	Conveyance by HRH Prince of Wales, Duke of Cornwall to North Devon Water Board.
FGC/309	8 August 1969	Vesting Deed dated 8 August 1969 by North Devon Water Board of common rights in and over lands in the parishes of Belstone, Lydford and South Tawton.

Part III: on behalf of Mr F J Ward

FJW/1	1 November 1983	Statutory declaration by Mr Woodward about Rights Section Entry No. 132 (graze 60 sheep; in gross).
FJW	-	Exhibit to said affidavit being a bundle of documents, including (1) to (5) 29 December 1969 to 27 November 1972 letters about registration to and from County Council; (6) note of attendance of F J Ward; (7) Mr R L H C Ward in account with London Joint City and Midland Bank Nov 1922, Nov 1929 and Aug 1930, (8) copy deed of gift dated 21 November 1964 by Reginald Lawrence Henry Collins Ward to Mr F J Ward of fields called Combe Head in Sampford Courtenay containing 10.256 acres;



FJW
(contd) -

(9) (10) and (11) extract from Dartmoor Scotch Sheepbreeders' Association Book (Earmarks) 1929 with an Entry No. 122 for "owner-Mr R L Ward, Domehayes, Okehampton letter May 23 1931 from R L Ward as Secretary, and extract 1951 rules with earmarks (different from 1929).

FJW/2 1 November 1983 Statutory declaration by Mr F J Ward.

FJW/3 3 November 1983 Letter from County Solicitor to Burd Pearse Prickman and Brown not agreeing that the Council had no power to make the Objection and not agreeing the registration at Entry No. 132 for reasons therein stated and asking their letter to be handed in (as it was at the hearing) to me: also copy reply dated 4 November.

FJW/4 26 October 1983 Letter from J Holman, chairman of South Tawton Commoners' Association saying (among other things) that they were willing to support the claim of Mr F Ward to the right in gross to graze sheep and of Mr C Courtier to alter "stray" to "graze".

Part IV: on behalf of Mr C G Courtier

FJW/5 17 June 1968 Copy application (CR Form 9) by
CGC/1 Clifford George Courtier for the registration for the Right of common attached to West Gooseford Farm, South Tawton.

Part IV: on behalf of Parish Council about rights generally

PC/1 -- -- (?)

PC/2 5 February 1973 Letter from Clerk of Devon County Council to Tawton Parish Council about their need to support registrations before the Commons Commissioner.

PC/3 19 February 1973 Minute (copy) of special meeting of Parish Council, discussing letter from DCC addressed to the Commoners' Association (then non-existent) agreeing such correspondence should be sent to Parish Council who would be represented at "the hearing" by Councillors.

PC/4 -- Copy Objection No. 447 made by Duchy.



Part V: Lady Sayer

L Sayer/ 401	6 November 1983	Statement on the views expressed on Venville rights by Commons Commissioner in his recent decisions on CL 164 and CL 188.
L Sayer/ 402	6 July 1983	Hearings by Commons Commissioner; a precis of salient points.
L Sayer/ 403	--	Statement on behalf of Sir Guy and Lady Sayer (joint owners of Cator, Widecombe-in-the-Moor).

Part VII: on behalf of Parish Council, about Ash Common

PC/5	17 March 1966	Deed of gift by George Redvers Courtier to Clifford George Courtier and Enid Mary Courtier (his wife) in consideration of their marriage on 8 December 1965 of farmhouse and land known as West Gooseford at Whiddon Down as described on a plan annexed to conveyance dated 7 November 1957 (less 38.35 acres) and containing (the land given) 135.119 acres.
PC/6	26 March 1926	Conveyance (certified copy) by John Pearce Moore to Ellen Rebecca Rowe Endacott of field commonly known as "Gooseford" containing about 2.768 acres and being OS No. 302 together with rights of grazing and of common as therein mentioned.
PC/7	9 June 1969	Conveyance (certified copy) by which National Provincial Bank Ltd (as trustee of the will of Arthur Melville Jones) conveyed to Patience Marion Warden first Higher Gooseford OS No. 407 and secondly a field (Middle Gooseford) containing about 4.247 acres of being OS No. 408 as delineated on the plan annexed to a conveyance dated 7 March 1966 between John Curnow Millett and Isobel Lettice Eteson and another, together with rights of grazing and of common as therein mentioned.

Part VIII on behalf of Mr C J W Godfrey

EJWG/1	26 April 1982	Statutory declaration by Frank Webber.
EJWG/2	17 July 1970	Letter from Le Brasseur & Oakley, Solicitors of London to Major C B Andrews about their investigation of the title back to 4 October 1920 of the farm known as Colstone.



Part IX: on behalf of the Duchy

- -- Specimen fishing licences, salmon week, salmon season, trout season, trout day and trout week.
- 28 March Letters about shooting.
8 June
22 August
22 August 1908
- 23 April Letters about shooting.
24 May and
27 July 1910
- 10 September 1932 Letter about shooting.
- 2 October 1981 Letter enclosing £5 rent for permission to shoot over Riddon Ridge.
- 22 July and Exchange of letters between Duchy and
5 August 1953 Devon River Board as to the Board's Bailiffs asking fishermen to produce their Duchy permits.
- 28 January 1954 Letter to F Warne about payment by Duchy for ensuring that fishermen in Duchy Waters have appropriate Duchy fishing ticket.
- 18 -- Form of licence by Warden of Stannaries in Cornwall and Devon and Rider and Master Forester of the Forest and Chace of Dartmoor to hunt with Harriers from 1 October to 31 May 18--

Part X: sent after hearing by Burd Pearce Prickman & Brown
to Commons Commissioners Office

(in support of Objection to the two near Belstone pieces)

- Copy of J W Reddaway Objection No. 498.
- 20 September 1910 Conveyance (examined copy) by HRH Prince of Wales, Duke of Cornwall to William James Reddaway of OS 168.
- 11 March 1918 Probate (examined copy) will of William James Reddaway (he died 23 December 1917) granted to William Reddaway containing a gift of Cawsand Field to his son John and a gift to his sons William and John of his flock of Scotch sheep and lambs.



24 July 1957

Probate (examined copy) of will of John Reddaway (he died 6 January 1957) granted to Mary Leadley Reddaway and Jack Worth Reddaway.

25 March 1958

Assent (certified copy) by said executors vesting in Jack Worth Reddaway, Cawsand Field being OS No. 168 and Outer Holloway Field being OS No. 404.

Copy of Cooper objection No. 276 and of Westlake objection No. 63.

2 March 1912

Will (photo of copy obtained from Mrs Daisy Cooper) of William Brock by which he left the Island in the River Taw bought by him from the Prince of Wales on 20 September 1910 and number 228 in the plan on the conveyance to his daughter Emma Westlake for life and then to her husband George Westlake for life and then to their youngest son Wilfred Westlake absolutely; and he left 15 perches part of OS 167 on the plan of the said conveyance to his daughter Elizabeth Anne Chammings and a further approximately 10 perches to his granddaughter Elizabeth Reddaway formerly wife of William Reddaway

15 August 1961

Probate (examined copy) of William Reddaway (he died 15 February 1961) granted to his widow Elizabeth Ann Reddaway, Jack Worth Reddaway and Doris Edith Wood, containing a devise of a plot used as a vegetable garden to his daughter Daisy Cooper for life and after her death to his grandson Anthony William James Cooper absolutely.

THIRD SCHEDULE
(Decision table)

1. I confirm the registration at Land Section Entry No. 1 with the modification that there be removed from the Register:-

(A) the land edged red on the plan annexed to the Svensson and Wark Objection No. 60 (such land being the greater part of that one of the pieces of the Unit Land in this decision called Ford Lane Waste);



Lawton 110 276
(B) the land edged red on the plan annexed to Cooper Objection No. 276, the land (all or nearly all included in the last mentioned land) hatched black on the plan attached to Westlake Objection No. 63 and the land edged red on the plan annexed to the ~~Cooper Objection No. 276~~ (such lands being the part of South Tawton Common in this decision called the two near Belstone pieces); and

(C) the lands coloured pink on the plan enclosed with the Water Board Objection No. 505 (such lands being those in this decision called the Ford Lane Reservoir, the Ramsley 2,000 gallon tank and the South Tawton 7/8 wells and near recorder house piece).

2. For the purpose of enabling some of the modifications herein directed to be conveniently registrable, I direct Devon County Council as registration authority to make an entry in the Rights Section which by reference to such maps if any as they may think fit to provide is to the following effect:- In this Rights Section the Water Authority Provision means: Provided that the right to dig or take stone sand and gravel and/or the right to dig or take any one or more of them shall not extend to, or so as to interfere with any water pipes or water apparatus on the parts of the land in this Register Unit which are shown coloured green on the plans (originally two) enclosed with Water Board Objection No. 522 and so that such Objection shall be treated as having been amended by having enclosed with it a third plan showing a strip 35 feet wide coloured green the south end of which is at or near "RESERVOIR" marked on one of the plans enclosed with Water Board Objection No. 505, the north end of which is the boundary of the land in this register unit nearest to Ford (marked on such last mentioned plan) and along the middle line of which runs the pipe on such last mentioned plan marked 3" CI.

3. For the reasons stated under the heading Mr F J Ward and subject to the liberty to apply under such heading mentioned I refuse to confirm the Rights Section registration at Entry No. 132 (right in gross made on his application).

4. For the reasons set out under the heading Venville I refuse to confirm the registrations at the Rights Section Entry Nos listed at the end of this paragraph being those to which are applicable to Duchy Objection No. 446 and County Council Objections Nos 798 and 1146 (except Entry No. 132 in this Schedule before mentioned), that is to say that the registrations at the following Entry Nos (names of applicants in brackets): 3 (Sir G B and Lady S R P Sayer), 4 (D M Scott), 53 (Holne Parish Lands Charity), 54 (D M Scott), 55 (H D and E M Pearce Gould), 56 (L O Perkins), 57 (A G Cousins), 58 (P R Lane-Joynt), 59 (R E Adam), 60 (L Jackson), 61 (E H and I A Woodward), 62 (F A Perryman), 63 (J B Townsend), 64 (F and A E Tozer), 65 (R G and A B Mortimore), 66 (P A Norrish), 67 (G E J Gawthorne), 68 (H and M I Clarkson), 69 (M I Clarkson), 70 (W H Norrish) and 90 (E N Smallwood).

5. For the reasons given above under the heading Straying subject to the liberty to apply herein mentioned I refuse to confirm the registrations being under such heading mentioned that is to say the registrations at the following Rights Section Entry Nos. (names of applicants in brackets):-
25 (D G Saunders), 26 (S G Saunders), 27 (S G Saunders), 28 (S G Saunders), 75 (P J Northcott), 76 (J W Matthew), 83 (R Hooley), 99 (D E Reed), 104 (C P and E B Heath), 106 (J R Terry), 109 (W Webber), 115 (J G Wooldridge), 123 (I G and J G Wooldridge), 124 (H N Grindley), 124 (H G Grindley), 125 (E Poole), 130 (K C Heard), 131 (K M F Terry), 133 (R R Kelly),



138 (A M Wells), 142 (D Bentham), 144 (W Jordan), 146 (D Moor & R Hooley), 148 (J H Clark), 149 (J H Clark), 151 (R R Kelly), 154 (W J Heard), 167 (M Harries and D Crowther).

6. The reasons given under the heading Others subject to the liberty to apply therein mentioned I refuse to confirm the registration at Rights Section Entry No. 47 (made on the application of P J Leonard).

7. I confirm the registrations at the Rights Section Entry Nos listed at the end of this paragraph with the modifications to column 4 next hereinafter mentioned that is to say:-

(a) if the registration includes a right to dig or take away stone sand and gravel to dig or take away any one or more of them there be added at the end of the words in this column "subject as regards digging or taking stone sand and gravel to the Water Authority Provision in this Rights Section defined";

(b) if the registrations includes piscary, shooting, pannage, to shoot or take wild animals and birds, or ground game (or ground and game, or sporting rights for ground game) or any one or more any such rights all words relating to such rights shall be deleted;

(c) registration at Entry No. 18 (C G Courtier) for the word "stray" shall be substituted the word "graze";

(d) the modifications necessary consequential on the removal from the Register of the land specified in paragraph 1 of this schedule.

This paragraph or this Schedule relates to the registration at the following Entry Nos. (names of applicants in brackets):- 1 (D A K Stewart), 2 (J F Palmer), 3 (A Osborn), 6 (H G and C I Branton), 7 (W R Sampson), 8 (E Mallett), 9 (E G T Lowe), 10 (J W Morris), 11 (P M W Butler), 12 (R U Hall), 13 (W W Westlake), 14 (S Lee), 15 (W G West), 16 (D Cooper), 17 (K M Lawder), 18 (C G Courtier), 19 (J Osborn), 20 (A B Race), 21 (G R Courtier), 22 (P M Warden), 23 (H Powlesland), 24 (C C J White), 29 (R Morley), 30 (G Harvey), 31 (A J and M H Mortimore), 32 (replaced by Nos. 173 and 174, A G and F E Endicott), 33 (R S Perrott), 34 (J Rowe), 35 (J Rowe), 36 (A F Endicott), 37 (W J Cottle), 38 (W G S Perry), 39 (F and G M M Wright), 40 (M M K Ryan), 41 (E M and R D Glanfield), 42 (E J Glanfield), 43 (J L Cave-Penny), 44 (M E A Pike), 45 (W S Pike), 46 (C L Slade), 48 (H Luxton), 49 (F W Green), 50 (G E Hodge), 51 (J A T Hodge), 71 (F M Jefferys), 72 (O C Jeffries), 73 (D J C S Whitham), 74 (C E Miller), 77 (J Holman), 78 (J N Redway), 79 (G E Hodge), 80 (J A T Hodge), 81 (J F and R I Young), 82 (P W Brook), 84 (W T G Wonnacott), 85 (A Bunbury), 86 (W J Cottle), 87 (E T G and I A G Harris), 88 (I D White), 89 (P J Ansell), 91 (K F Sharp), 92 (I K Burd), 93 (T J Holman), 94 (B C Springer), 95 (G and H H Howse), 96 (W J, W J and M P Wedlake), 97 (J C F Matheson), 98 (T W Endicott), 100 (replaced by Nos. 176 and 176 H C Kingsford-Lethbridge), 101 (H C Kingsford-Lethbridge), 102 (N B and M E Burton), 103 (replaced by Nos. 182 and 183, H C Kingsford-Lethbridge), 105 (J R Terry), 107 (E A J Worthington), 108 (V E Knapman), 110 (W Webber), 111 (C J C Wonnacott), 112 (A W and B Brockwell), 113 (replaced by Nos. 179 and 180, S M Milne), 114 I A G Svensson and R J Wark), 116 (M A Sheridan), 117 (C G Hill), 118 (A E Cottrell), 119 (M Perryman), 120 (J Dunning), 121 (replaced by Nos. 170 and 171 A L Burnbury), 122 (Belstone Parish Council for Skaigh Wood Trust), 126 (C J White), 127 (J White), 128 (G F Atherton), 129 (F W Heap), 134 (B W Heap and W E R Lambert),



135 (T J G Stannus), 136 (E G Harvey), 137 (M J Sheridan), 139 (Devon County Council), 140 (J S Mortimore), 141 (R S Windeat), 143 (W Jordan), 145 (H Littlejohns), 147 (F T Ware), 150 (J H Clark), 152 (R R Kelly), 153 (Public Trustee), 155 (E M Tarry, 156 (H B Clark), 157 (T J Holman), 158 (T J Holman), 159 (E J Hain), 160 (J Allegri), 161 (B and M Pope Ltd), and 168 (J A T Hodge).

8. I confirm the registration at Ownership Section Entry No. 1 without any modification other than is necessarily consequential on the removals from the Register as specified in paragraph 1 of this Schedule. I confirm the registration at Ownership Section Entry No. 2 with the modification that in column 2 there shall be added at the end "except so much of the land so hatched and lettered as is also hatched red and lettered "A" on the register map" and with such other consequential modifications as aforesaid. I record that I neither confirm nor refuse to confirm the registration at Ownership Section Entry No. 3 because consequential on the removal from the Register mentioned in sub-paragraph (A) of paragraph 1 of this schedule, the County Council as registration authority will by sub-section (3) of section 6 of the Commons Registration Act 1965 be obliged to cancel the registration.

9. Reference in this Schedule to any registration by number must be taken to include any registrations which have since replaced it.

10. When in this decision liberty to apply to any person has been given, such application should be made within THREE 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 affected by the application being granted and for their information to the County Council as registration authority. As a result of the application the 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 of further hearing about which he might wish to attend or be represented at

Date this 5th _____ day of October 1984

a. a. Baden Fuller

Commons Commissioner