

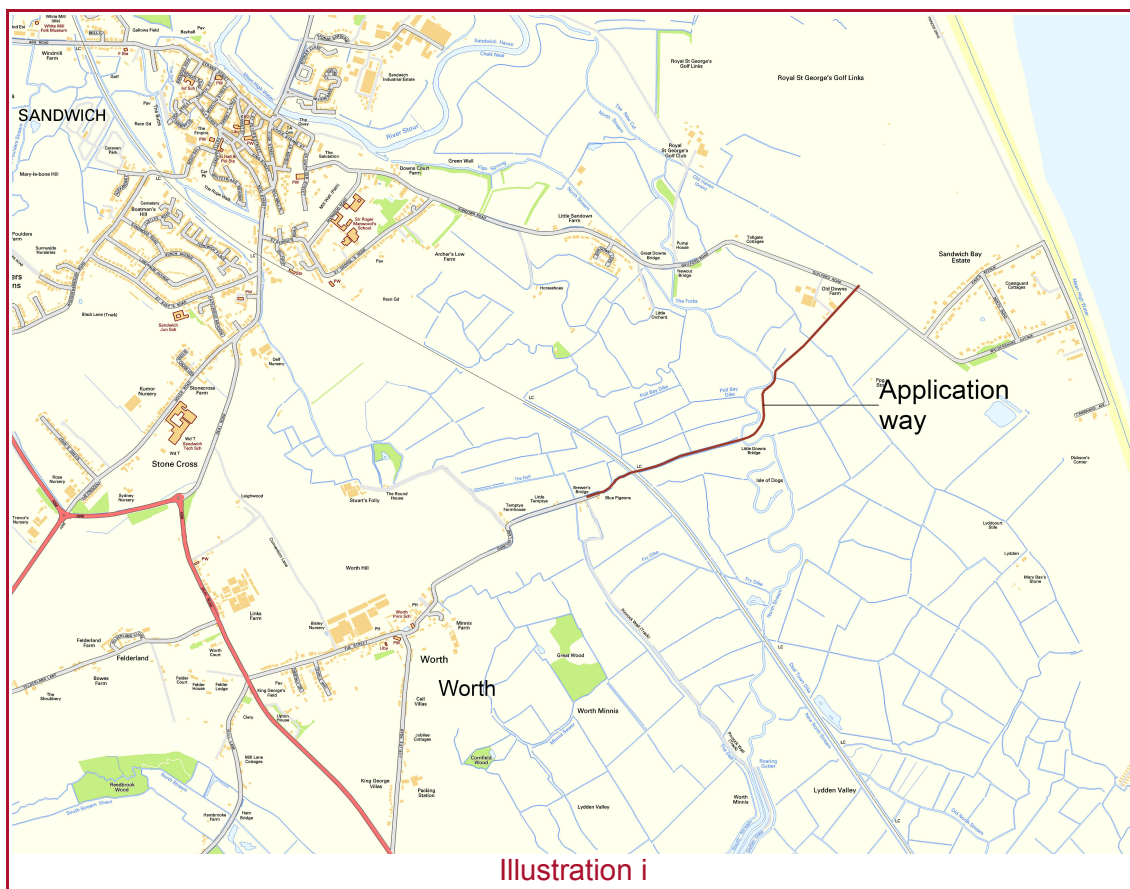
Blue Pigeons Lane: application to record a restricted byway

Historical document analysis

I. Introduction

A. Quick reference

A.1. Location plan (see application map at part II. below for detailed representation):



A.2. Existing recorded public rights of way comprised in application way: bridleway EE232

A.3. Parish of: Worth

A.4. District of: Dover

A.5. Ancient parish of: Worth or Word

A.6. Hundred of: Eastry

A.7. Termination points: Blue Pigeons (Goretop Lane¹ near Brewer's Bridge); Stumps Gateway on Old Coast Road (BOAT EE245),

A.8. Termination points Ordnance Survey grid references: TR35585756, TR34465669

A.9. Postcode: CT14 0DJ

A.10. Ordnance Survey Explorer sheet: 150

A.11. Ordnance Survey County Series 25" sheets: Kent XLVIII/7, 8

B. The applicant

B.1. The application, the evidence for which is summarised in this document, is made by Hugh Craddock on behalf of the British Horse Society. I am appointed by the society as a volunteer historical researcher in relation to South and East Kent. I am a member of the Institute of Public Rights of Way and Access Management. I am employed as a casework officer for the Open Spaces Society, and was formerly a civil servant in the Department for the Environment, Food and Rural Affairs (and predecessor departments), whose responsibilities included Part I of the Countryside and Rights of Way Act 2000 and the Commons Act 2006.

C. Locational details

C.1. This application relates to a way in the parish of Worth. The way is currently recorded on the definitive map and statement as bridleway EE232. The application seeks to record the way as a restricted byway.

D. Application

D.1. The application is made under section 53(5) of the Wildlife & Countryside Act 1981 to Kent County Council that a definitive map modification order be made under sub-paragraph (ii) of section 53(3)(c) that a way shown in the definitive map and statement for Kent as a bridleway should instead be shown as a restricted byway, and to any extent necessary, that the order also should be made under sub-paragraph (i) that a way should be added as a restricted byway, and under sub-paragraph (iii) that the map and statement should be modified to correct the alignment of the way there shown.

D.2. The way, which is recorded as bridleway EE232, begins on Goretop Lane at the junction with Pinnock Wall, recorded as bridleway EE233, at P (TR34465669), adjacent to Blue Pigeons at Brewer's Bridge. The way leads east north-east along Goretop Lane to a kink in the road, where the way continues slightly to north and then east north-east again (ceasing to be known as Goretop Lane). The way then crosses the Deal to Sandwich railway at a level crossing, and continues east north-east along an enclosed track bounded by drains on either side leading to Little Downs Bridge. The way emerges from the bridge unenclosed, rounding from east north-east to north before turning north-east again and then rounding north along the east bank of the North Stream, before continuing north-east along an enclosed track across Red House bridge and past Old Downs Farm. The way crosses the Guilford Road to join the Old Coach Road at Stumps Gateway between Deal and Sandwich, recorded as byway open to all traffic EE245, and now adjacent to the Guil-

¹ Goretop Lane is classified by the highway authority as The Street, Worth.

ford Road, opposite the junction with footpath EE249, at R (Ordnance Survey grid reference TR35585756). A distance of 1,530 metres.

D.3. The points P and R are identified in the application map at part II. below.

E. Nomenclature

E.1. The way lies in the parish of Worth, east of the village of the same name. The village formerly was alternatively known as Word.

E.2. The way between P and R has no enduring name, but is referred to in some highway minutes as Blue Pigeons Lane, Blue Pigeons Road, and elsewhere as Little Downs Road. However, the road from Worth east past P has the long-established name Goretop Lane (although it is listed by the highway authority as The Street, Worth), which formerly diverged from the application way 120 metres east of P to continue east into the marshes on a line parallel to the application way, but approximately 100 metres to its south, via a level crossing over the railway line. This road, from the junction with the application way onwards, was eradicated in the second half of the twentieth century.

E.3. Little Downs Bridge is the bridge over the North Stream. Red House Bridge is a bridge over a dyke approximately 300 metres south-west of the terminus at R, formerly in the vicinity of Red House.

E.4. The junction of the application way with the Old Coach Road at R is known as Stumps Gateway. The Old Coach Road follows the line, but slightly on the seaward side, of the Guilford Road, which is a wholly private road for use of which a toll is charged. The Old Coach Road is the line of the coastal road between Sandwich and Deal. It offered one of two routes between Sandwich and Deal (the other ran inland through Ham, Finglesham and How Wall). The coastal road declined in importance after the opening of the Dover, Deal and Sandwich turnpike around the beginning of the nineteenth century, which adopted an improved, direct alignment via new road construction across the Lydden Valley at Hacklinge. The alignment of both the coastal and inland roads, prior to the opening of the Dover, Deal and Sandwich turnpike, can be seen in the Ordnance Survey, Mudge-Faden one-inch map of Kent (item IV.C. below), coloured brown, whereas the A258 follows the course of the turnpike.

F. Background

F.1. The application way appears historically to be a minor road leading from the village of Worth to the marshes and the coast road. Until the beginning of the nineteenth century, there was no highway leading south from Worth towards Deal, and the traveller was obliged to strike east across the marshes to take up what is now the Old Coast Road, to head inland via Ham and Finglesham, or to go south from Blue Pigeons along Pinnock Wall and then Finglesham Drove to How Wall — but this last option appears only to have been a drove and not a road for carriages.

F.2. Thus the application way provided a connection from Worth to Deal, as well as to farms on the marshes, such as at Red House. However, it is clear that the application way (in contrast to Goretop Lane) was always regarded as privately-maintainable, notwithstanding that it was recognised as a public road.

G. Grounds for application

G.1. The application way is shown as a road on several late eighteenth or early nineteenth century maps: Ordnance Survey surveyor's drawing, Canterbury (East) (item IV.A.); Barlow-Hasted map of Kent (item IV.B.); Ordnance Survey, Mudge-Faden one-inch map of Kent (item IV.C.); Paterson's Roads — Thanet and Kent and Sussex Coast (item IV.D.); Greenwood's map of Kent (item IV.E.); Ordnance Survey, Old Series one-inch map of Kent (item IV.F.). These maps show the way having the character of a cross-road which connects highways in the village of Worth with the long established coastal road and it is suggested that such a cross-road (expressly depicted as such on Greenwood's map of Kent) was likely to be both public and open to vehicles.

G.2. A series of proposals for railway lines across the Lydden Valley prepared during the first half of the nineteenth century cross the application way, and record it as a public road: Central Kentish Railway and Sandwich Docks (item IV.G.); Central Kent Railway (item IV.H.); South Eastern Railway, Minster to Walmer branch (item IV.J.).

G.3. The Tithe Act 1836 (item IV.I.) survey records the way as a road. A series of records from the end of the nineteenth and early twentieth century held by Eastry Rural District Council highway authority (item IV.L.) determines the way to be a public road. A turn of century proposal for the Cinque Ports Light Railway (item IV.M.) instead records a droveway.

G.4. The Finance (1909–1910) Act 1910 (item IV.N.) maps record the western part of the application way as a 'white road', suggesting that it was recognised as a public road, but the remainder is included within the hereditaments. The National Farm Survey map (item IV.P.) leaves much of the way uncoloured. A notice under the Electricity Supply Acts 1882 to 1922 (item IV.O.) treats the application way as a privately maintainable public road.

G.5. The Highway inspector's map (item IV.R.) of 1952 records the first part of the way as a publicly-maintainable public road (subsequently crossed out).

G.6. The way is a continuation of Goretop Lane, which once branched off the application way to cross the railway and terminate on the marshes. There is a continuous road, capable of passing carriages, from the village of Worth through to the Guilford Road and the Old Coach Road, but formal records show that the road has been regarded as publicly-maintainable only as far as Blue Pigeons, or the branching off of Goretop Lane about 120m further east.

G.7. Neither is a plausible place for a public road to cease and for rights in continuation to be limited to bridle rights. The application way was recorded by Worth parish council, and so recorded on the draft map prepared under Part IV of the National Parks and Access to the Countryside Act 1949 (item IV.Q. below), as a road used as public path, so that it is evident that the parish council took the position that the way had vehicular rights. However, the way was downgraded to bridleway on a review.

G.8. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another*,² Lewison LJ said, at paragraph 22,

In the nature of things where an inquiry goes back over many years (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evid-

2 [2012] EWCA Civ 334

ence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless. As Pollock CB famously directed the jury in *R v Exall* (1866) 4 F & F 922:

‘It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength.’

G.9. The Planning Inspectorate *Consistency Guidelines* recognise that several pieces of evidence which are individually lightweight in themselves (such as an historic map or a tithe map) may, collectively, convey a greater impact:

If, however, there is synergy between relatively lightweight pieces of highway status evidence (e.g. an OS map, a commercial map and a Tithe map), then this synergy (co-ordination as distinct from repetition) would significantly increase the collective impact of those documents. The concept of synergism may not always apply, but it should always be borne in mind.³

G.10. The correct test under s.53(3)(c)(ii) is whether:

...the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—... (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description

G.11. While no single piece of evidence in this application is conclusive, the applicant believes that, taken as a whole, the evidence in this document analysis demonstrates carriageway reputation over many years, and that prior to the Natural Environment and Rural Communities Act 2006 (as to which, see item I.I. below), there were full vehicular rights.

H. Discovery of evidence

H.1. The application way was recorded in the draft map, prepared under Part IV of the National Parks and Access to the Countryside Act 1949, as CRF (Carriage Road: Foot-path) numbers 8 and 9. It subsequently was reclassified as a bridleway on a review of the definitive map and statement.

H.2. There is no indication that any of the evidence addressed in this analysis was considered in the context of the draft map or the review. Therefore, there is discovery of new evidence for the purposes of s.53(2) of the 1981 Act.

I. Natural Environment and Rural Communities Act 2006

I.1. The application seeks to show that the application way is a public carriageway. Virtually none of the application way is recorded as publicly maintainable in the list of streets held by Kent County Council under section 36(6) of the Highways Act 1980. The effect of section 67 of the Natural Environment and Rural Communities Act 2006 is to

³ [Consistency Guidelines](#): para.2.17.

extinguish public rights for mechanically propelled vehicles where none of the exceptions in section 67 apply. The application is therefore made for a restricted byway.

I.2. However, it appears that a small part of the application way, from P to the near end of the spur to the south of the application way named as the continuation of Goretop Lane (see para.E.2 above), was recorded in the list of streets for 2003 as part of The Street, Worth, and it may be that public rights for mechanically propelled vehicles have not been extinguished over this part. The part being around 120m long, it is suggested that it is *de minimis*, but if the surveying authority considers it significant, it should instead be recorded as a byway open to all traffic.

J. Points awarded

J.1. Points have been awarded to each piece of evidence in relation to the application way. But, having regard to the existing status of the application way as a definitive public bridleway, points have been awarded only insofar as the evidence is indicative of a right of way for vehicles — thus evidence which is suggestive of a public footpath or bridleway attracts no points. Otherwise, the points have been calculated according to the guidance in *Rights of Way: Restoring the Record*.⁴

J.2. Points:

| Item | Ref | Points P-R |
|--|-------|------------|
| Ordnance Survey surveyor's drawing, Canterbury (East) | IV.A. | 0 |
| Barlow-Hasted map of Kent | IV.B. | 0 |
| Ordnance Survey, Mudge-Faden one-inch map of Kent | IV.C. | 0 |
| Paterson's Roads — Thanet and Kent and Sussex Coast | IV.D. | 1 |
| Greenwood's map of Kent | IV.E. | 1 |
| Ordnance Survey, Old Series one-inch map of Kent | IV.F. | 0 |
| Central Kentish Railway and Sandwich Docks | IV.G. | 3 |
| Central Kent Railway | IV.H. | 5 |
| Tithe Act 1836 | IV.I. | 3 |
| South Eastern Railway, Minster to Walmer branch | IV.J. | 1 |
| Ordnance Survey County Series 25-inch maps | IV.K. | 0 |
| Eastry Rural District Council highway authority | IV.L. | 4 |
| Cinque Ports Light Railway | IV.M. | 0 |
| Finance (1909–1910) Act 1910 | IV.N. | 0 |
| Electricity Supply Acts 1882 to 1922 | IV.O. | 0 |
| National Farm Survey map | IV.P. | 2 |
| Part IV of the National Parks and Access to the Countryside Act 1949 | IV.Q. | 1 |
| Highway inspector's map | IV.R. | 0 |
| Total points | | 21 |

⁴ Sarah Bucks and Phil Wadey, 2nd ed. 2017.

K. Width of application way

K.1. No width is given for bridleway EE232 in the definitive map and statement.

K.2. In his report to the Eastry Rural District Council highway authority (Item IV.L. below) on 17 May 1910 (IV.L.13 below), the surveyor proposes making up the application way between P and the level crossing to a width of 14 feet. This suggests that the minimum available width between hedges was 14 feet (4.27 metres).

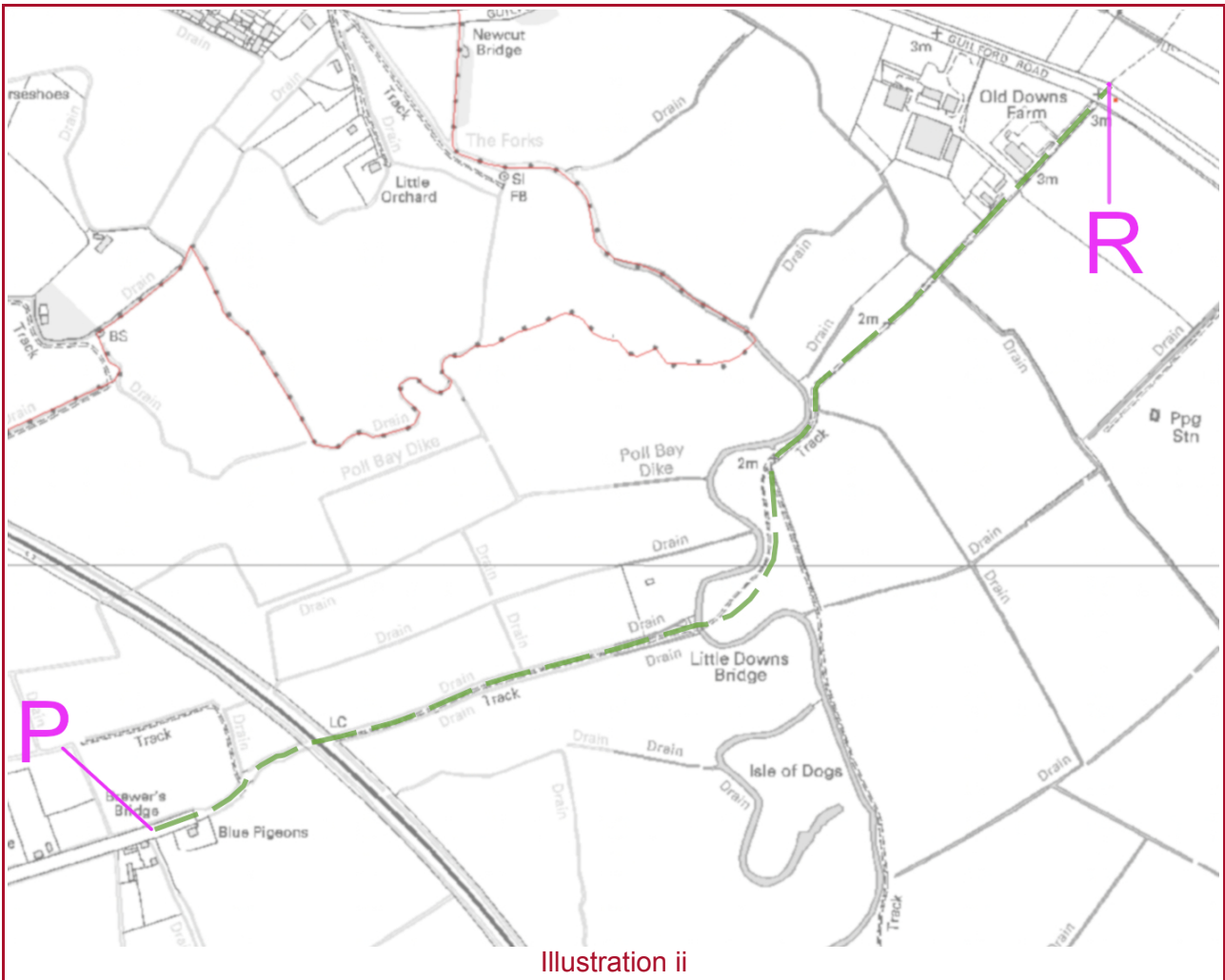
K.3. It is proposed that the width of the way should be as measured, or as shown, on Ordnance Survey MasterMap between P and Little Downs Bridge, and that a width of 4 metres should be adopted between Little Downs Bridge and R, being a width capable of accommodating two compact passing vehicles.

L. Limitations

L.1. It is noted that the application way is crossed by the railway at a level crossing, and that the gates, lawfully installed as required under the Railway Clauses Consolidation Act 1845,⁵ should be recorded as limitations.

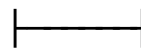
⁵ Section 47: 'If the railway cross any turnpike road or public carriage road on a level, the company shall erect and at all times maintain good and sufficient gates across such road, on each side of the railway, where the same shall communicate therewith...'

II. Application map



Map approximately centred on Little Downs Bridge at TR350569

Scale: approx. 1:8,500 (when printed A4)



Application way is marked — — 150m

Parish boundary between Sandwich and Worth is marked — —

III. Along the way



Illustration iii: at R



Illustration iv: near R



Illustration v: Red House



Illustration vi: West of Red House



Illustration vii: Alongside North Stream



Illustration viii: Next North Stream



Illustration ix: Little Downs Bridge



Illustration x: East of railway



Illustration xi: Railway crossing



Illustration xii: Jct with Goretop Lane

IV. Evidence

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A. Ordnance Survey surveyor's drawing, Canterbury (East)

A.1. **Date:** 1797

A.2. **Source:** British Library website⁶

⁶ Sheet 107(E): britishlibrary.georeferencer.com/id/002OSD000000017U00367000/compare

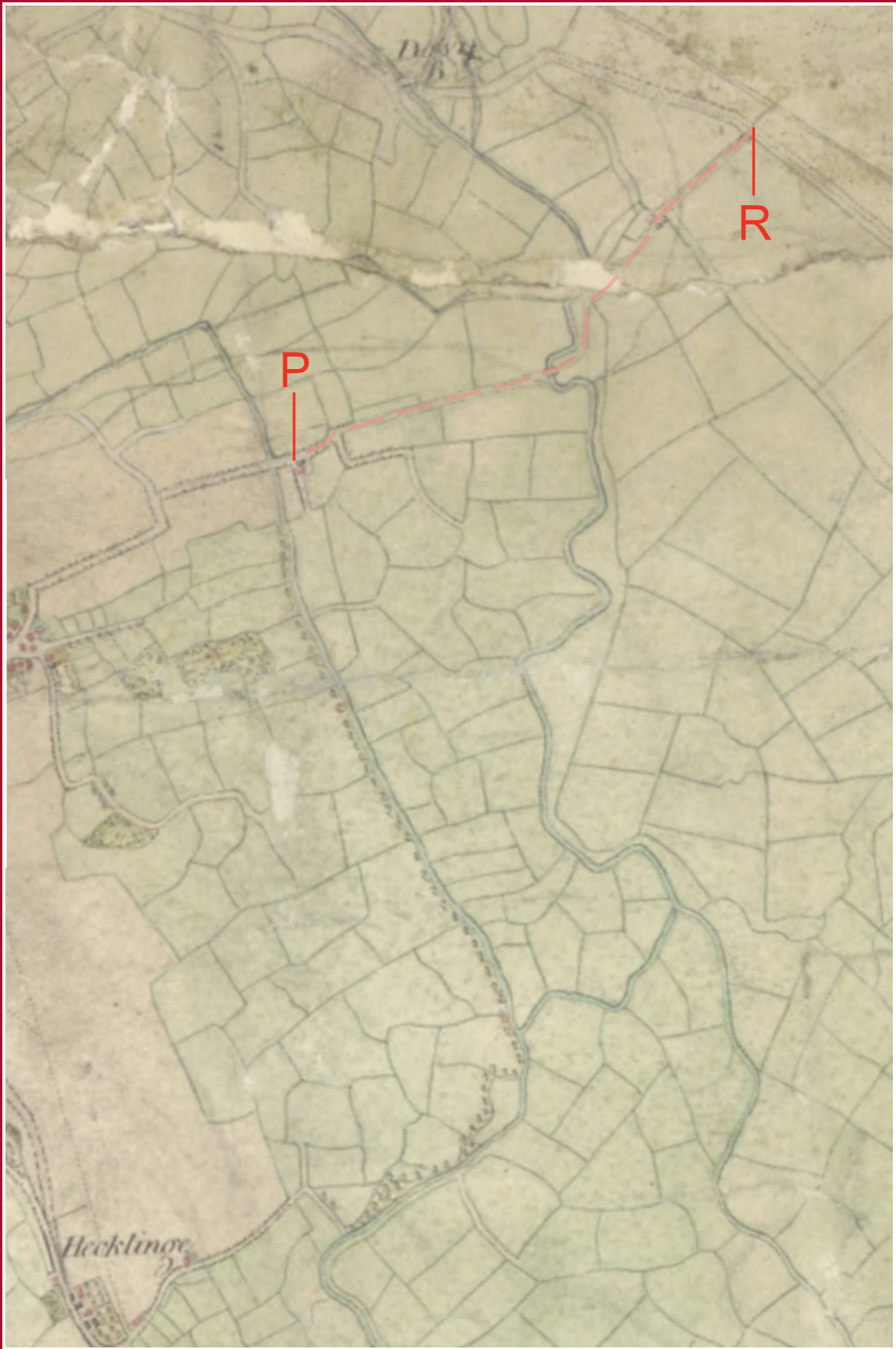


Illustration xiii

A.3. **Description:** Original scale: believed to be 1:31,680 (two inches to one mile); orientation: unchanged (north).

A.4. Facing the threat of invasion, the English government commissioned a military survey of the vulnerable south coast. An accurate map of Jersey had already been made, soon after a French attempt to capture the island in 1781, but this had been restricted to government use only. The new maps were to be published at the detailed scale of one inch to the mile. Responsibility for what became an historic venture fell to the Board of Ordnance, from which the Ordnance Survey takes its name. From its headquarters in the Tower of London, engineers and draftsmen set out to produce the military maps by a system of triangulation. The survey of Kent was first to go ahead. It began in 1795 under the direction of the Board's chief draftsman, William Gardner. Critical communication routes such as roads and rivers were to be shown clearly and accurately. Attention was paid to woods that could provide cover for ambush, and elaborate shading was used to depict the contours of terrain that might offer tactical advantage in battle. Preliminary drawings were made at scales from six inches to the mile, for areas of particular military significance, down to two inches to the mile elsewhere.⁷

A.5. **Conclusion:** The Ordnance Survey drawing is good evidence for the physical existence of the way as a well-defined track or road continuing east from Worth across the marshes to the coast. It is likely that the surveyor, concerned with capability for the movement of men and military supplies, would not have drawn the way as such unless it were good for such purposes. But it is not possible to draw from the map any firm conclusions about status.

A.6. **Points:** 0

B. Barlow-Hasted map of Kent

B.1. **Date:** 1797–1801

B.2. **Source:** Kent County Archives: engraved by William Barlow in Edward Hasted's *The History and Topographical Survey of Kent*: published in 12 Volumes.

⁷ From the Curator's introduction to the Ordnance Survey drawings, British Library: www.bl.uk/onlinegallery/onlineex/ordsurvdraw/curatorintro23261.html.

Barlow-Hasted map

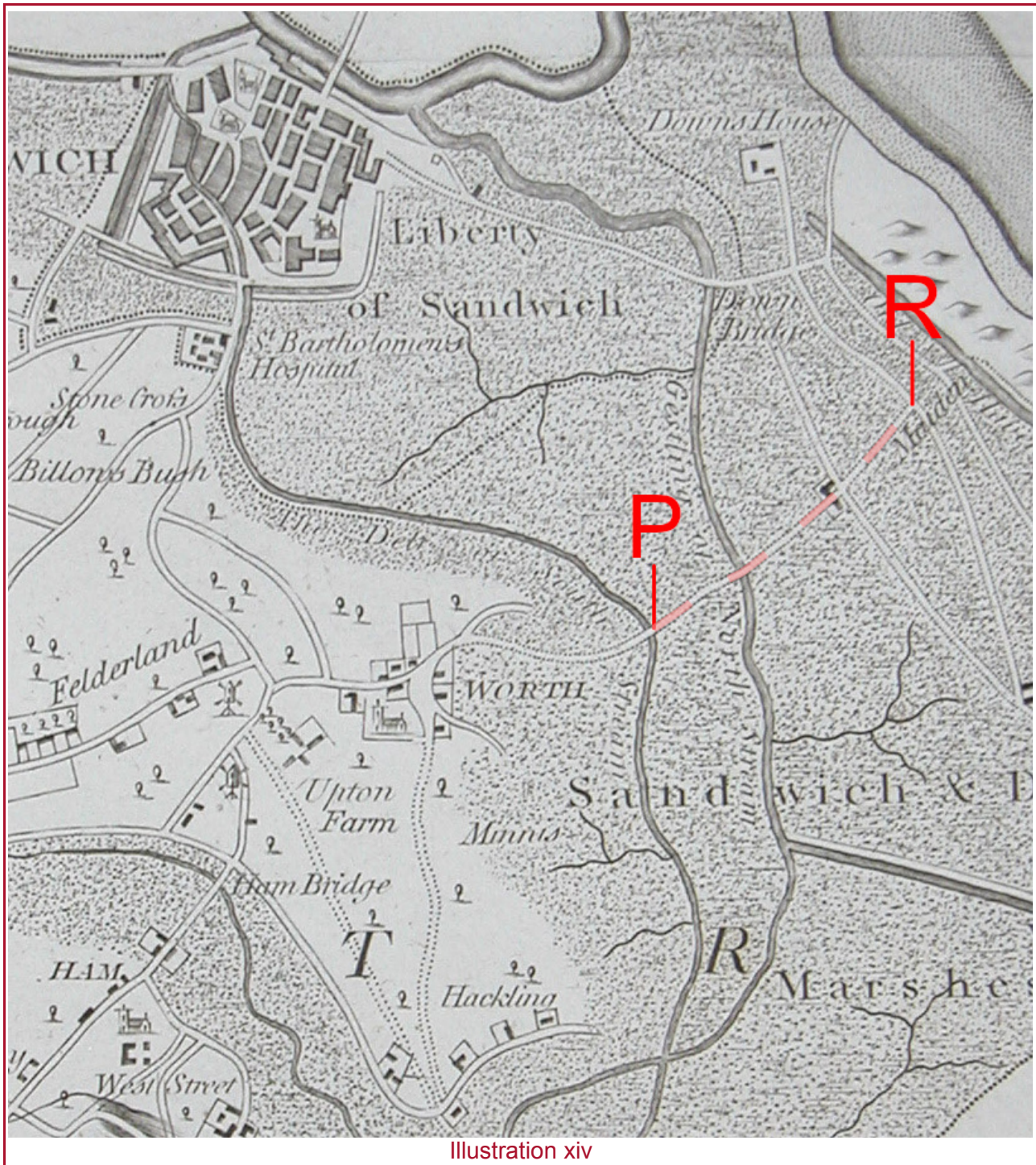


Illustration xiv

B.3. **Description:** Original scale: not known; orientation: unchanged (north).

B.4. William Barlow's maps of Kent were incorporated within the first edition of Edward Hasted's *The History and Topographical Survey of Kent*. Each map represented one or more of the Kent hundreds: that shown here is an extract from the hundred of Eastry.

B.5. **Conclusion:** The Barlow-Hasted map is good evidence for the existence of a defined way along the application route. The map was widely commercially published, and would tend to show through routes which were public highways, whereas certain minor

routes of questionable public status are shown with lines across the junction with public ways (see, for example, the way from Worth village to Hacklinge, at its southerly termination). However, it cannot be inferred that the status of the way is any greater than bridleway.

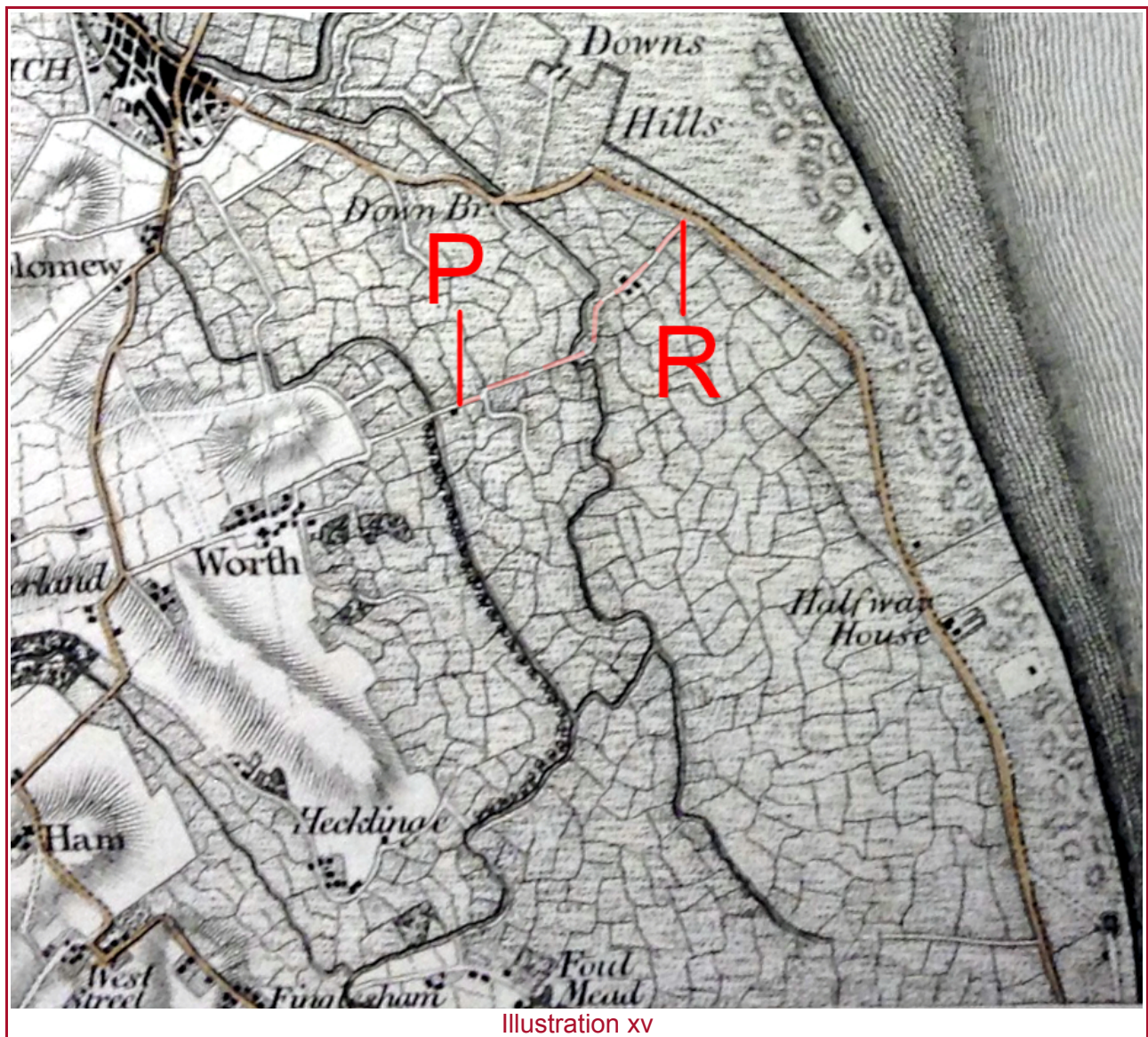
B.6. **Points:** 0

C. Ordnance Survey, Mudge-Faden one-inch map of Kent

C.1. **Date:** 1801

C.2. **Source:** Kent County Archives, also available at Mapco.net

Mudge-Faden one-inch map



C.3. **Description:** Original scale: one inch to one mile (1:63,360); orientation: unchanged (north).

C.4. This map of Kent was the first map to be to rely primarily on the survey data collected in the Ordnance Survey surveyor's drawing, Canterbury (East) (item IV.A. above). However, the Ordnance Survey did not itself publish a map of Kent until well into the nineteenth century: instead, this map was initially published on 1st January 1801 by William Faden, Geographer to the King, for sale to the public.

C.5. The map shows the application way between P and R. The map also is of interest in showing the old coast road (now BOAT EE245) as a key route, coloured (in this reproduction) in brown, between Deal and Sandwich — the alternative inland route (also coloured brown) lying through the villages of Finglesham and Ham, prior to the construction of the Dover and Sandwich turnpike through the marshes at Hacklinge around the beginning of the nineteenth century. Thus the application way between P and R provided access from the old coast road (while it remained in regular use) to the village of Worth.

C.6. **Conclusion:** The Ordnance Survey map of Kent was prepared in response to an invasion threat, and primarily had a military purpose. However, this map was published privately by Faden for public and not military use. It is therefore likely to reflect the needs of the purchasing public, rather than purely military requirements. It might be said that a way connecting the two key roads between Sandwich and Deal (the old coast road and the inland route via Finglesham) via Worth village was more likely to be a vehicular way.

C.7. **Points:** 0

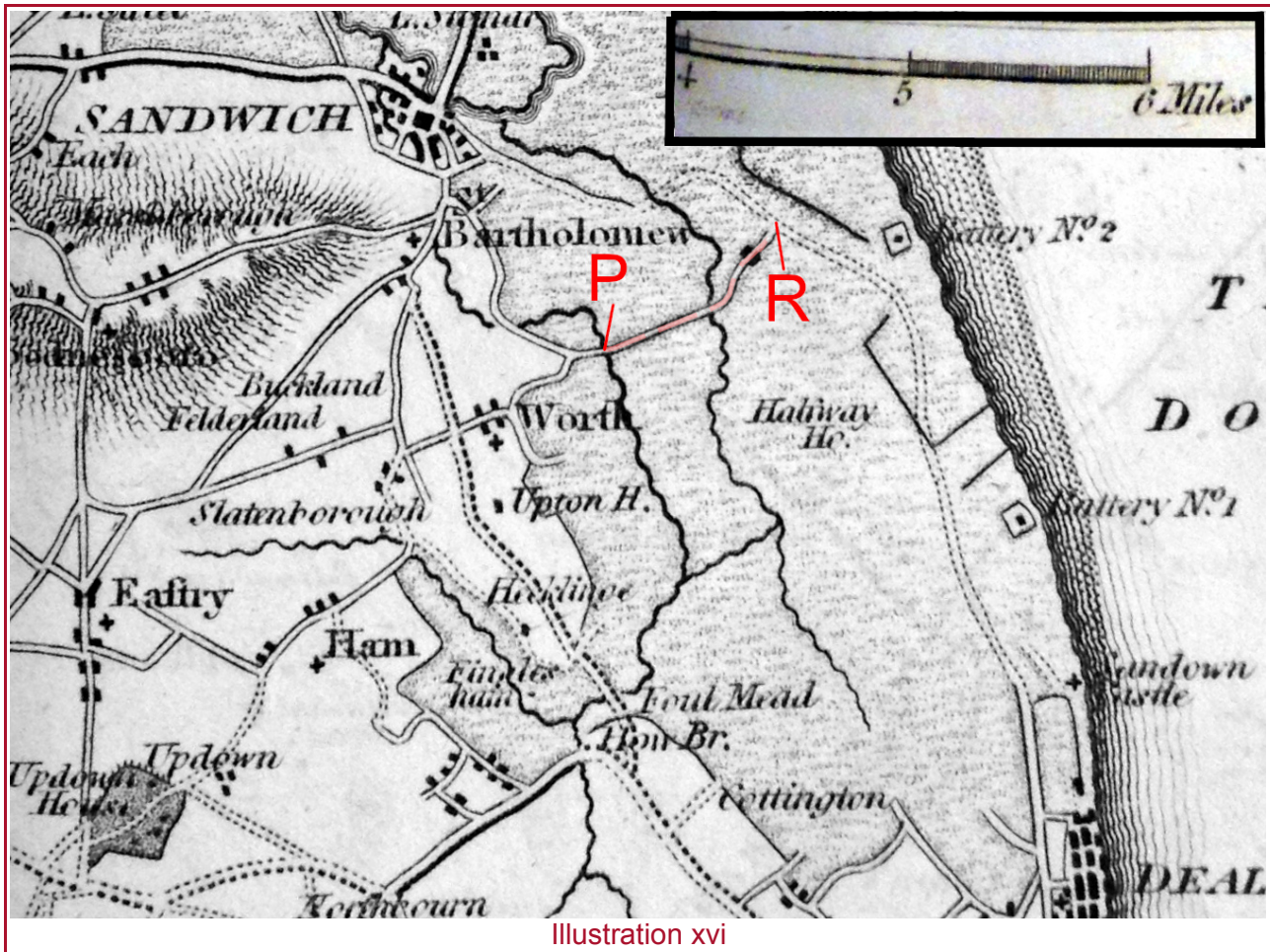
D. Paterson's Roads — Thanet and Kent and Sussex Coast

D.1. **Date:** 1811

D.2. **Source:** British Library⁸

8 10348.d.15

Paterson's Roads map



D.3. **Description:** scale: marked in miles on map (but scale bar may be affected by distortion owing to the effect of the binding); orientation: unchanged (top is approximately northwest).

D.4. This map by J Thomson appears as one of several maps of Thanet and the Kent and Sussex coast annexed to the thirteenth edition of *Paterson's Roads*, a directory of main roads.

D.5. The map shows the application route in its entirety, as an enclosed road or track. It also shows the connection with the Old Coach Road along the coast between Sandwich and Deal.

D.6. The map appears to be derived from the Ordnance Survey, Mudge-Faden one-inch map of Kent (item IV.C. above).

D.7. **Conclusion:** The Thomson map leaves out many minor roads. There would have been little purpose in such a map, showing only a selective network of roads, including roads which were unavailable to the public. It is therefore some evidence for the existence of a defined way along the application way which is likely to have public status as a cart or carriage road.

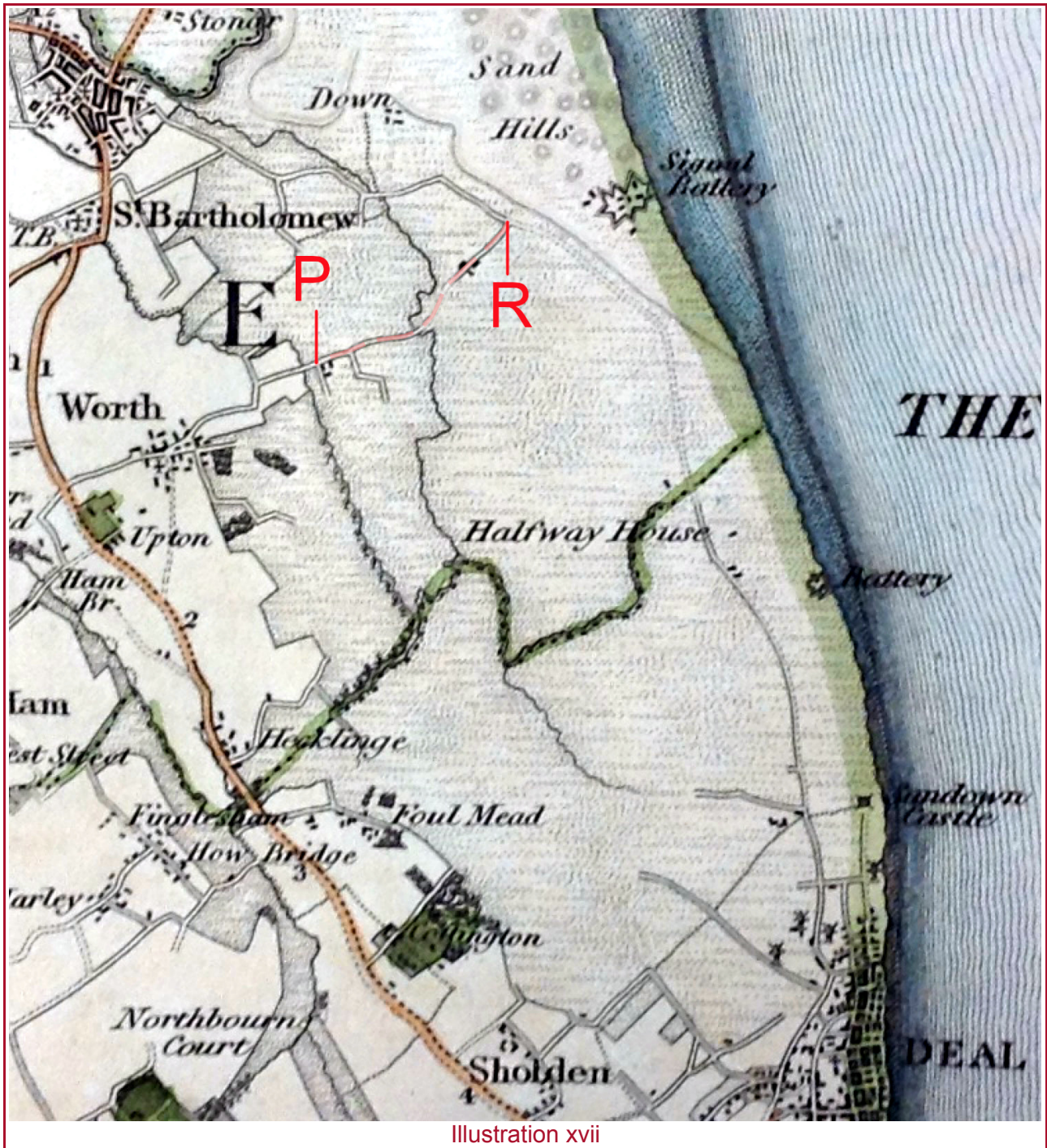
D.8. **Points:** 1

E. Greenwood's map of Kent

E.1. **Date:** 1819–20

E.2. **Source:** Kent County Archives

Greenwood map



Greenwood map key

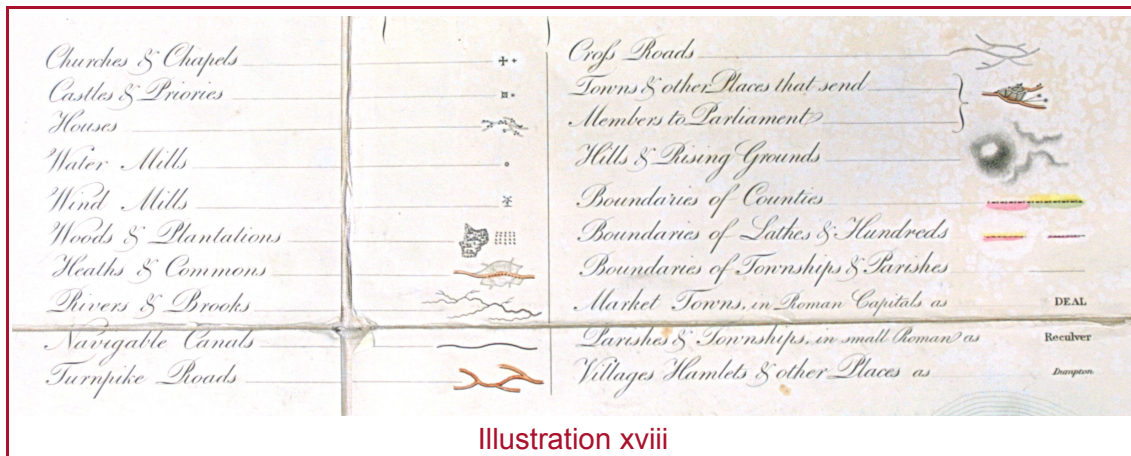


Illustration xviii

E.3. **Description:** Original scale: one inch to one mile (1:63,360); orientation: unchanged (north). This copy appears to be state iii, published between 1821 and 1827.

E.4. Christopher and John Greenwood were among the notable firms of publishers in the period 1820–50 who attempted to produce large-scale maps of the counties in competition with the Ordnance Survey. In the long run their efforts were unsuccessful but before giving up the struggle they published between the years 1817 and 1830 a series of splendid large-scale folding maps of most of the counties based on their own surveys. They were unable to complete the series, but published large scale maps of all the counties except Buckinghamshire, Cambridgeshire, Herefordshire, Hertfordshire, Norfolk, Oxfordshire and Rutland.⁹

E.5. The application way between P and R is shown as an enclosed (or possibly partly enclosed — the printing quality is poor) road, which the key suggests must be a cross-road.

E.6. **Analysis:** In *Fortune v Wiltshire Council*,¹⁰ Lewison LJ wrote (in his judgment of the court):

As the judge [at first instance] pointed out, in 1829 the expression ‘cross road’ did not have its modern meaning of a point at which two roads cross. Rather in ‘old maps and documents, a “cross road” included a highway running between, and joining other, regional centres’. Indeed that is the first meaning given to the expression in the Oxford English Dictionary (‘A road crossing another, or running across between two main roads; a by-road’).

E.7. In *Hollins v Oldham*,¹¹ HHJ Howarth (sitting as a High Court Judge) said, in relation to *Burdett’s Map of Cheshire* dated 1777, which adopted the same classification as the Greenwoods’ map in relation to roads:

Burdett’s map of 1777 identifies two types of roads on its key: firstly turnpike roads, that is to say roads which could only be used upon payment of a toll and, secondly, other types of roads which are called cross roads. That does not mean a place where two roads cross (as one would understand it to be in

⁹ From *Antique Maps*, C Moreland and D Bannister, 1983.

¹⁰ [2012] EWCA Civ 334: www.bailii.org/ew/cases/EWCA/Civ/2012/334.html.

¹¹ [1995] (unreported) C94/0206.

this case) but a road called a cross road. This latter category, it seems to me, must mean a public road in respect of which no toll was payable. This map was probably produced for the benefit of wealthy people who wished to travel either on horseback or by means of horse and carriage. The cost of such plans when they produced would have been so expensive that no other kind of purchaser could be envisaged. There is no point, it seems to me, in showing a road to such a purchaser which he did not have the right to use. Pingot Lane must have been considered, rightly or wrongly, by Burdett as being either a bridle way or a highway for vehicles.

E.8. **Conclusion:** It is accepted that not every road shown on the Greenwoods' map must (if it is not a turnpike) inevitably be a cross road — undoubtedly there are exceptions, such as some (but not all) roads leading only to isolated farmsteads or country houses. But it is submitted that, where a road is connected to highways at either end, it is more likely than not to be shown because it was recognised as a cross road and of utility to the public who might buy the map. In this case, the application way between P and R is connected to the highway network at each end, and it is submitted that it is a cross road, and had the reputation of being a public road.

E.9. **Points:** 1

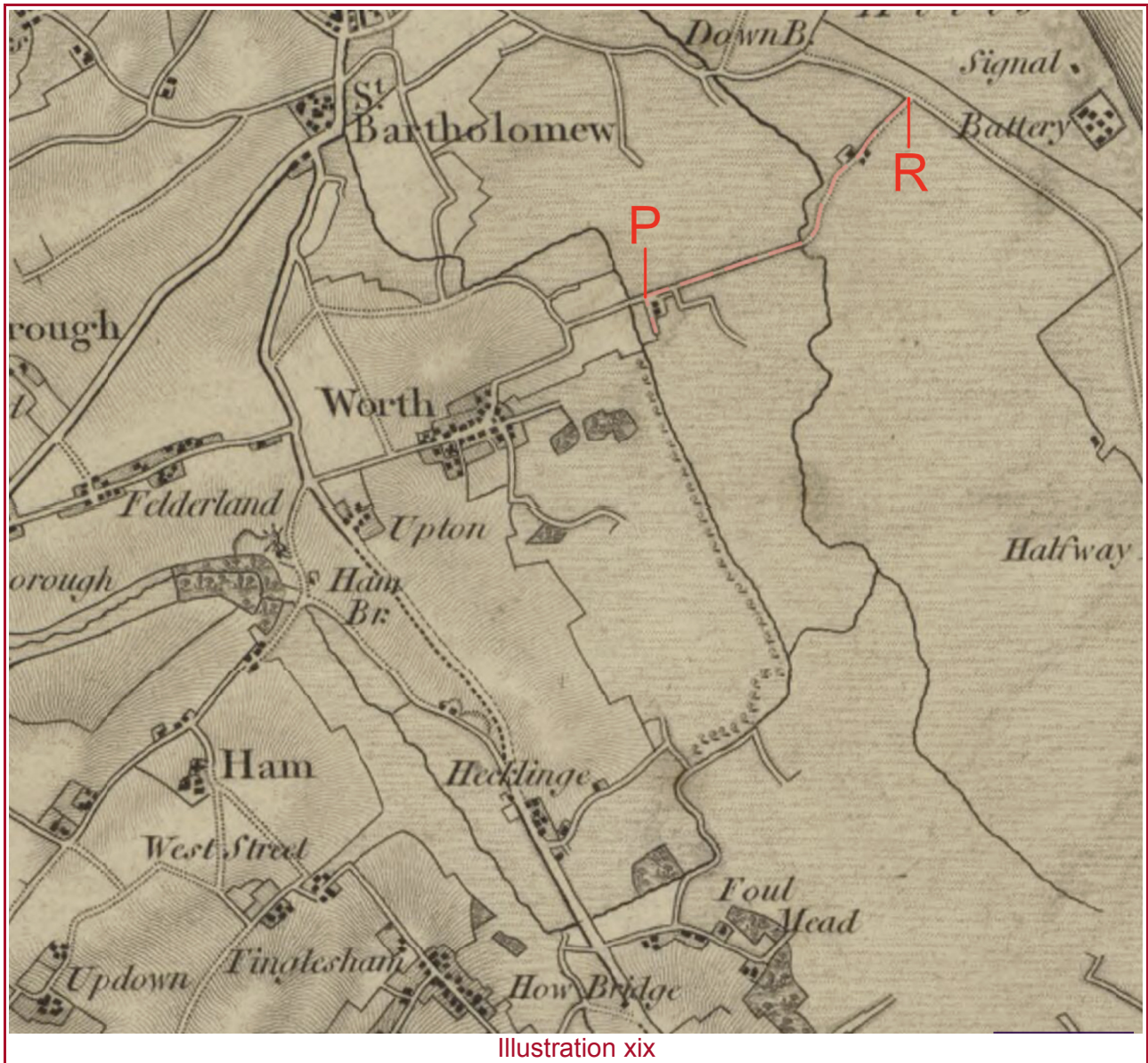
F. Ordnance Survey, Old Series one-inch map of Kent

F.1. **Date:** 1831 (but survey dating from late eighteenth century)

F.2. **Source:** National Library of Australia¹²

¹² nla.gov.au/nla.obj-231917365

Ordnance Survey Old Series one-inch map



F.3. **Description:** Original scale: one inch to one mile (1:63,360); orientation: unchanged (north).

F.4. This is the Old Series one inch map first published officially by the Ordnance Survey. The map reproduced here is state 4, from circa 1831, but believed to be unchanged from state 1. Although published some years later than the Ordnance Survey, Mudge-Faden one-inch map of Kent (item IV.C. above), the 'official' Ordnance Survey Old Series map was based on the same survey data, and is consistent with the Mudge-Faden map.

F.5. The map shows the application way between P and R, partly enclosed (between P and Little Downs Bridge) and partly unfenced (from Little Downs Bridge to R).

F.6. **Conclusion:** While the Old Series map is not conclusive as to the public status of the way, it was primarily intended for military use, and the surveyor was unlikely to map

footpaths being of little military interest. However, no convincing conclusion can be drawn as to whether the application way between P and R was of greater status than a bridleway.

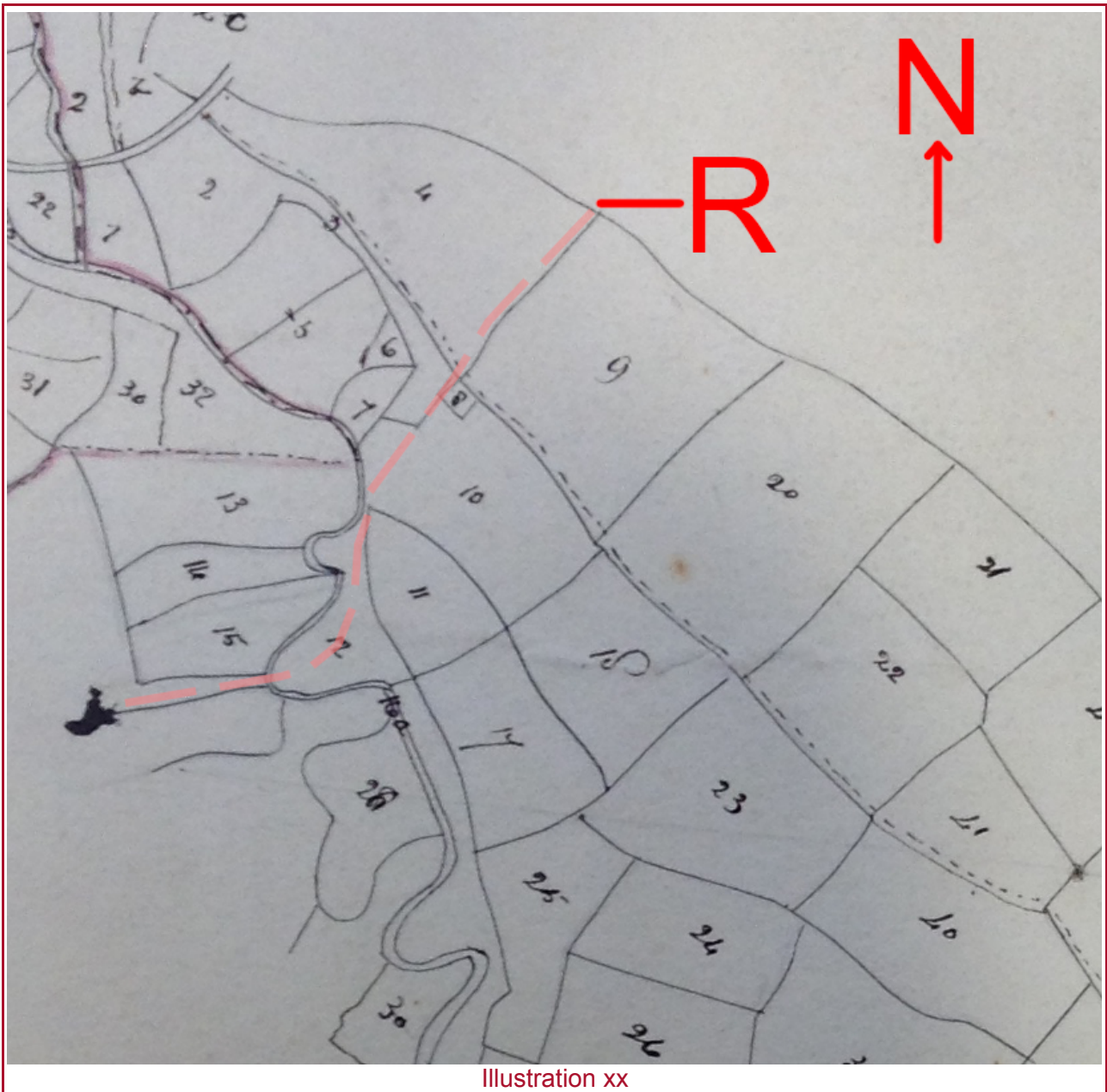
F.7. **Points:** 0

G. Central Kentish Railway and Sandwich Docks

G.1. **Date:** 1836

G.2. **Source:** Kent County Archives¹³

Central Kentish Railway and Sandwich Docks deposited plan



13 Q/RUm/142

Central Kentish Railway and Sandwich Docks deposited section

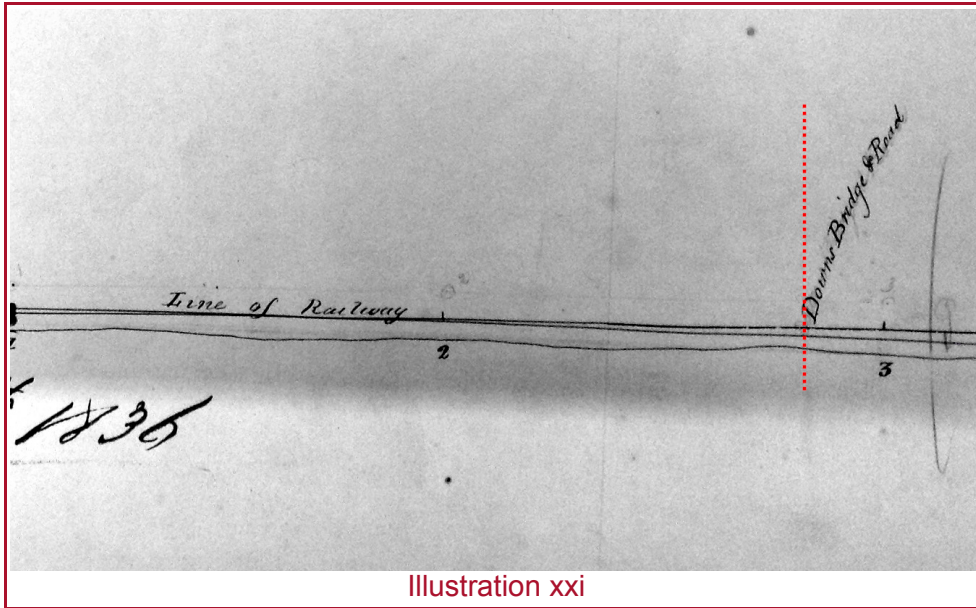


Illustration xxi

Central Kentish Railway and Sandwich Docks deposited book of reference

| No. on Plan. | Owners. | Lessees. | Occupiers. | Description of Property. |
|--------------|---|----------------|-------------------|---|
| 8 | William Henderson | | Thomas Bonds | House & Garden |
| 9 | Duke of Guilford | Charles Sumner | Charles Sumner | Field Pasture |
| 10 | William Henderson | | William Henderson | Field Pasture |
| 10 a | | | | Footpath leading from |
| 10 b | William Henderson Owner of the 10th | | | Sandwich to Deal |
| 11 | William Henderson <i>Charles Richard</i> | | William Henderson | Public Highway from Deal to the sea by the Downs |
| 12 | Rev. H. H. Handley | Thomas Hoyle | Tho. Hoyle | Field Pasture |
| 13 | The Provost and Scholars of Queens College Oxford | John Marsh | John Marsh | Field Pasture |

Illustration xxii

G.3. **Description:** Original scale: not known; orientation: unchanged (north).

G.4. Proposals were deposited in Parliament in 1836 for a railway between Greenwich and Sandwich via Ashford and Canterbury. The plans show land in the Lydden Valley to the south-east of Sandwich because the railway company intended to acquire such land in order to build a harbour between Sandwich and Deal near to Sandown Castle, and to connect it by railway to Sandwich, although the plans do not show any precise location for the harbour nor the connecting railway.¹⁴ The proposals did not receive Royal Assent.

14 See the *London Gazette*, 22 November 1836: www.thegazette.co.uk/London/issue/19439/page/2176

G.5. The plans show the land crossed by the application way between a point west of Little Downs Bridge, and point R. The application way is not marked on the plan, nor is it identified with any parcel number.

G.6. However, in the deposited book of reference, parcel 10b is described as 'Public highway from Word to the Sea by the Little Downs Bridge', owned by 'William Henderson, owner of the soil'. The application way passes through parcel 10, and the assigned parcel number is consistent with the application way.

G.7. In the section, the way is described as 'Downs Bridge & Road'.

G.8. **Conclusion:** The plans identify the application way as a public highway owned by the owner of the soil, which leads from Worth to the Sea. In the section, the way is described as a 'Road'. The way must therefore be a public road, but as the occupation is not assigned to the surveyor of the parish, it may be one which is privately maintained.

G.9. **Points:** 3 (being the earliest railway record)

H. Central Kent Railway

H.1. **Date:** 1837–40

H.2. **Source:** Kent County Archives¹⁵

15 Q/RUm/152, 163 and 179

Central Kent Railway 1837 deposited plan

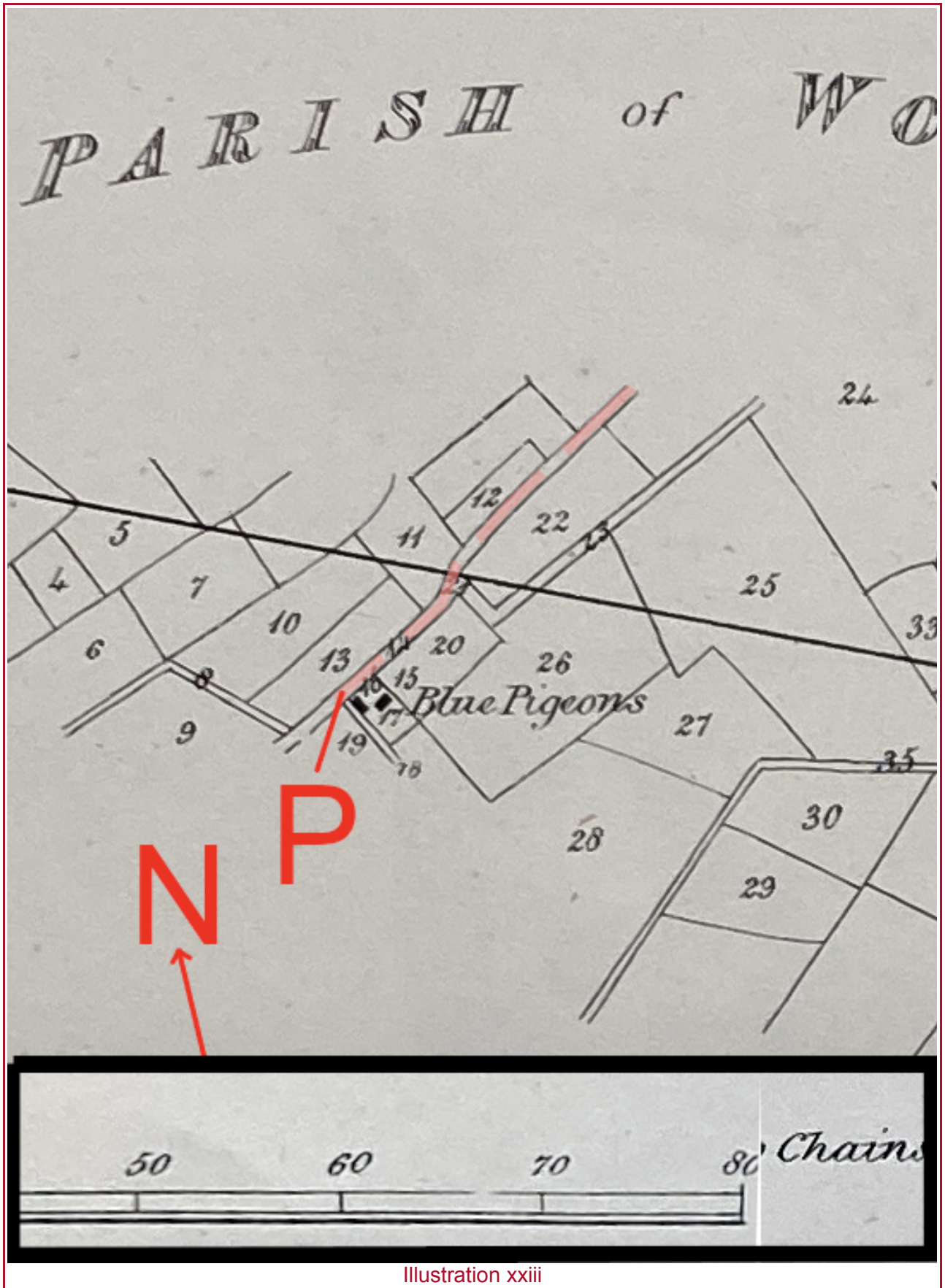


Illustration xxiii

Central Kent Railway 1837 deposited section

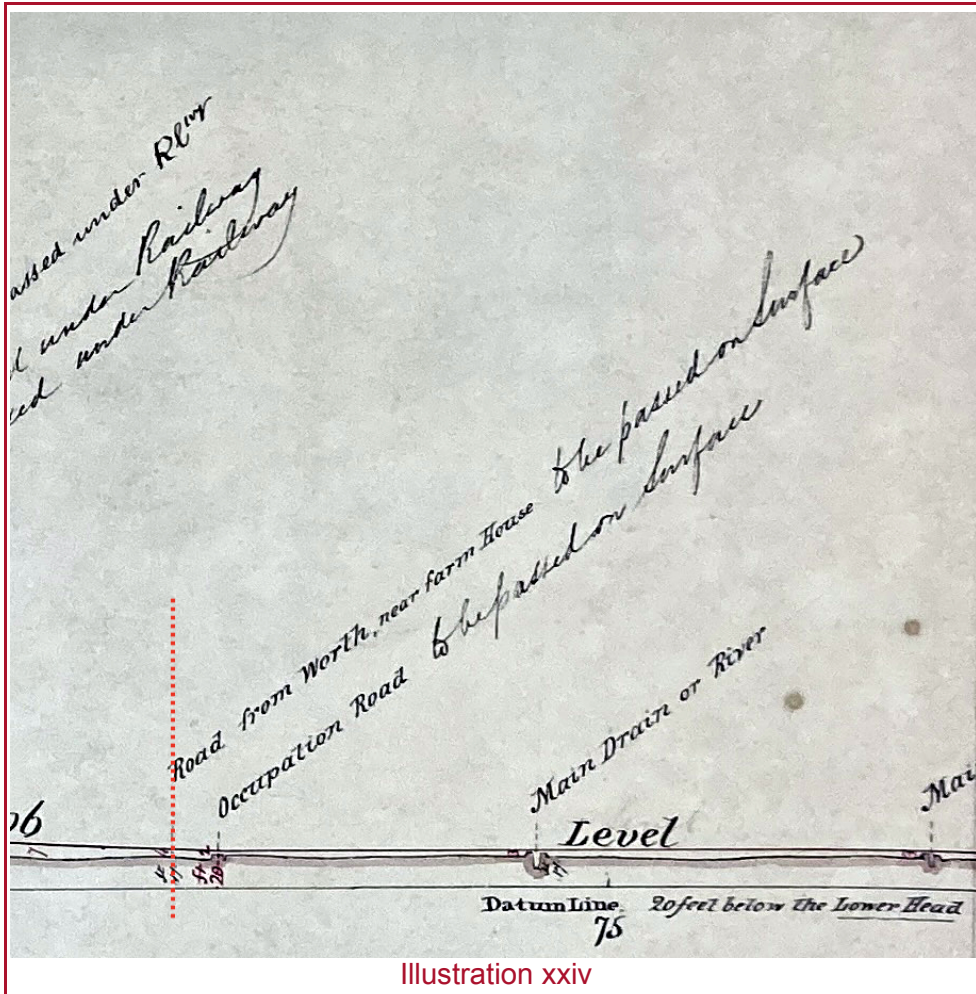


Illustration xxiv

Central Kent Railway 1837 deposited book of reference

*Parish of Wood }
otherwise Worth }*

| <i>N^o on plan</i> | <i>Owners</i> | <i>Lessees</i> | <i>Occupiers</i> | <i>Description of property.</i> |
|------------------------------|---------------------------|----------------|-----------------------|---------------------------------|
| 13 | William Fuller Boteler | | Michael Nethersole | Field pasture |
| 11 | | | | Road from Wood to Sandhills |
| 15 | William Harris | | William Ferrier | House Barn and Stable |

Illustration xxv

Central Kent Railway and Asylum Harbour 1839 deposited plan

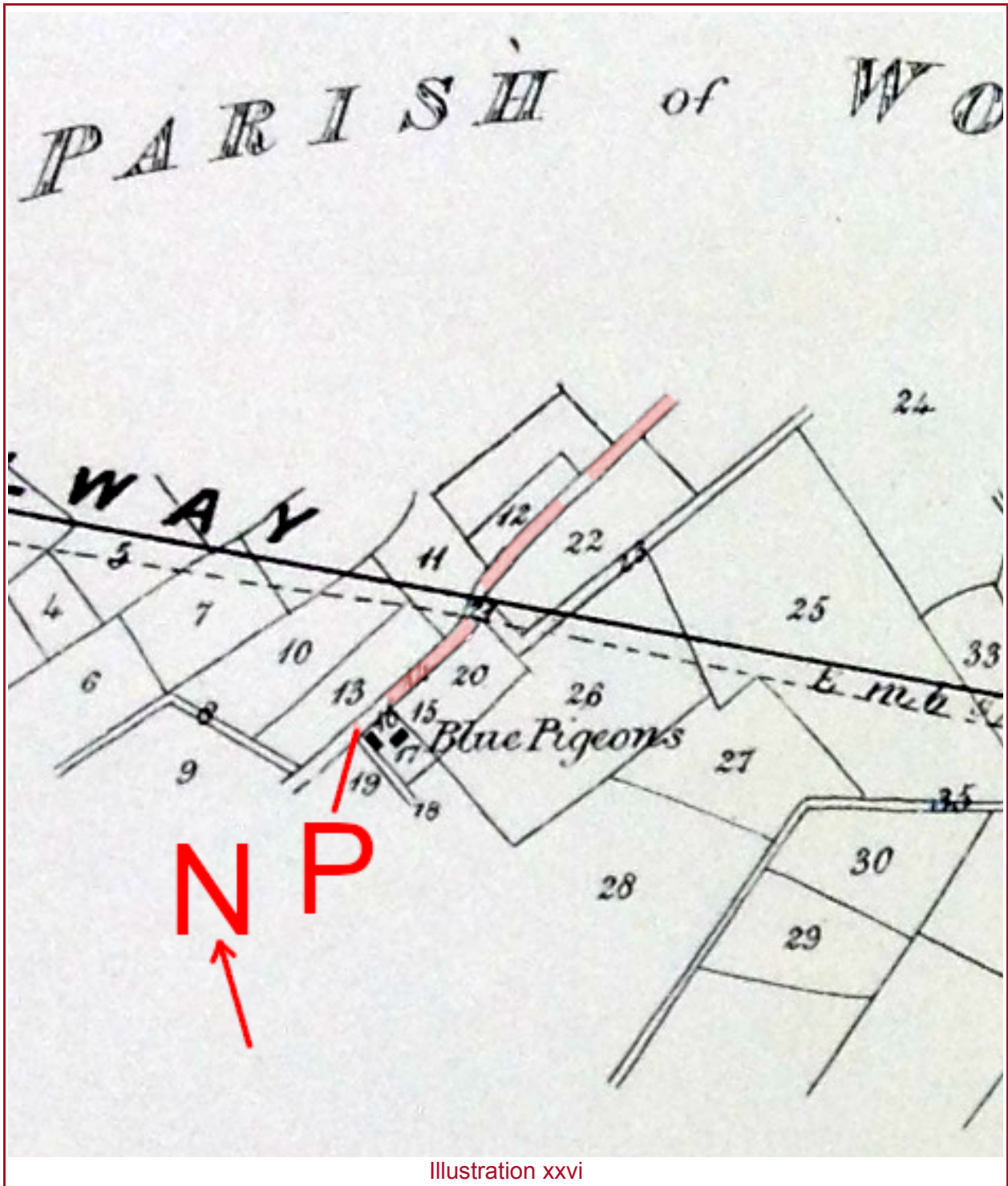


Illustration xxvi

Central Kent Railway and Asylum Harbour 1839 deposited section

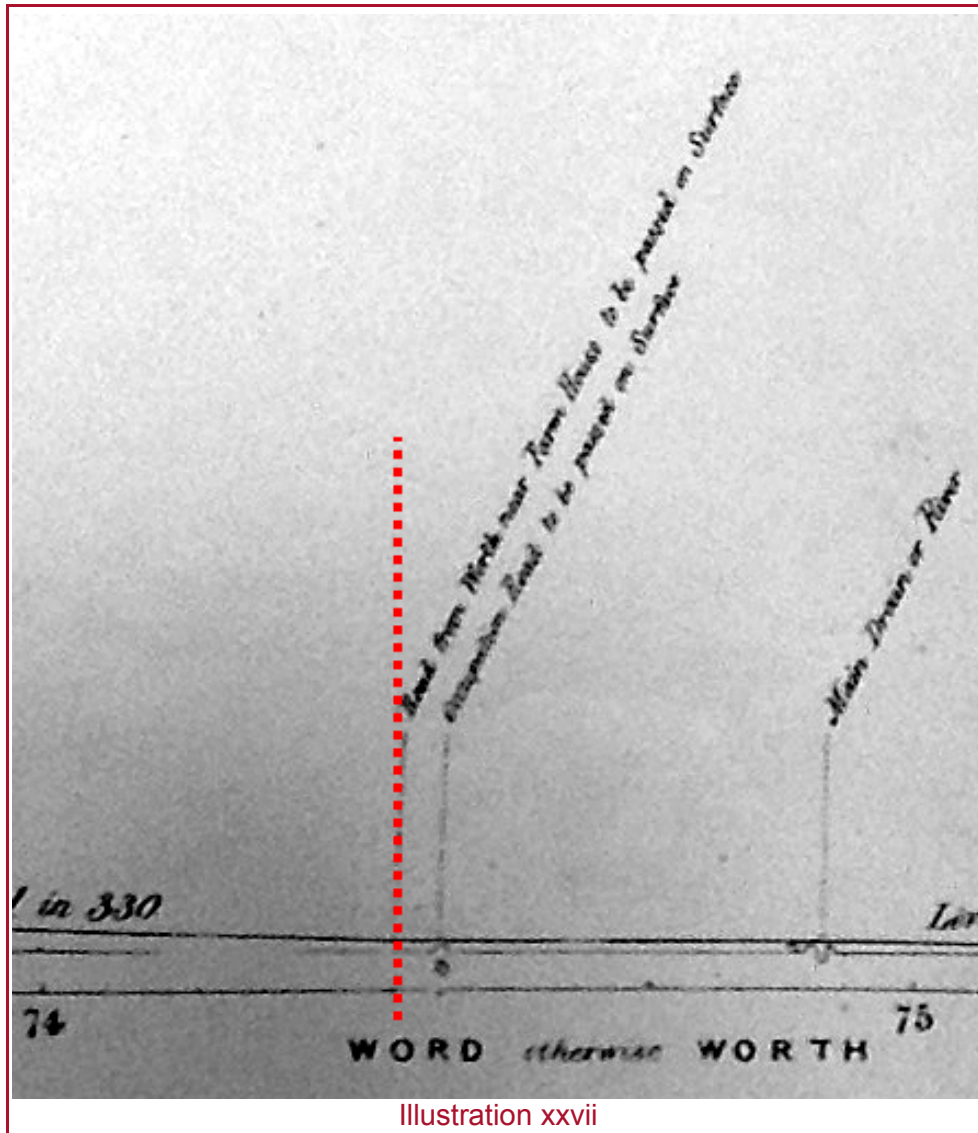


Illustration xxvii

Central Kent Railway and Asylum Harbour 1839 deposited book of reference

| Parish of Word | | |
|----------------|-----------------------------|------------------------|
| 12 | Field Stable | Ann Ferrier |
| 13 | Field Pasture | William Fuller Collier |
| 14 | Road from Word to Sandhills | Surveyors of Roads |
| 15 | House Barn and Stable | William Harris |

Illustration xxviii

H.3. **Description:** Original scale: scale bar marked on 1837 plan; orientation: unchanged (north).

H.4. Proposals for the Central Kent Railway were deposited in 1837, 1838, and then (as the Central Kent Railway and Asylum Harbour) 1839. The proposals envisaged a railway from Deptford to Sandwich via Maidstone, then north of Ashford and Canterbury, with a branch to Ashford. The proposals did not receive Royal Assent.

H.5. The deposited plan for 1837 shows the application way between 'Blue Pigeons' at P and part way between the present level crossing and Little Downs Bridge. The railway would have crossed the application way a little to the south-west of the present crossing, instead at the kink in Goretop Lane. The application way is labelled as parcel 14. The junction of the application way with the spur to the south of the application way named as the continuation of Goretop Lane is labelled as parcel 21.

H.6. Parcel 14 is described in the deposited book of reference as 'Road from Word to Sandhills', with no owner or occupier. Parcel 21 is described as a 'Piece of Waste Lane', also with no owner or occupier.¹⁶

H.7. In the deposited section, the way is described as 'Road from Worth, near Farm House to be passed on Surface'.

H.8. The deposited documents for 1838 are identical to 1837.¹⁷

H.9. The deposited plan for 1839 is identical to 1837.

H.10. Parcel 14 is described in the deposited book of reference for 1839 as 'Road from Word to Sandhills', in the occupation of the 'Surveyor of Roads'. Parcel 21 is described as a 'Piece of Waste Land', also with no owner or occupier.

H.11. The deposited section for 1839 is identical to 1837.

¹⁶ It may be that this junction of the application way with the spur of Goretop Lane formerly was somewhat more extensive than now apparent (since the spur was eradicated many years ago), and was recorded in its own right as an area of highway waste.

¹⁷ They are not reproduced here.

H.12. **Conclusion:** The plans and sections consistently identify the application way as a public road.

H.13. **Points:** 5

I. Tithe Act 1836

I.1. **Date:** 1843

I.2. **Source:** Kent County Archives

Worth tithe map



- I.3. **Description:** Original scale — 1:4,752 (one inch to six chains); orientation — unchanged (top is west south-west). The tithe map for Worth is not first class.
- I.4. The Worth tithe map shows the application way from P to Little Downs Bridge enclosed by drains. That part of the way from P to a point just beyond the junction with the spur of Goretop Lane (parcel number 373) is assigned parcel number a22; that beyond is assigned parcel number 369.
- I.5. From Little Downs Bridge to R via Red House Bridge is shown as a cross-field way, marked by double pecked lines. The parcels crossed by the way are linked by braces across the way.
- I.6. Parcel a22 is described in the apportionment as a class of ‘Roads, Rivers, Sewers & Waste Land’. Parcel a22 is described in this class as ‘Road by the Blue Pigeons’.
- I.7. Parcel 373 is described in the tithe apportionment as ‘Roadway to Marshes’ in the ownership and occupation of William Henderson and others, but with no rent charge.
- I.8. **Analysis:** The Tithe Act 1836 enabled tithes (*i.e.* a tenth of the produce of the land) to be converted to a monetary payment system. Maps were drawn up to show the titheable land in order to assess the amount of money to be paid. An assessment of the tithe due and the payment substituted was set out in an apportionment. The 1836 Act was amended in 1837 to allow maps produced to be either first class or second class.
- I.9. First class maps are legal evidence of all matters which they portray and were signed and sealed by the commissioners. They had to be at a scale of at least three chains to the inch. Second class maps, signed but not sealed, were evidence only of those facts of direct relevance to tithe commutation, and are often at six chains to the inch. There was a proposed convention of signs and symbols to be used, which included bridle roads and footpaths, but this was not strictly adhered to.¹⁸
- I.10. The tithe process received a high level of publicity as landowners would be assiduous not to be assessed for a greater payment than necessary. In *Giffard v Williams*, it was said,¹⁹ referring to a tithe map and award:
- ...the Act of Parliament requires these things to be done, not in a corner, but upon notice in all the most public places; so that it is impossible to treat this document otherwise than as a public one, and as public evidence that at that time the owner of the undivided moiety of this field was aware of the facts.
- I.11. Non-titheable land deemed to be unproductive was usually excluded from the process. It is common therefore for no tithe to be payable on roads, although wide grass drovers’ routes could carry a tithe as they were used as pasture. It was in the interest of the landowners for untithed roads to be shown correctly to minimise their payments. Foot-paths, bridleways and unenclosed tracks were more likely to be at least partially productive (for example as pasture). Therefore, although the process was not necessarily concerned with rights of way, inferences can be drawn from tithe documents regarding the existence of public rights, and in particular, public vehicular rights. In some cases highways are coloured yellow or sienna to indicate public status, and highways expressly may be described as such in the apportionment.

¹⁸ *Survey of lands (Tithe Act.)*, letter from Lt. Dawson, R.E., to the Tithe Commissioners for England and Wales, on the Nature, Scale and Construction of the Plans required for the Tithe Commutation Act, 29 November 1836 (copy held at the National Archives).

¹⁹ (1869) 38 LJ (Ch) 597 at 604, per Stuart V-C.

I.12. **Conclusion:** The first part of the application way labelled a22 is identified as a 'Road by the Blue Pigeons' and classed among the 'Roads, Rivers, Sewers & Waste Land' in Worth. Unequivocally, it is one of the 'Roads'. The 'Roads' must be publicly-maintainable public roads, for the following section of the application way between Little Downs Bridge and R is not so classified.

I.13. The remainder of the application way is identified initially as a 'roadway to marshes' under private occupation, and beyond as an unenclosed track across farm land. In relation to the 'roadway', enclosed by drains, it is submitted that the absence of rent-charge assessed against this parcel shows that the way is public, but privately-owned and maintained. The subsequent first edition of the Ordnance Survey County Series 25-inch maps (item IV.K. below) demonstrates that the roadway beyond the level crossing and shown as rough grazing was unmetalled.²⁰ A substantial enclosure, extending to 0.62 ha, capable of being grazed by the occupier, would have been liable to rent-charge — but must have been excluded owing to its status as a highway.

I.14. The remainder of the way, across several parcels assessed for rent-charge, appears not to have been excluded from the calculation of rent-charge for each parcel, on the basis that the highway was unenclosed and therefore capable profitably of being grazed by the occupier.

I.15. **Points:** 3

J. South Eastern Railway, Minster to Walmer branch

J.1. **Date:** 1845

J.2. **Source:** Kent County Archives²¹

²⁰ The application way (apart from between P and the level crossing) is uncoloured on the Ordnance Survey County Series first edition map, indicating that the way is unmetalled: see footnote 24 below.

²¹ Q/RUm/268

South Eastern Minster to Walmer branch deposited plan

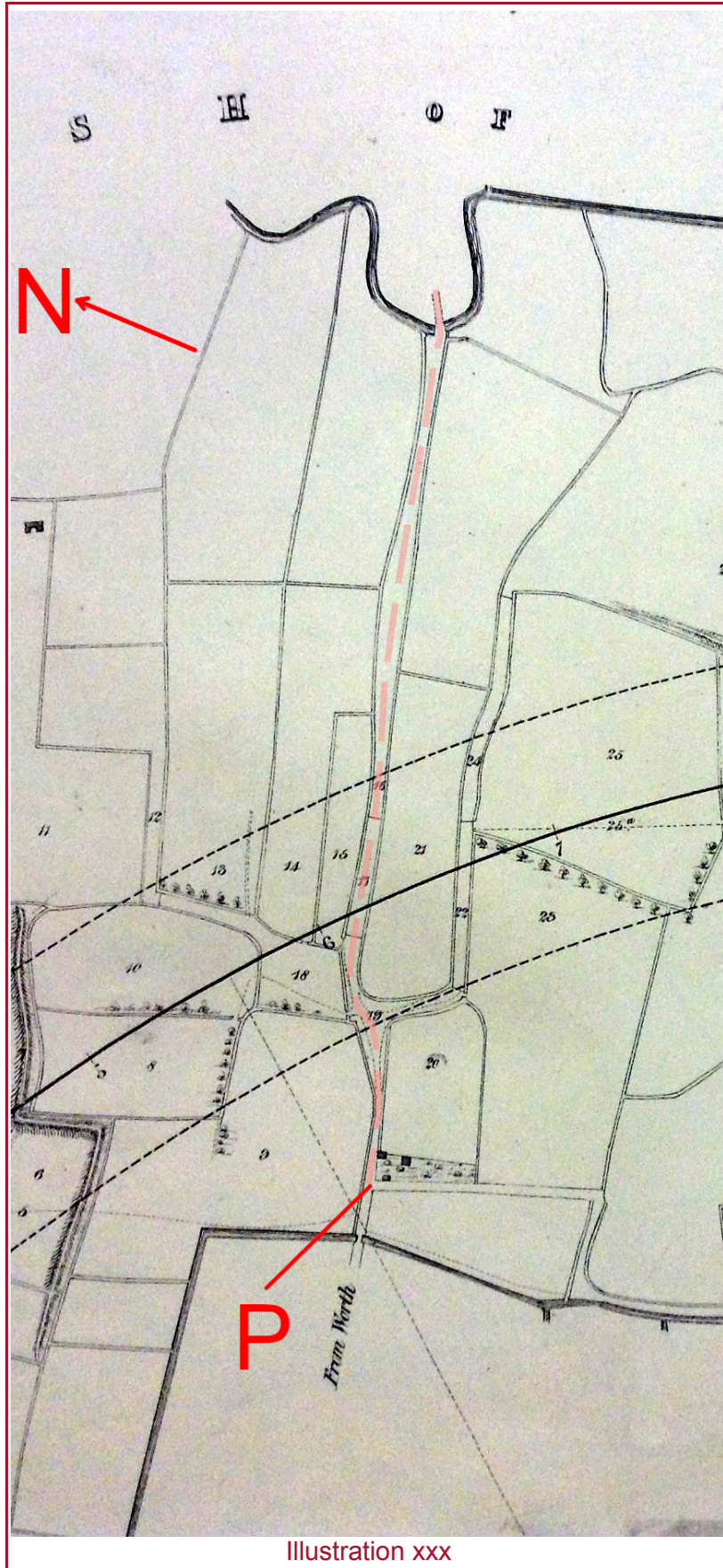


Illustration xxx

South Eastern Minster to Walmer branch deposited section

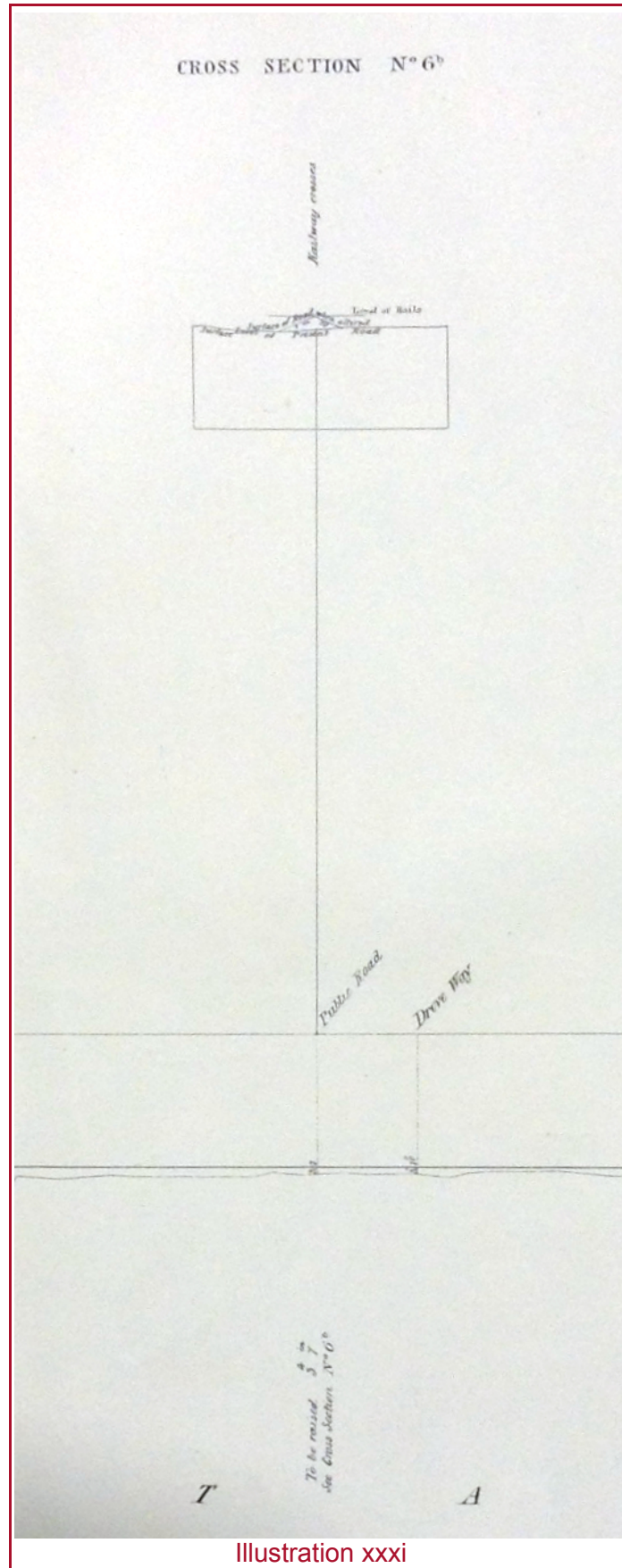


Illustration xxxi

South Eastern Minster to Walmer branch deposited book of reference

| County of <i>Kent</i> | | Parish of <i>Worth</i> | | |
|-----------------------|--------------------------|---|-----------------------------|-----------------|
| No. on Plan. | Description of Property. | Owners or reputed Owners. | Lessees or reputed Lessees. | Occupiers. |
| 13 | Pasture | Stephen Laslett | | William Summers |
| 14 | Pasture | John Nethercole | | In hand |
| 15 | Arable | William Farrier | | In hand |
| 16 | Main Road to Sea side. | Surveyor of Highways | | |
| 17 | Main Road to Sea side | The same | | |
| 18 | Pasture | William Farrier | | In hand |
| 19 | Waste Land and Road. | Surveyors of Highways and Lords of the Manor. | | |

Illustration xxxii

J.3. **Description:** Original scale: not known; orientation: unchanged (north).

J.4. Proposals for the South Eastern Railway, Minster to Walmer branch and the Margate extension and deviation were deposited with Parliament in 1845. This is believed to be the scheme which received Royal Assent in the South Eastern Railway Act 1845,²² and which subsequently was constructed.

J.5. The deposited plan shows the application way between P and Little Downs Bridge. The railway was proposed (subject to the limits of deviation) to have crossed the application way at the present site of the level crossing. The junction of the application way with the spur of Goretop Lane is labelled as parcel 19; the continuation of the application way over the proposed level crossing as parcel 17, and the continuation from there to Little Downs Bridge as parcel 16.

J.6. The deposited sections describe the application way as a 'Public Road' to be raised.

J.7. Parcels 16 and 17 are described in the deposited book of reference as 'Main Road to Sea side' in the ownership of the 'Surveyor of Highways'; parcel 19 as 'Waste Land and Road' in the ownership of the 'Surveyor of Highways and Lords of the Manor'.

J.8. **Conclusion:** The plans and sections consistently identify the application way as a public road in the occupation of the parish surveyor.

J.9. **Points:** 1 (being supplementary to the Central Kent Railway at item IV.H. above).

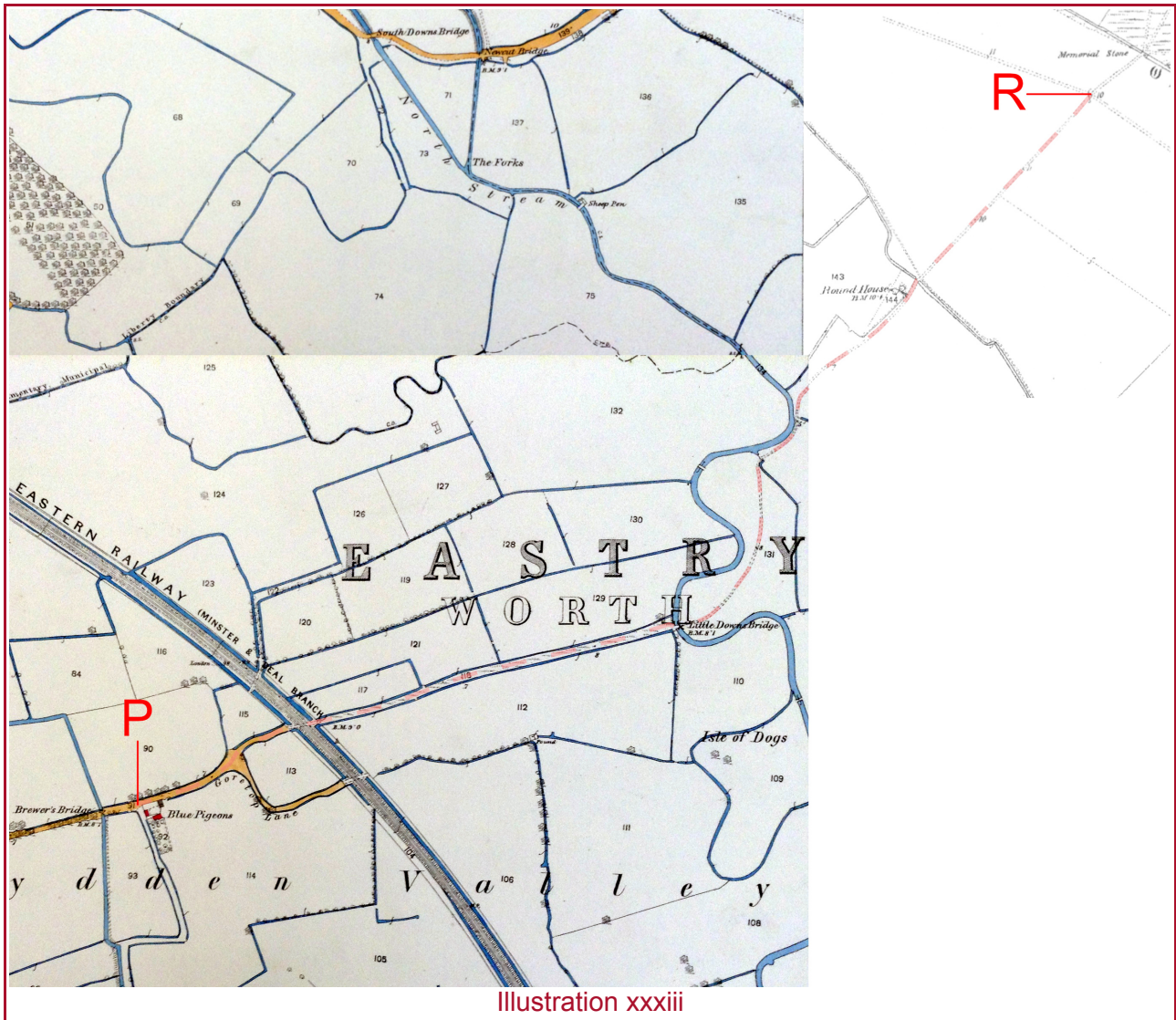
²² c.clxxxvi

K. Ordnance Survey County Series 25-inch maps

K.1. **Date:** various

K.2. **Source:** British Library, National Library of Scotland²³

County Series first edition 25" map (surveyed: 1872)



23 Via maps.nls.uk/os/25inch-england-and-wales/kent.html, sheet #.

Area book (Worth)

2 PARISH OF WORTH.

| No. on Plan. | Area in Acres. | Remarks. | No. on Plan. | Area in Acres. | Remarks. |
|--------------|----------------|--------------------|--------------|----------------|---------------------|
| 89 | 12·117 | Garden, &c. | 142 | 30·973 | Pasture, &c. |
| 90 | 4·938 | Pasture. | 143 | 5·443 | Arable. |
| 91 | 1·400 | Road. | 144 | ·298 | House and garden. |
| 92 | ·314 | House, garden, &c. | 145 | 14·237 | Pasture, &c. |
| 93 | 2·661 | Arable, &c. | 146 | 7·118 | Pasture, &c. |
| 116 | 2·462 | Pasture. | 168 | 2·138 | Pasture. |
| 117 | 1·394 | Arable, &c. | 169 | ·871 | Houses and orchard. |
| 118 | 1·063 | Rough pasture. | 170 | ·051 | Garden (part of). |
| 119 | 3·385 | Pasture, &c. | 171 | ·404 | Pasture. |
| 120 | 2·184 | Pasture, &c. | 172 | ·661 | Pasture, &c. |

Illustration xxxiv

County Series second edition (surveyed: 1896)

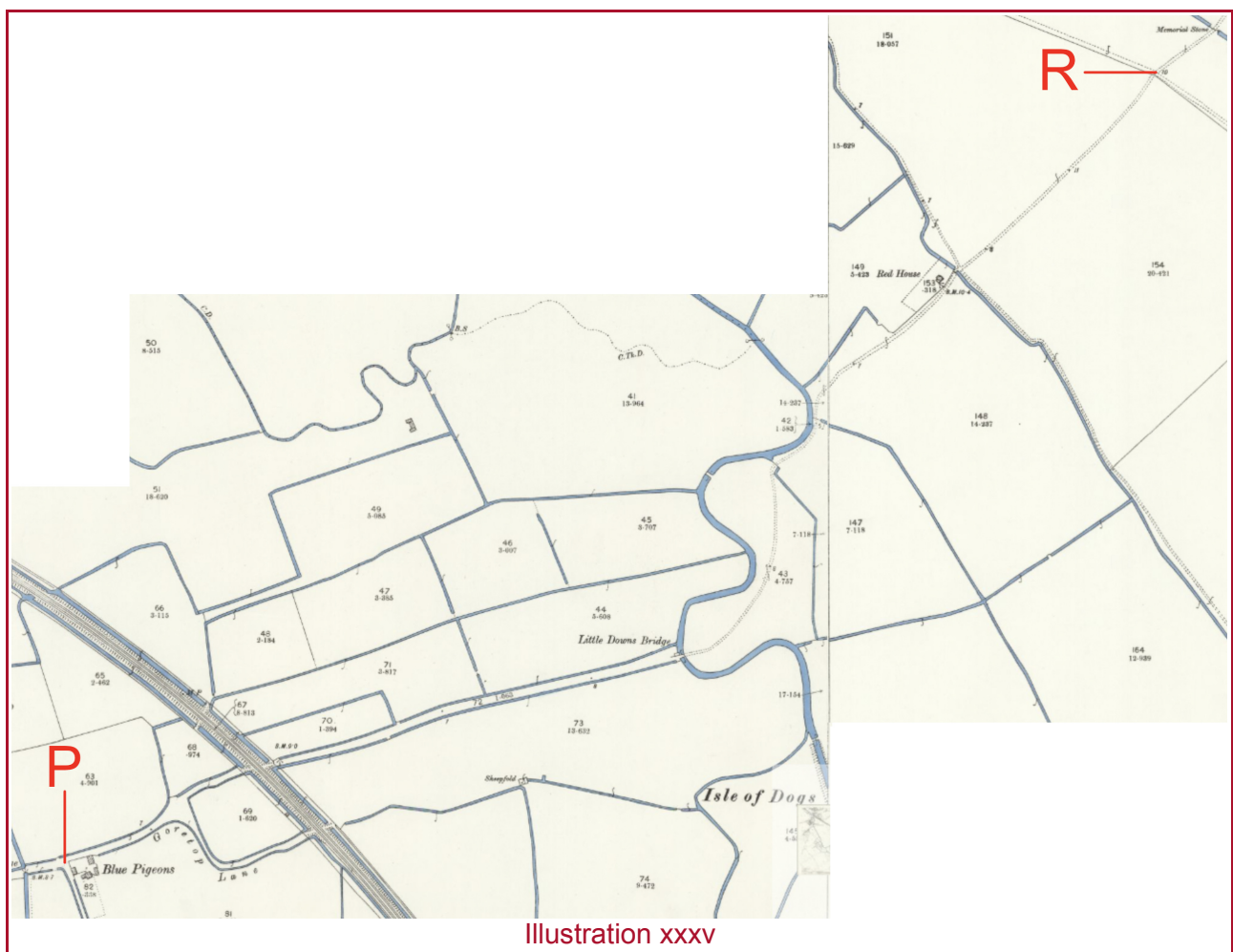
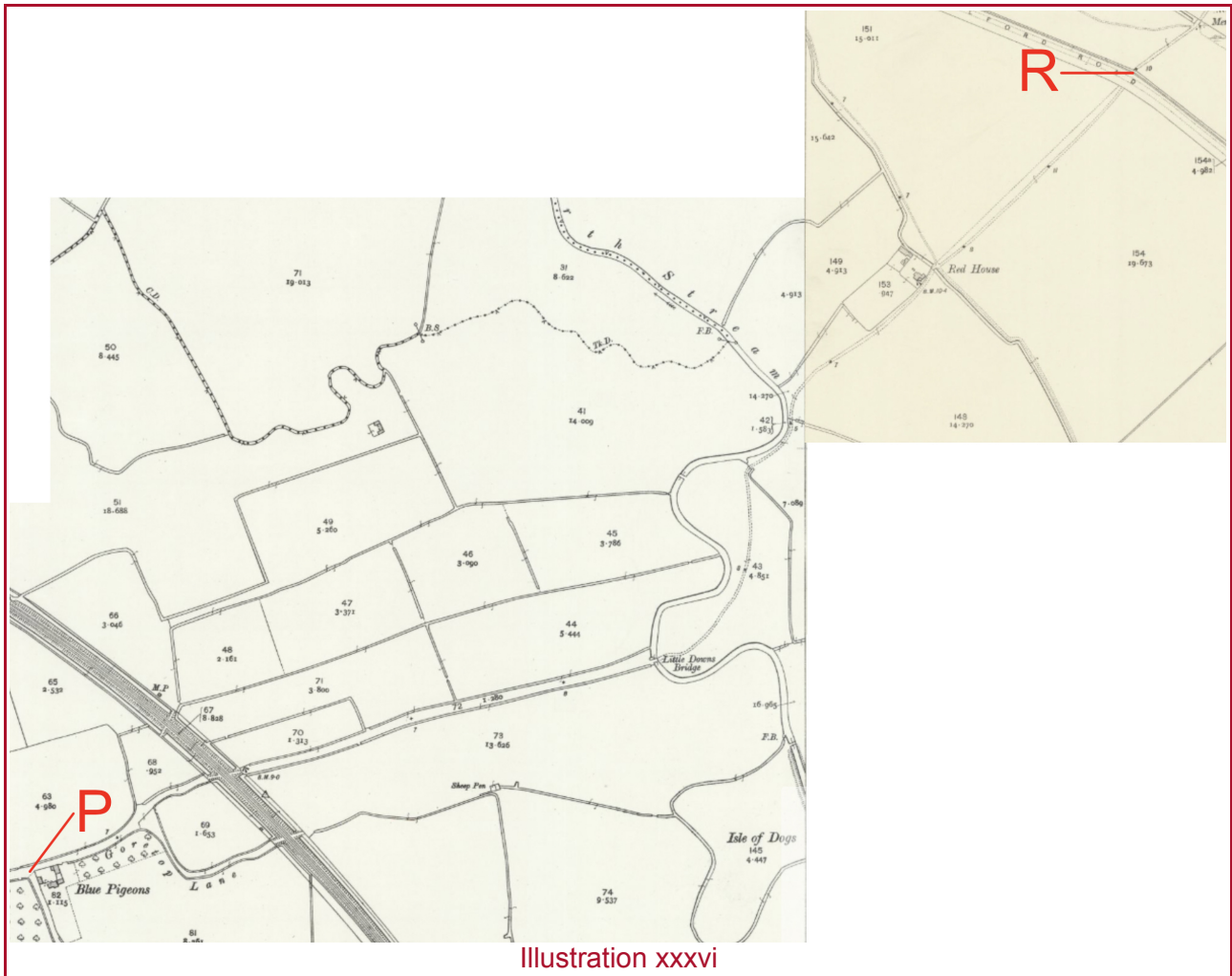


Illustration xxxv

County Series third edition (surveyed: 1905)



K.3. **Description:** Original scale: 1:2,500 (twenty five inches to one mile); orientation: unchanged (north is top).

K.4. The Ordnance Survey published in the County Series the first national mapping of England at a large scale of six and twenty-five inches to one mile. Coverage of Kent was in four successive editions. All four editions show the application way throughout. The fourth edition is not shown here, as it was published in an outline edition as an economy measure.

K.5. On the first edition map, surveyed in 1872, from P to the level crossing, the application way is coloured sienna, as is the spur to the south of the application way named as the continuation of Goretop Lane: both parts are assigned parcel number 91 — this is described in the accompanying book of reference as 'Road'. A spot height is shown. On the first edition map, colouring in sienna indicates that the road was metalled.²⁴ Between the railway level crossing and Little Downs Bridge, the application way is shown as rough grassland enclosed by drains on each side, and assigned parcel number 118 — 'Rough Pasture'. Further spot heights are shown. The application way is shown between Little

²⁴ '**Carriage drives** were tinted sienna on 1:2500 sheets produced before about 1880, and again from 1884 onwards... (SC, 25:6:1884) This instruction was presumably cancelled after 1889 or so.' *Ordnance Survey Maps—a concise guide for historians*, 3rd ed., Richard Oliver. However, in practice, it seems that colouring was not restricted only to 'carriage drives', but any road or path which was metalled.

Downs Bridge and P by double pecked lines, signifying an unenclosed track. Spot heights are shown at regular intervals.

K.6. The second edition map, surveyed in 1896, shows a broadly similar disposition, but this edition lacks colouring, and no vegetation symbols appear between the level crossing and Little Downs Bridge. Spot heights are shown at regular intervals.

K.7. The third edition map, surveyed in 1905, is similar to the second edition map, but shows the construction of the private Guilford Road, serving the Sandwich Bay estate, at R, and shows The third edition map also shows closed off the end of the spur to the south of the application way named as the continuation of Goretop Lane.

K.8. **Conclusion:** The Ordnance Survey County Series maps consistently show the presence of the application way. The partial metalling of the way recorded on the first edition map is consistent with the way being a public road.

K.9. **Points:** 0

L. Eastry Rural District Council highway authority

L.1. Date: 1896–1925

L.2. Source: Kent County Archives

Eastry Rural District Council minutes (vol.1) 26 July 1897²⁵

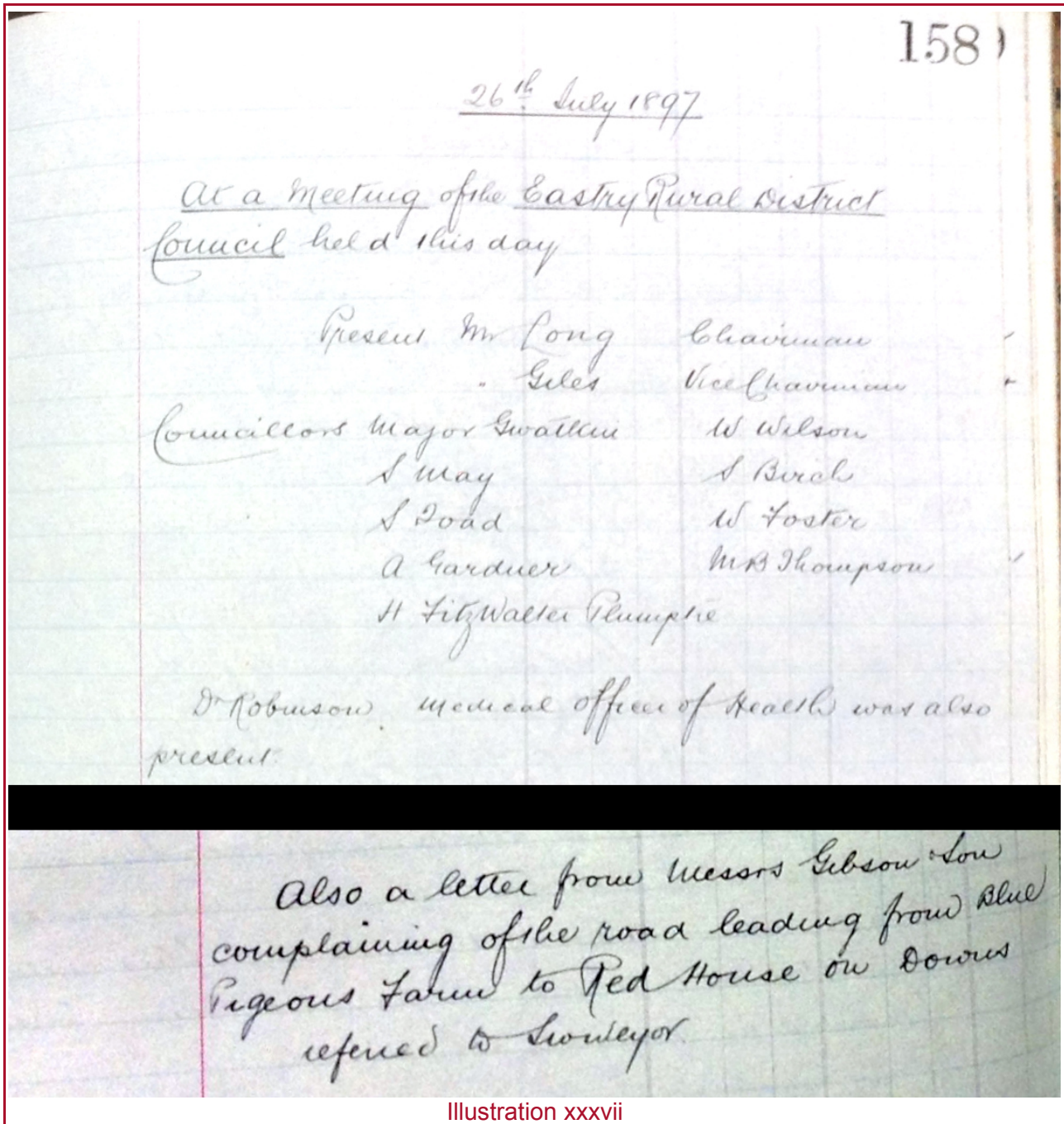


Illustration xxxvii

²⁵ Vol.1 1894–98 RD/Ea/Am1, p.158–160.

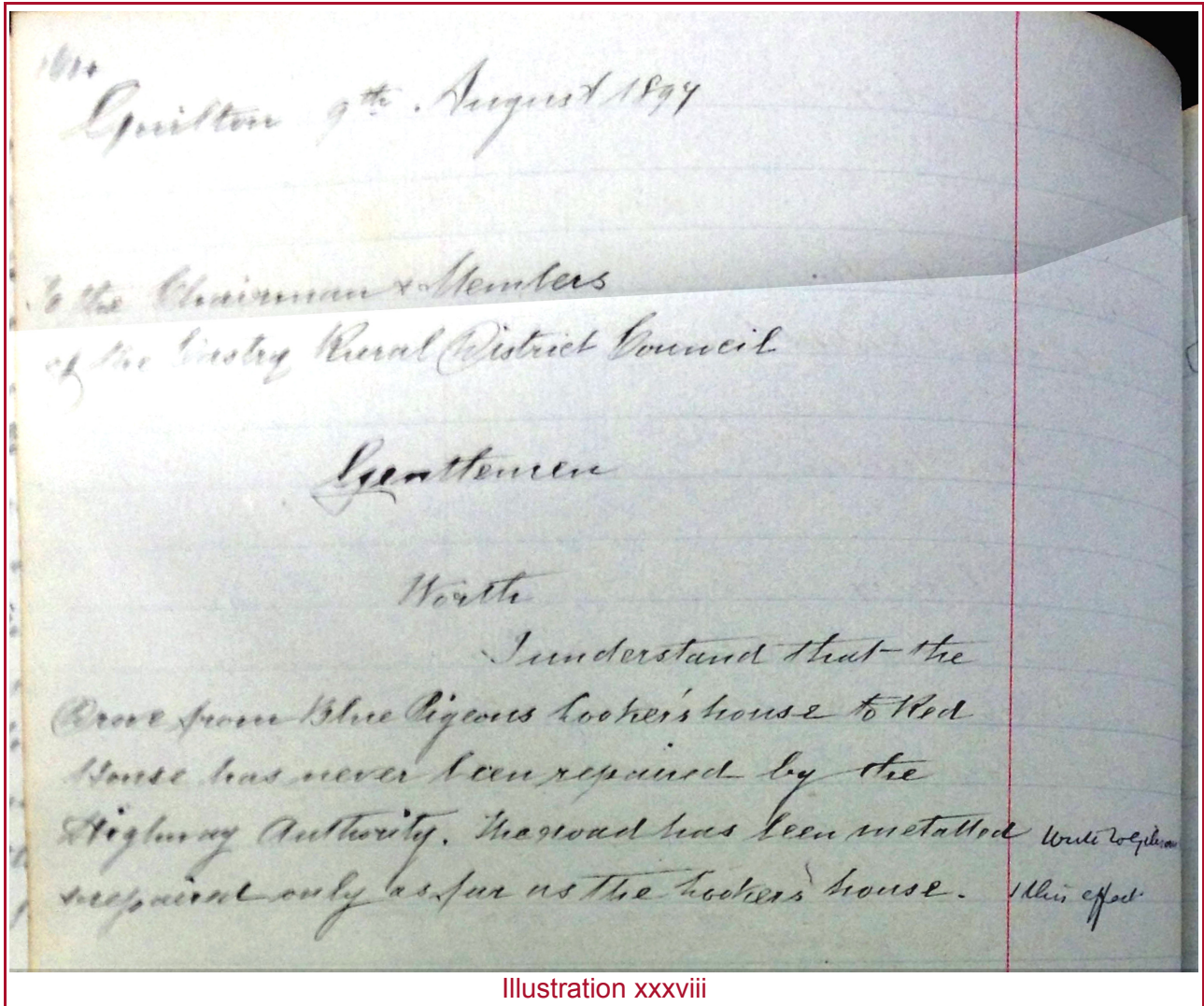


Illustration xxxviii

26 Vol.3 1893-99, RD/Ea/H3, p.164.

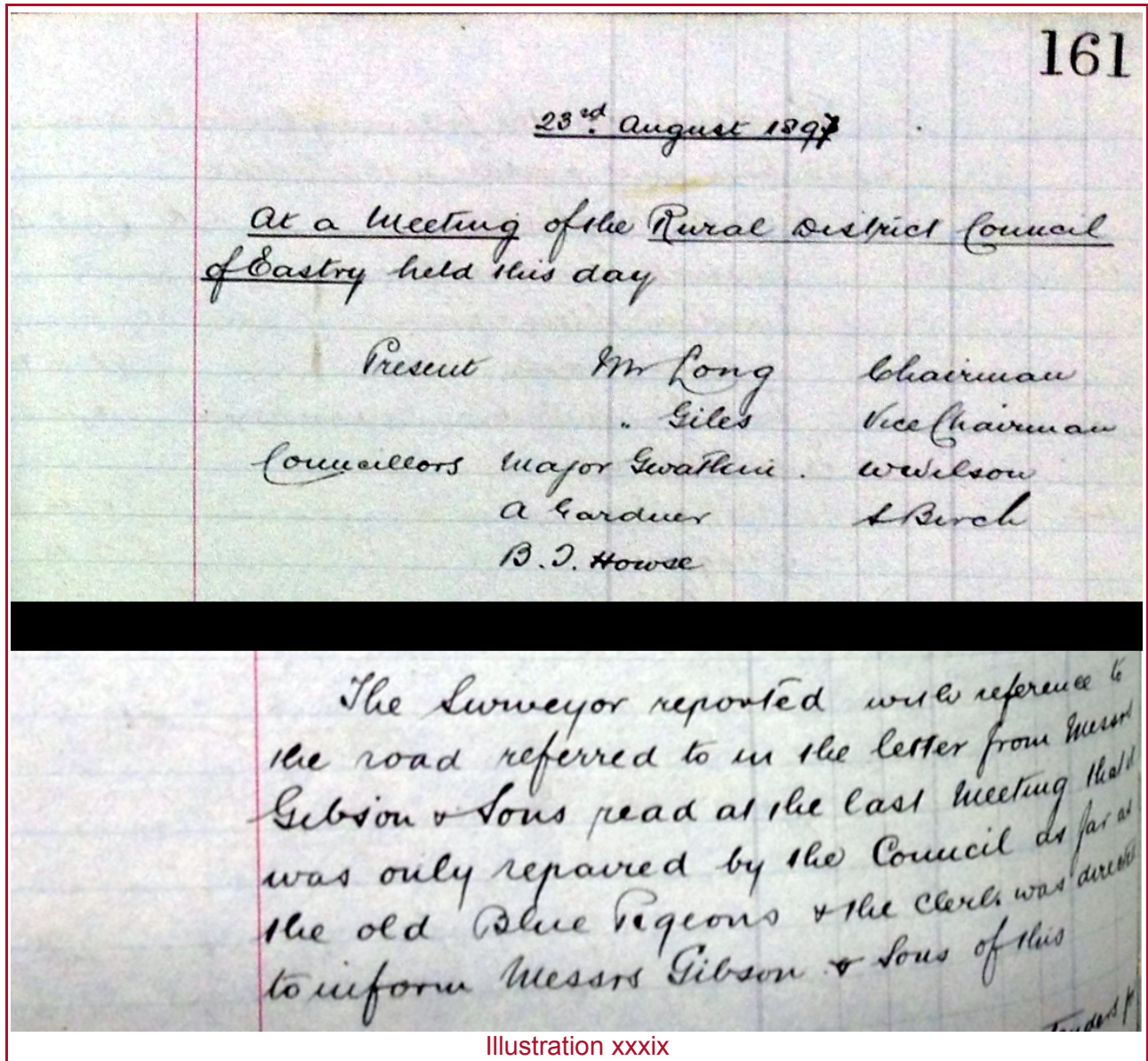


Illustration xxxix

27 Vol.1 1894-98 RD/Ea/Am1, p.161-163.

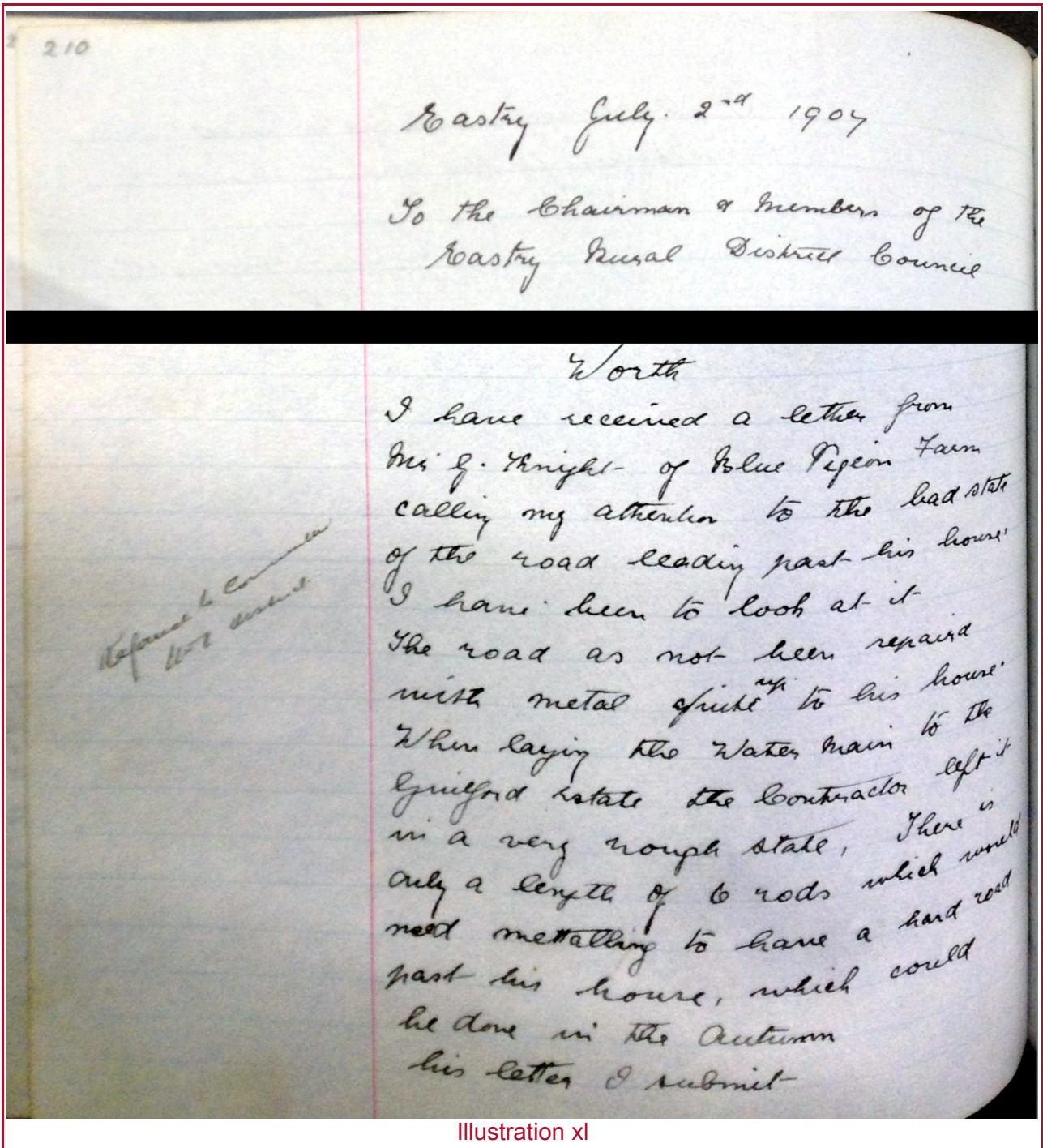


Illustration xi

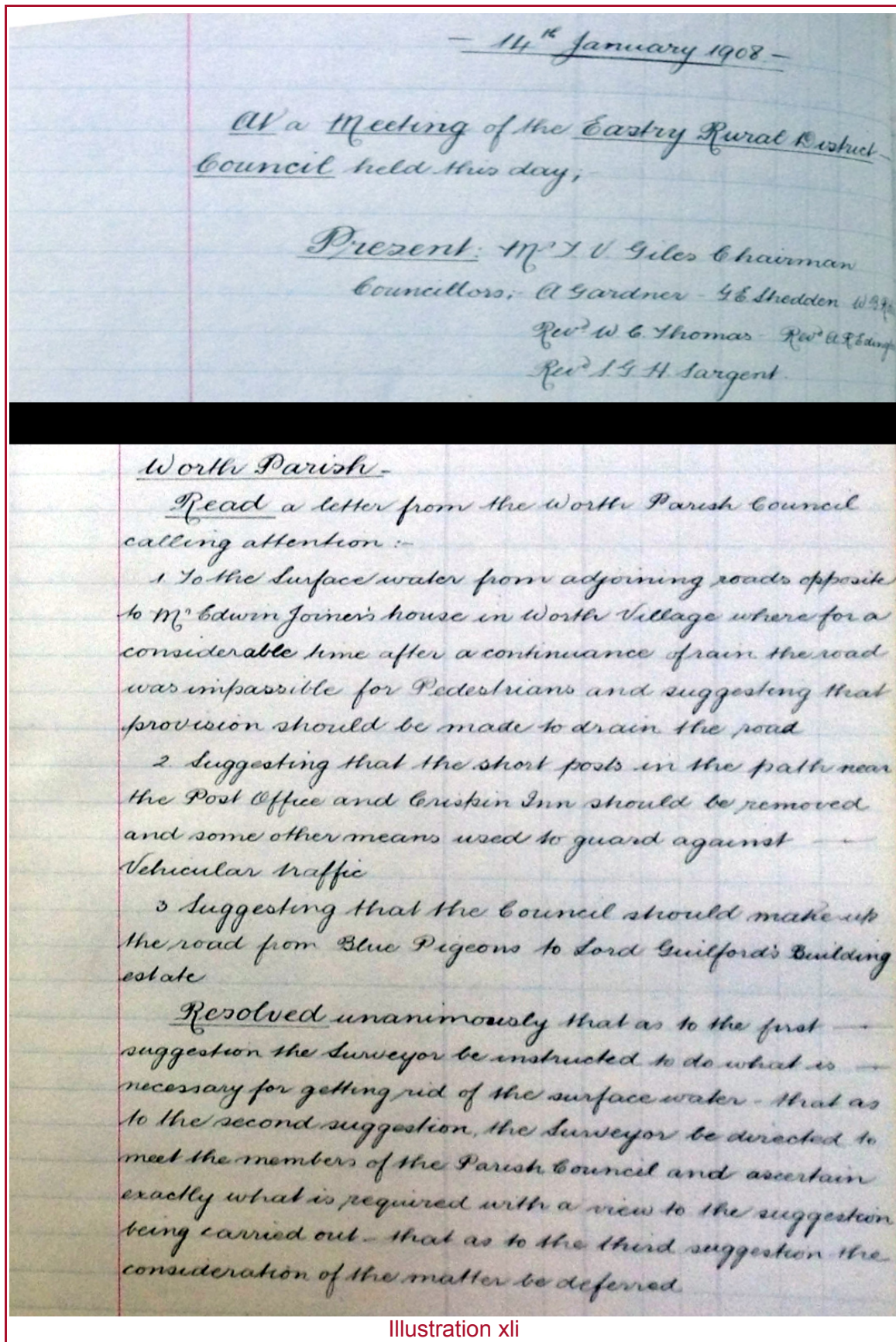


Illustration xli

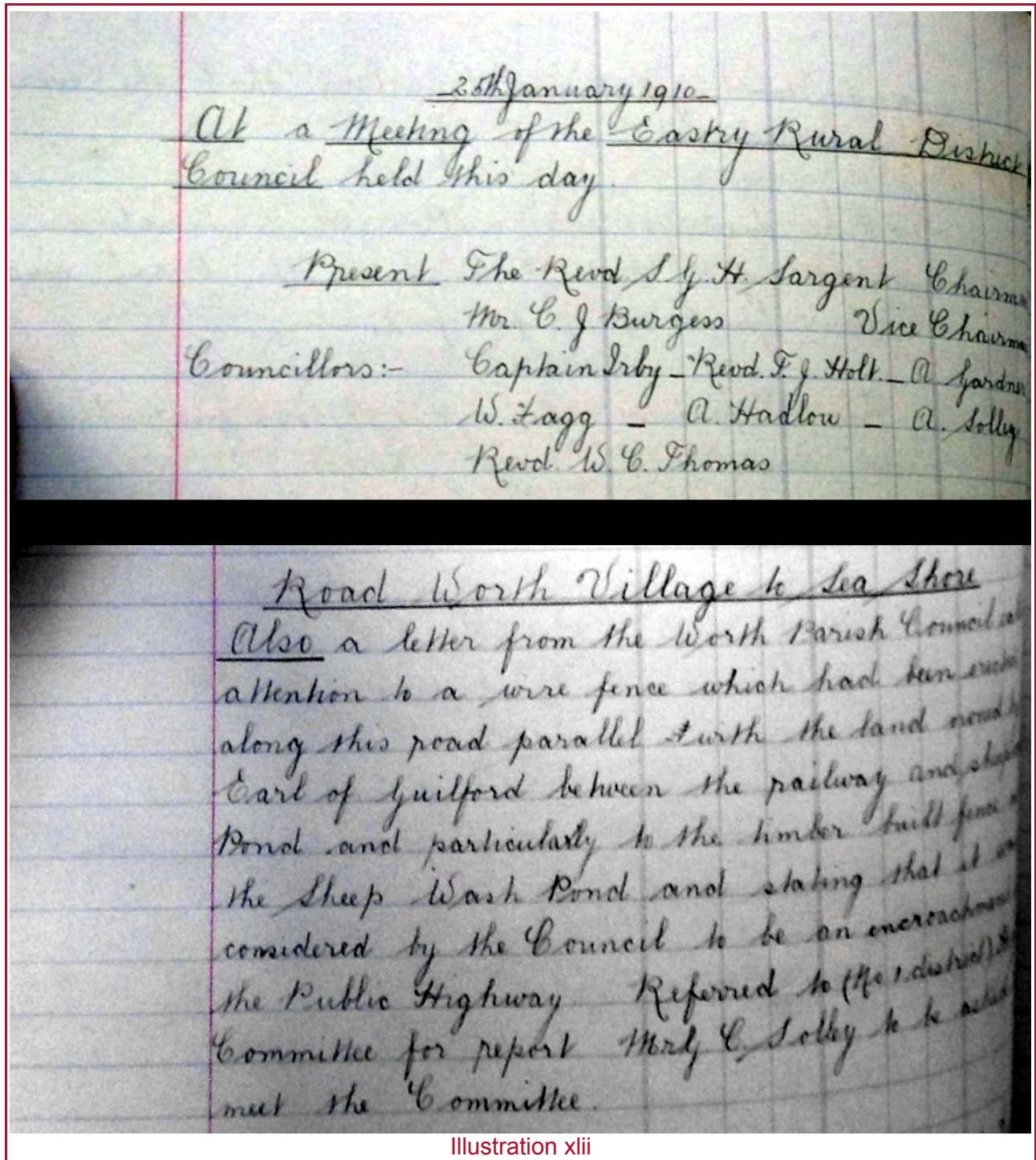


Illustration xlii

30 Vol.5 1908-1911 RD/Ea/Am5, p.142.

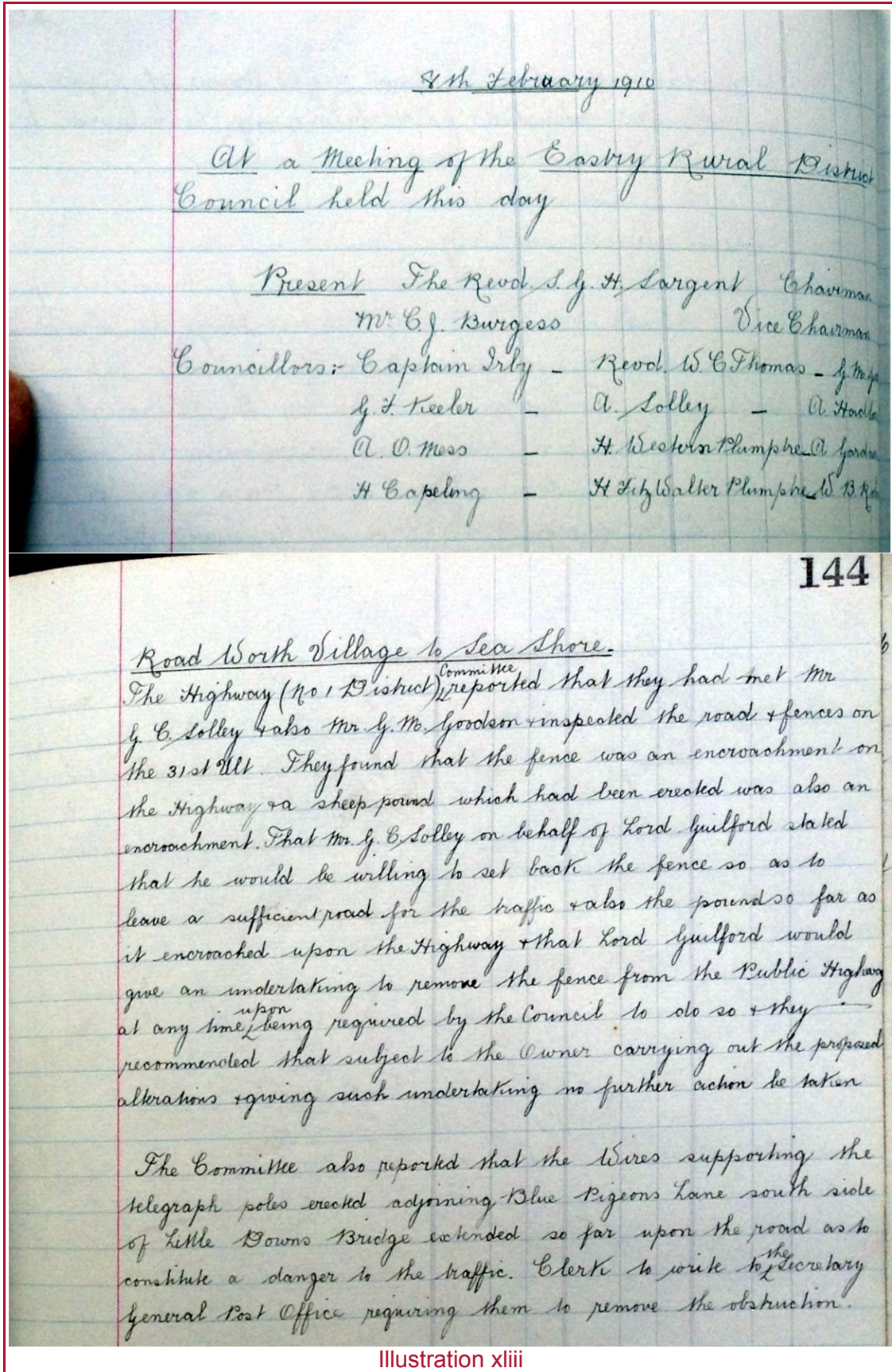


Illustration xliii

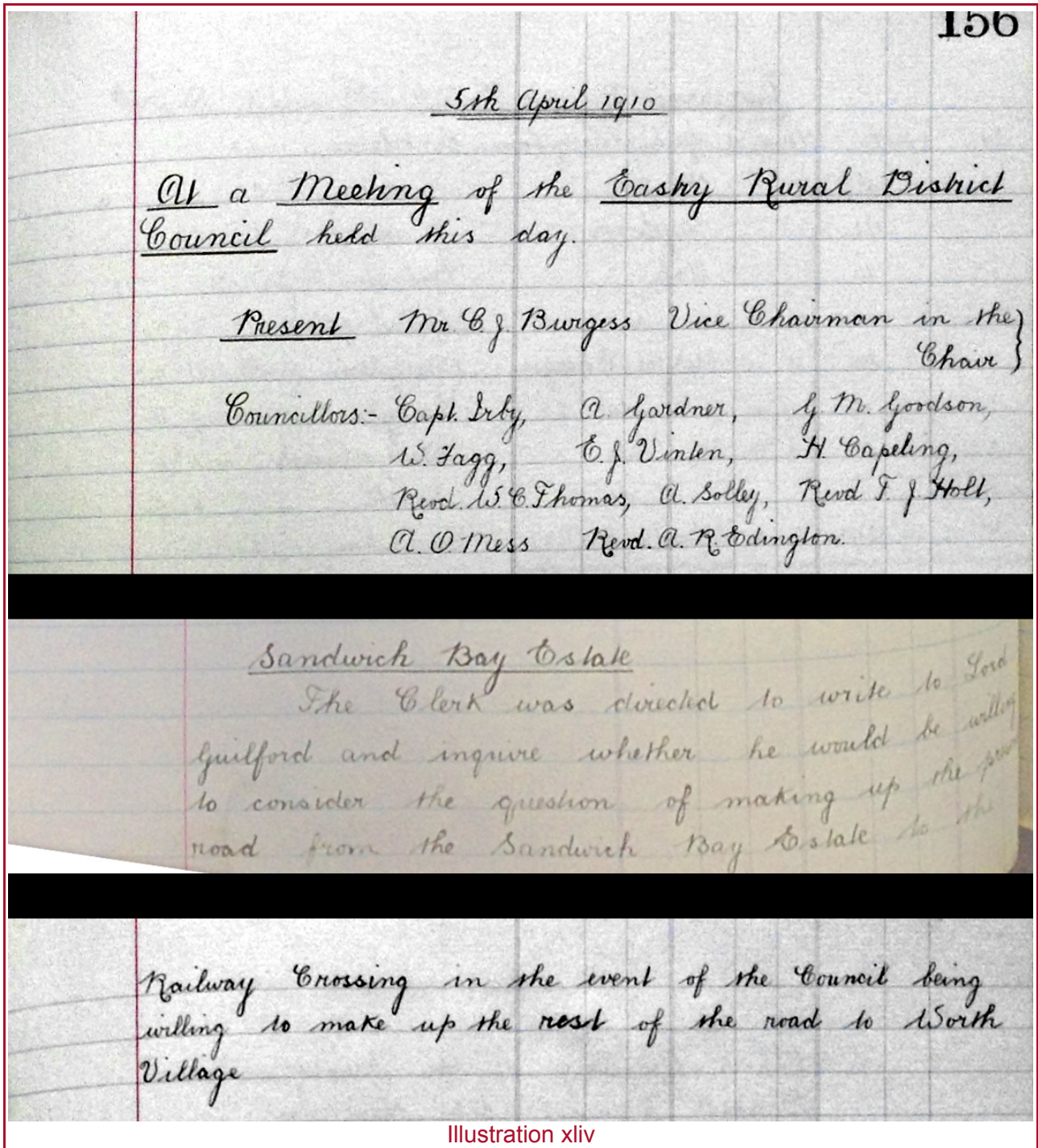


Illustration xlv

32 Vol.5 1908-1911 RD/Ea/Am5, p.156-9.

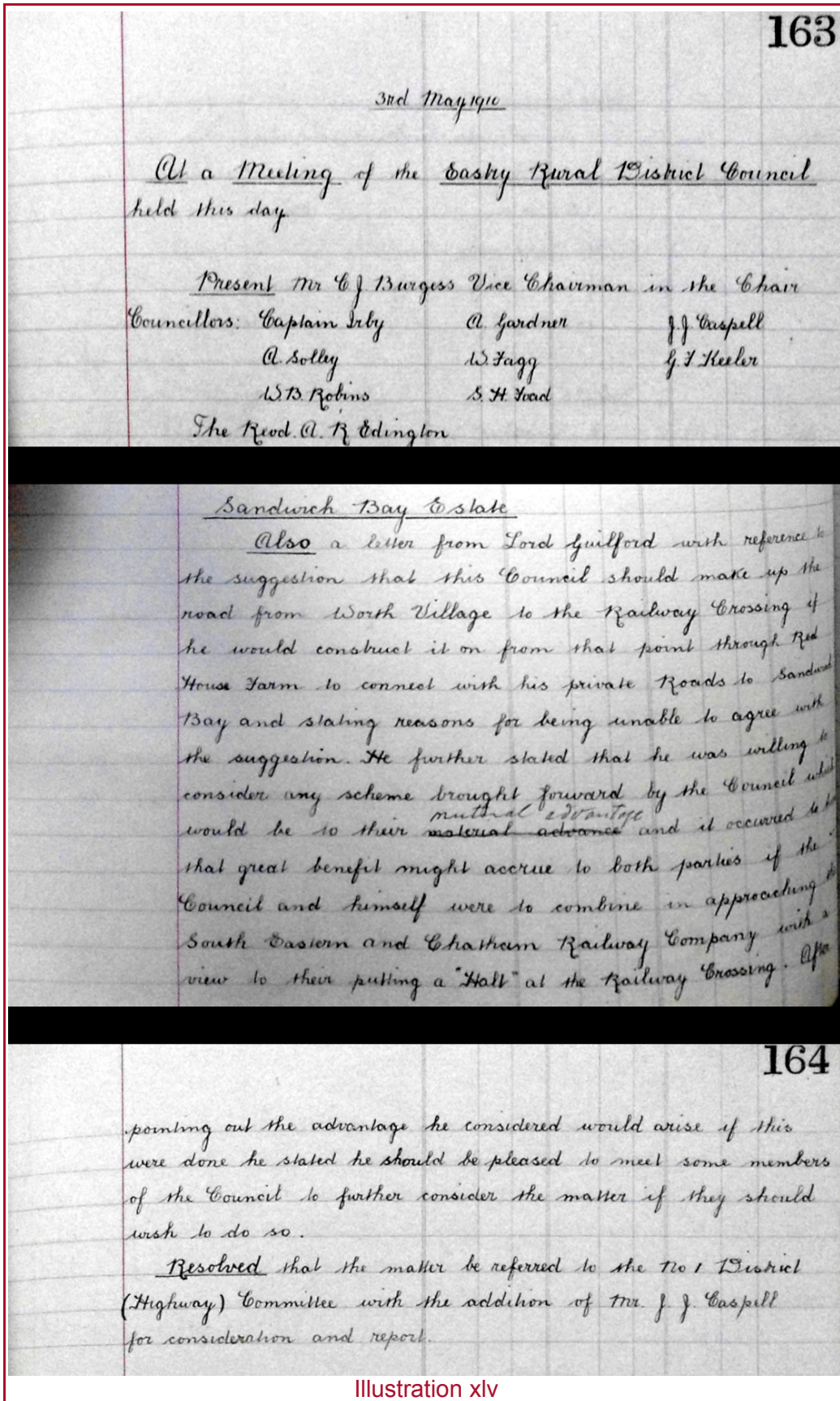


Illustration xlv

Mr Blake to write
Lord Guilford to
meet the Highway
Committee

Worth Blue Pigeon Road
As instructed by the Highway Committee
I submit estimate for the proposed
making up the length of road
42 rods long; 14 feet wide, from Blue Pigeon
Farm to the Railway crossing Worth
with 9 inches of chalk for foundation and
6 inches of flint the cost of making up
the above with materials Team Labour
Steam Rolling & Manual Labour about £105.

To resurface the length of 68 rods by 13 ft wide
from Temple Farm to Blue Pigeon Farm
which I pointed out to the Committee
would be needed, as there is scarcely
any metal on this length I estimate
the cost of this with materials
Labour Steam Rolling & £54.10.

The average width of road from Worth
school to Temple Farm is 14 feet from
Temple Farm to Blue Pigeon Farm 13 feet
with the exception of the bridge over
the Delf stream this being only 10 ft

I submit the following accounts
for Payment

Illustration xlvi

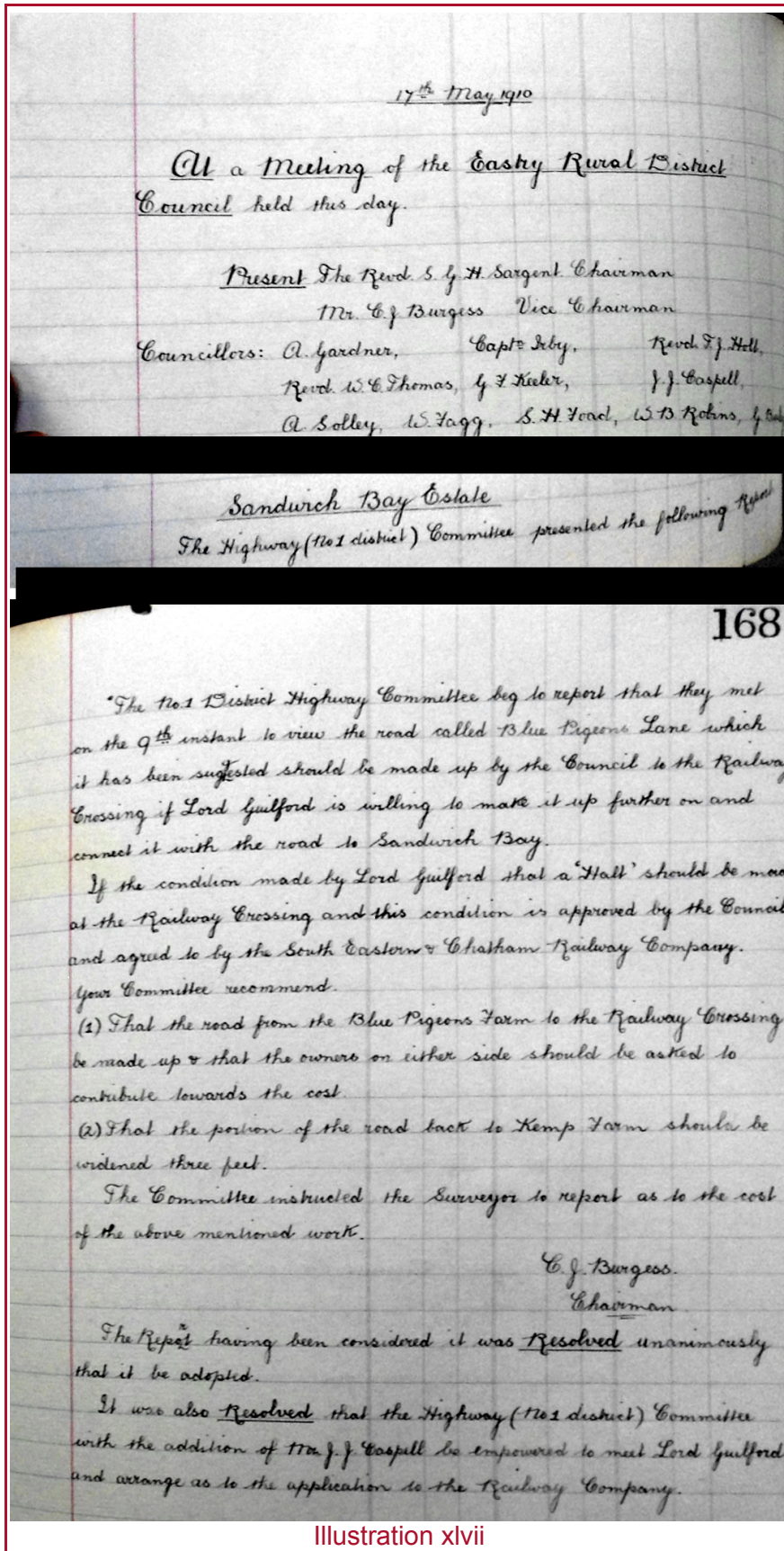


Illustration xvii

28th June 1910

At a Meeting of the Eastry Rural District Council held this day.

Present The Revd S. G. H. Sargent Chairman
Councillors: A. Gardner, The Revd F. J. Holt, H. Capeling,
A. Solley, J. F. Keeler, S. H. Todd, J. J. Caspell,
The Revd. W. C. Thomas, The Revd. A. R. Edington,
W. B. Robins.

Road North Village to Sea Shore. See Minutes 4 Feb last.

The Clerk reported that he had been in correspondence with the War Office and Admiralty with reference to the obstruction caused by the wires supporting Telegraph Posts adjoining Blue Pigeons Lane and a letter from the Secretary to the General Post Office dated 21st Inst was then read stating that the Clerk's letter to the Admiralty had been forwarded to the Postmaster General and that arrangements had been made to set back the Telegraph Poles as desired.

Illustration xviii

36 Vol.5 1908-1911 RD/Ea/Am5, p.174-5.

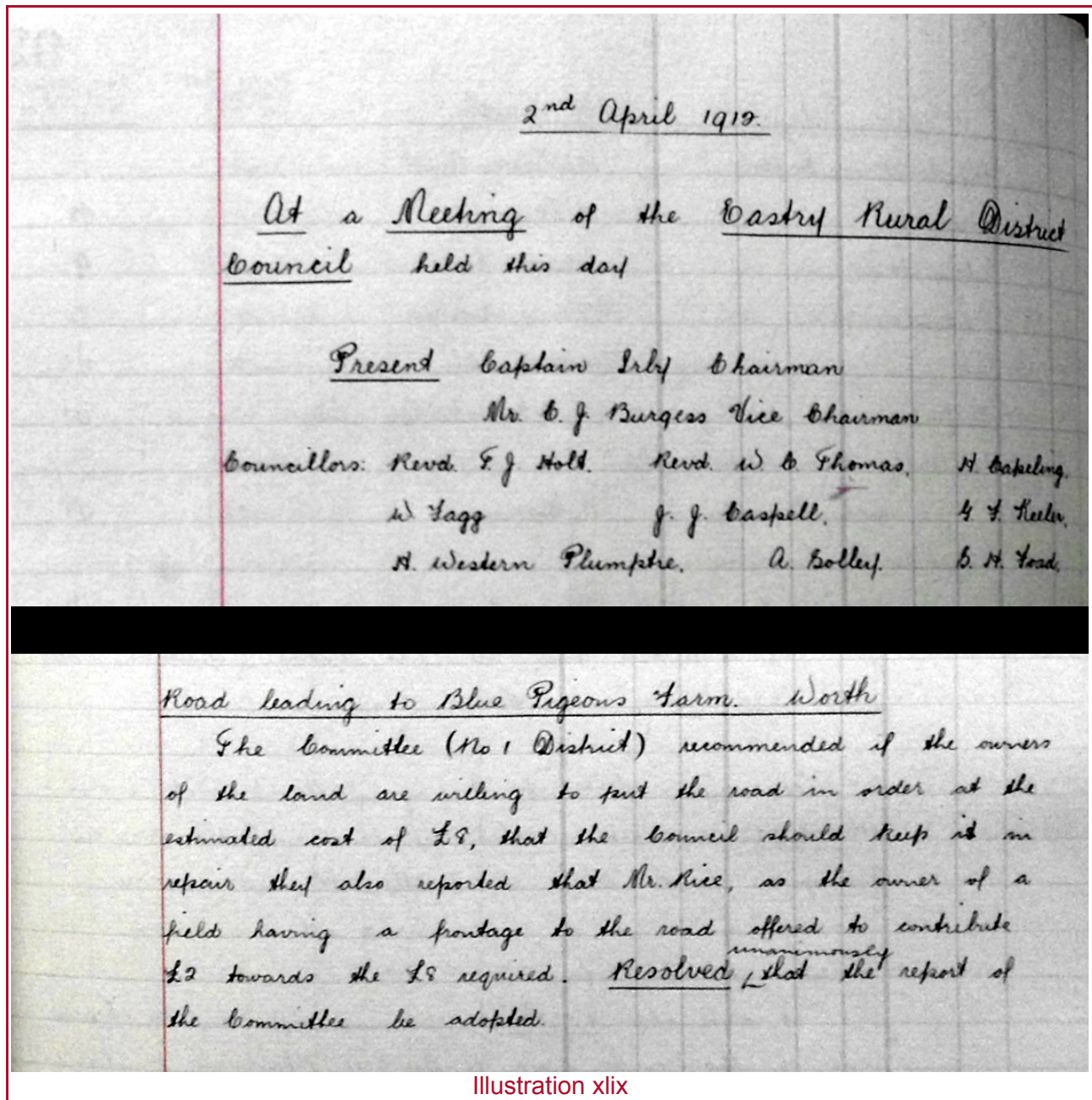
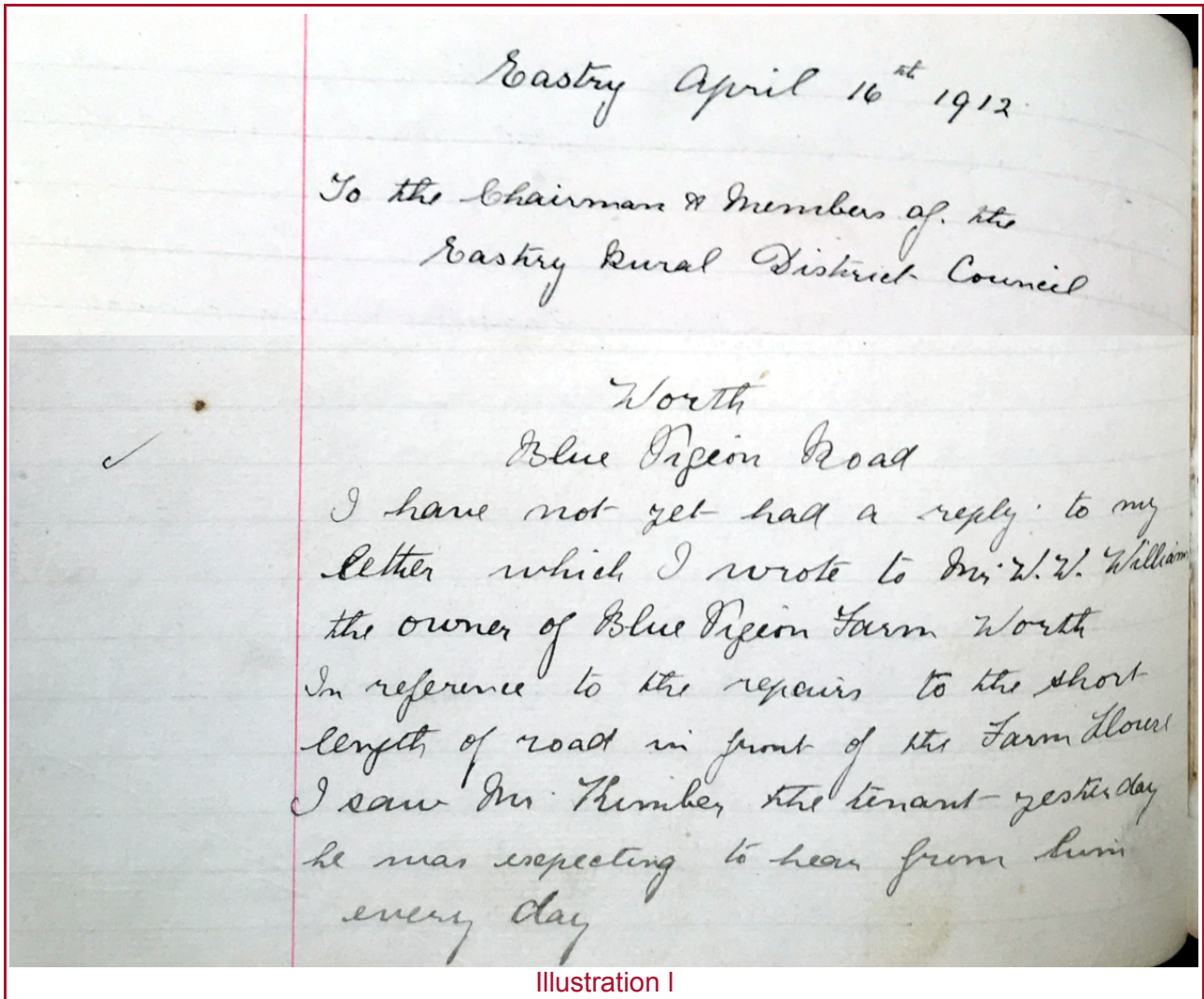


Illustration xlix



L.3. **Description:** The application way was the subject of consideration by the then highway authority, Eastry Rural District Council, at meetings of the council held between 1897 and 1912.

L.4. Eastry Rural District Council minutes 26 July 1897:

At a Meeting of the Eastry Rural District Council held this day...

Also a letter from a Messrs Gibson Sons complaining of the road leading from Blue Pigeons Farm to Red House on Downs — Referred to Surveyor

L.5. Eastry Rural District Council highways report book 8 August 1897:

Guilton 8th August 1897

To the Chairman & Members of the Eastry Rural District Council

Gentlemen

Worth

38 Vol.6 1908–13 RD/Ea/H6, p.207.

I understand that the Drove from Blue Pigeons Looker's house to Red House has never been repaired by the Highway Authority. The road has been metalled & repaired only as far as the Looker's house.

[Note in margin] Write to Gibsons to this effect

L.6. Eastry Rural District Council minutes 23 August 1897

At a Meeting of the Rural District council of Eastry held this day...

The Surveyor reported with reference to the road referred to in the letter from Messrs Gibson & Sons read at the last meeting that it was only repaired by the Council as far as the old Blue Pigeons & the Clerk was directed to inform Messrs Gibson & Sons of this.

L.7. Eastry Rural District Council highways report book (Eastry section) 2 July 1907

Eastry July 2nd 1907

To the Chairman & Members of the Eastry Rural District Council

Worth

I have received a letter from Mr G Knight of Blue Pigeon Farm calling my attention to the bad state of the road leading past his house. I have been to look at it. The road as [*sic*] not been repaired with metal [?] to his house. When laying the Water Main to the Guilford Estate the Contractors left it in a very rough state. There is only a length of 6 rods which would need metalling to have a hard road past his house, which could be done in the autumn — his letter I submit.

[Note in margin] Referred to Committee No.1 district

L.8. Eastry Rural District Council minutes 14 January 1908

14th January 1908

At a Meeting of the Eastry Rural District Council held this day...

Worth Parish

Read a letter from the Worth Parish Council calling attention—...

3 Suggesting that the Council should make up the road from Blue Pigeons to Lord Guilford's Building estate.

Resolved unanimously...that as to the third suggestion the consideration of the matter be deferred.

L.9. Eastry Rural District Council minutes 25 January 1910

25th January 1910

At a Meeting of the Eastry Rural District Council held this day...

Road Worth Village to Sea Shore

Also a letter from the Worth Parish Council calling attention to a wire fence which had been erected along this road parallel with the land owned by Earl of Guilford between the railway and Sheep Wash Pond and particularly to the

timber built fence at the Sheep Wash Pond and stating that it would be considered by the Council to be an encroachment on the Public Highway. Referred to No.1 district Highway Committee for report. [?] C Solley to be asked to meet the Committee.

L.10. Eastry Rural District Council minutes 8 February 1910

8th February 1910

At a Meeting of the Eastry Rural District Council held this day...

Road Worth Village to Sea Shore

The Highway (No.1 District) Committee reported that they had met Mr G C Solley & also Mr G M Goodson & inspected the road & fences on the 31st ult. They found that the fence was an encroachment on the Highway & a sheep pound which had been erected was also an encroachment. That Mr G C Solley on behalf of Lord Guilford stated that he would be willing to set back the fence so as to leave a sufficient road for the traffic & also the pound so far as it encroached upon the Highway & that Lord Guilford would give an undertaking to remove the fence from the Public Highway at any time upon being required by the Council to do so & they recommended that subject to the Owner carrying out the proposed alterations & giving such undertaking no further action be taken.

The Committee also reported that the Wires supporting the telegraph poles erected adjoining Blue Pigeons Lane south side of Little Downs Bridge extended so far upon the road as to constitute a danger to the traffic. Clerk to write to the Secretary General Post Office requiring them to remove the obstruction.

L.11. Eastry Rural District Council minutes 5 April 1910

5th April 1910

At a Meeting of the Eastry Rural District Council held this day...

Sandwich Bay Estate

The Clerk was directed to write to Lord Guilford and inquire whether he would be willing to consider the question of making up the [present?] road from the Sandwich Bay Estate to the Railway Crossing in the event of the Council being willing to make up the rest of the road to Worth Village.

L.12. Eastry Rural District Council minutes 3 May 1910

3rd May 1910

At a Meeting of the Eastry Rural District Council held this day...

Sandwich Bay Estate

Also a letter from Lord Guilford with reference to the suggestion that this Council should make up the road from Worth Village to the Railway Crossing if he would construct it on from that point through Red House Farm to connect with his private Roads to Sandwich Bay and stating reasons for being unable to agree with the suggestion. He further stated that he was willing to consider

any scheme brought forward by the Council which would be to their mutual advantage and it occurred to him that great benefit might accrue to both parties if the Council and himself were to combine in approaching the South Eastern and Chatham Railway Company with a view to their putting a "halt" at the Railway Crossing. After pointing out the advantage he considered would arise if this were done he stated he should be pleased to meet some members of the Council to further consider the matter if they should wish to do so.

Resolved that the matter be referred to the No.1 District (Highways) Committee with the addition of Mr J J Caspill for consideration and report.

L.13. Eastry Rural District Council highways report book (Eastry section) 17 May 1910

Worth Blue Pigeon Road

As instructed by the Highway Committee I submit estimate for the proposed making up the length of road 42 rods long; 14 feet Wide, from Blue Pigeon Farm to the Railway Crossing Worth with 9 inches of chalk for foundations and 6 inches of flint. The cost of making up the above with Materials Team Labour Steam Rolling & Manual Labour about £105.

[Note in margin] Mr Cloke³⁹ to write to Lord Guilford to meet No.1 Highway Committee

To resurface the length of 68 rods by 13ft wide from Temptye Farm to Blue Pigeon Farm which I pointed out to the Committee would be needed, as there is scarcely any metal on this length I estimate the cost of this with materials labour steam Rolling £54.10.

The average width of road from Worth school to Temptye Farm is 14 feet from Temptye Farm to Blue Pigeon Farm 13 feet with the exception of the bridge over the Delf Stream this being only 10 ft.

L.14. Eastry Rural District Council minutes 17 May 1910

17th May 1910

At a Meeting of the Eastry Rural District Council held this day...

Sandwich Bay Estate

The Highway (No.1 district) Committee presented the following Report:

"The No.1 District Highway Committee beg to report that they met on the 9th instant to view the road called Blue Pigeons Lane which it has been suggested should be made up by the Council to the Railway Crossing if Lord Guilford is willing to make it up further on and connect it with the road to Sandwich Bay.

If the condition made by Lord Guilford that a 'Halt' should be made at the Railway Crossing and this condition is approved by the Council and agreed to by the South Eastern & Chatham Railway Company, your Committee recommend:

39 Mr Cloke was the clerk to the council.

(1) That the road from the Blue Pigeons Farm to the Railway Crossing be made up & that the owners on either side should be asked to contribute towards the cost.

(2) That the portion of the road back to Kemp Farm should be widened three feet.

The Committee instructed the Surveyor to report as to the cost of the above mentioned work.

C J Burgess
Chairman

The Report having been considered it was Resolved unanimously that it be adopted.

It was also Resolved that the Highway (No.1 district) Committee with the addition of Mr J J Caspill be empowered to meet Lord Guilford and arrange as to the application to the Railway Company.

L.15. Eastry Rural District Council minutes 28 June 1910

28th June 1910

At a Meeting of the Eastry Rural District Council held this day...

Road Worth Village to Sea Shore. See Minutes 8 Feb last

The Clerk reported that he had been in correspondence with the War Office and Admiralty with reference to the obstruction caused by the wires supporting Telegraph Posts adjoining Blue Pigeons Lane and a letter from the Secretary to the General Post Office dated 21 inst. was then read stating that the Clerk's letter to the Admiralty had been forwarded to the Postmaster General and that arrangements had been made to set back the Telegraph Poles as desired.

L.16. Eastry Rural District Council minutes 2 April 1912

2nd April 1912

At a Meeting of the Eastry Rural District Council held this day...

Road leading to Blue Pigeons Farm. Worth

The Committee (No.1 District) recommended if the owners of the land are willing to put the road in order at the estimated cost of £8, that the Council should keep it in repair they also reported that Mr Rice, as the owner of a field having a frontage to the road offered to contribute £2 towards the £8 required. Resolved unanimously that the report of the Committee be adopted.

L.17. Eastry Rural District Council highways report book (Eastry section) 16 April 1912

Eastry April 16th 1912

To the Chairman and Members of the Eastry Rural District Council

Worth

Blue Pigeon Road

I have not yet had a reply to my letter which I wrote to Mr W W Williams the owner of Blue Pigeon Farm Worth in reference to the repairs to the short length of road in front of the Farm House. I saw Mr Kimbler the tenant yesterday he was expecting to hear from him every day.

L.18. In 1897, the application way (clearly identified as such) was reported, presumably as out of repair, about which the surveyor to the council advised the council that it was a 'Drove' which 'has never been repaired by the Highway Authority', and had 'been metalled & repaired only as far as the Looker's house' (i.e. Blue Pigeons). The reported status of the application way as a 'Drove' does not confirm vehicular rights, but it is submitted that the denial of liability to repair does not necessarily indicate that the way was considered not to be public — only that the way was privately maintainable. This is consistent with later reports.

L.19. In 1907, the surveyor reports that the application way has been used to lay a water main to the Guilford estate (presumably at Sandwich Bay), and the road has been left out of repair leading past Blue Pigeons. Reference is made to a 'length of 6 rods which would need metalling to have a hard road past [Blue Pigeons] house', suggesting that the objective was not merely to improve the road to the house, but beyond it. No question is raised as to the status of the road as eligible for improvement.

L.20. In early 1908, Worth parish council asks the rural district council to 'make up' the application way. It is submitted that, for the council to make it up, the way must already have been a public road (else it would have had to negotiate to secure the dedication of vehicular rights). Consideration was deferred.

L.21. In early 1910, the parish council reported encroachments on the application way between the railway and 'Sheep Wash Pond'. The latter location is unclear, but is presumed to be between Little Downs Bridge and Red House (not least because the land is described as part of the Guilford estate). The rural district council Highways committee inspected the site, and in its report, describes the application way as a 'road' and 'Highway', and the encroachments as impairing use by 'traffic'. It also reports on encroaching telegraph poles on the 'south side of Little Downs Bridge' constituting a danger to traffic.

L.22. In the Spring of that year, the rural district council asks if Lord Guilford would be prepared to make up the road as far as the level crossing, if the council made it up from there onwards to Worth. Lord Guilford declined, but proposed that a station be commended to the railway company (in which event, it seems he would have been willing to make up the road, presumably in order to improve access to the railway from Sandwich Bay). The surveyor provides an estimate for making up the latter section, and the Highways committee endorsed Lord Guilford's plan. (The station was not built, and it seems the application way was not made up.)

L.23. In the summer of 1910, the Postmaster-General confirmed that the encroaching telegraph poles at Little Downs Bridge poles would be set back.

L.24. In April 1912, the Highways committee recommended that the council should keep the 'Road leading to Blue Pigeons Farm' in repair if the frontagers contributed. It is submitted that this report refers to the application way, which was considered to be privately maintainable.

L.25. **Conclusion:** It is submitted that the records of highway authority proceedings between 1897 and 1912 describe a public road which was privately maintainable, but

which the authority was willing to make up, or maintain as made up, with a metalled surface, if certain conditions were met. In the event, the road never was made up, and remained what it always had been — a privately-maintainable public road.

L.26. **Points:** 4

M. Cinque Ports Light Railway

M.1. **Date:** 1899

M.2. **Source:** National Archives⁴⁰

40 MT 54/222

Cinque Ports Light Railway deposited plan and section

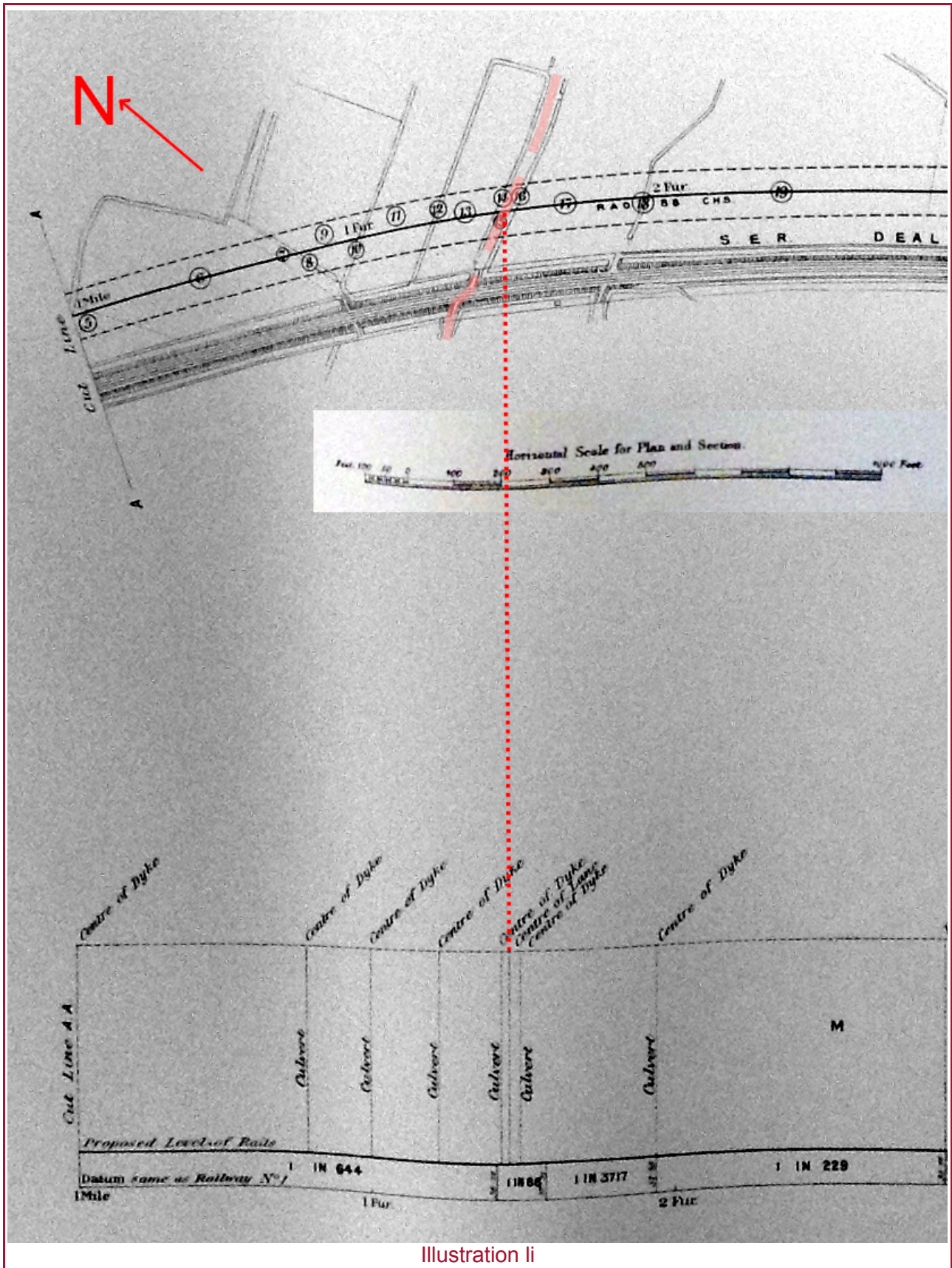


Illustration li

Cinque Ports Light Railway deposited book of reference

| No. on Plan. | Description of Property. | Owners or reputed Owners. | Lessees or reputed Lessees. | Occupiers. |
|--------------|--------------------------|-----------------------------------|-----------------------------|----------------|
| 14 | Dyke | Henry Famariss | ... | Henry Famariss |
| 15 | Drove | The Eastry Rural District Council | ... | ... |
| 16 | Dyke | Admiral Sir E. B. Rice | ... | William Baker |

Illustration lii

M.3. **Description:** The Cinque Ports Light Railway proposed a tram line along the coast from Ramsgate to Hastings via Sandwich, Deal, Dover, Folkestone, Hythe, New Romney, Lydd, Rye and Winchelsea. The line generally would have followed existing roads, but new cross-country lines were proposed between Sandwich and Deal, and between Rye and Hastings. The former would have run parallel to the existing Sandwich to Deal railway line. The proposals were deposited with and considered by the Light Railway Commissioners under the Light Railways Act 1896.

M.4. The application way is identified in the deposited plan crossing the proposed line slightly to the east of the existing level crossing, and described as parcel 15. The way is shown on the deposited section as a 'Lane', and parcel 15 is described in the book of reference as a 'Drove' owned by Eastry Rural District Council.

M.5. **Conclusion:** The reported status of the application way as a 'Drove' does not confirm vehicular rights, but is consistent with the view of the council minuted in 1897 (see para.IV.L.18. above).

M.6. **Points:** 0

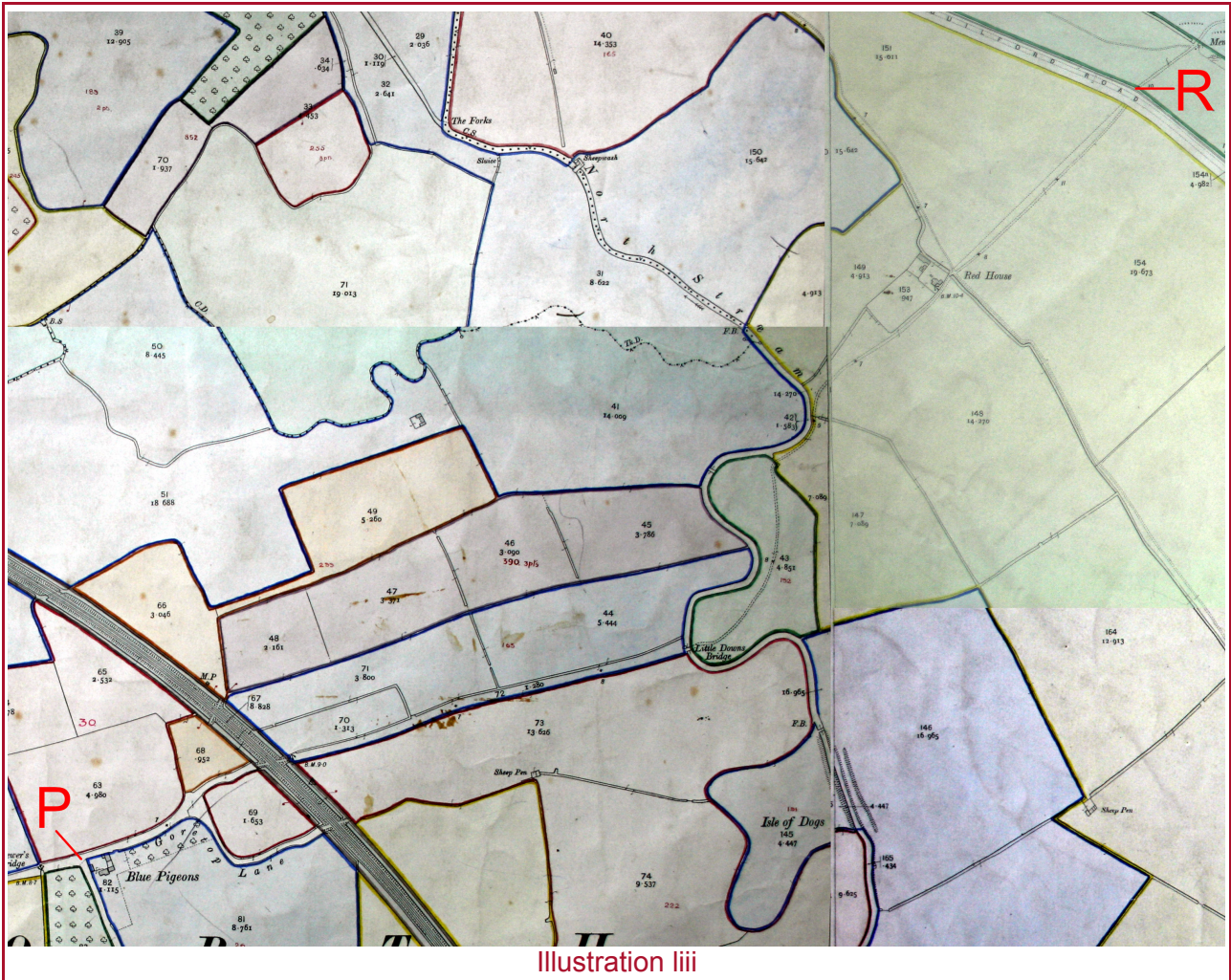
N. Finance (1909–1910) Act 1910

N.1. **Date:** 1911

N.2. **Source:** National Archives⁴¹

41 IR 124/5/69 and 70

Finance Act maps Kent XLVIII/7 and 8



N.3. **Description:** original scale: 1:2,500; orientation: unchanged.

N.4. The application way is shown uncoloured (as a 'white road') between P and the level crossing. Between the crossing and Little Downs Bridge, the way is included in hereditaments 163, and between the bridge and R, in hereditaments 152 and 218.

N.5. The Finance (1909–10) Act 1910 caused every property in England and Wales to be valued. The primary purpose was to charge a tax (increment levy) on any increase in value when the property was later sold or inherited. The valuation involved complicated calculations which are not relevant for highway purposes. However, public vehicular roads were usually excluded from adjoining landholdings and shown as 'white roads'. This is because s.35 of the 1910 Act provided,

No duty under this Part of this Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority.

A highway authority was a rating authority.

N.6. **Conclusion:** The application way is excluded from valuation between P and the level crossing, which is consistent with public vehicular status. However, the inclusion of the way within hereditaments between the level crossing and R does not rule out such

status, and is compatible with a way which is privately-repairable and therefore not vested in the highway authority.

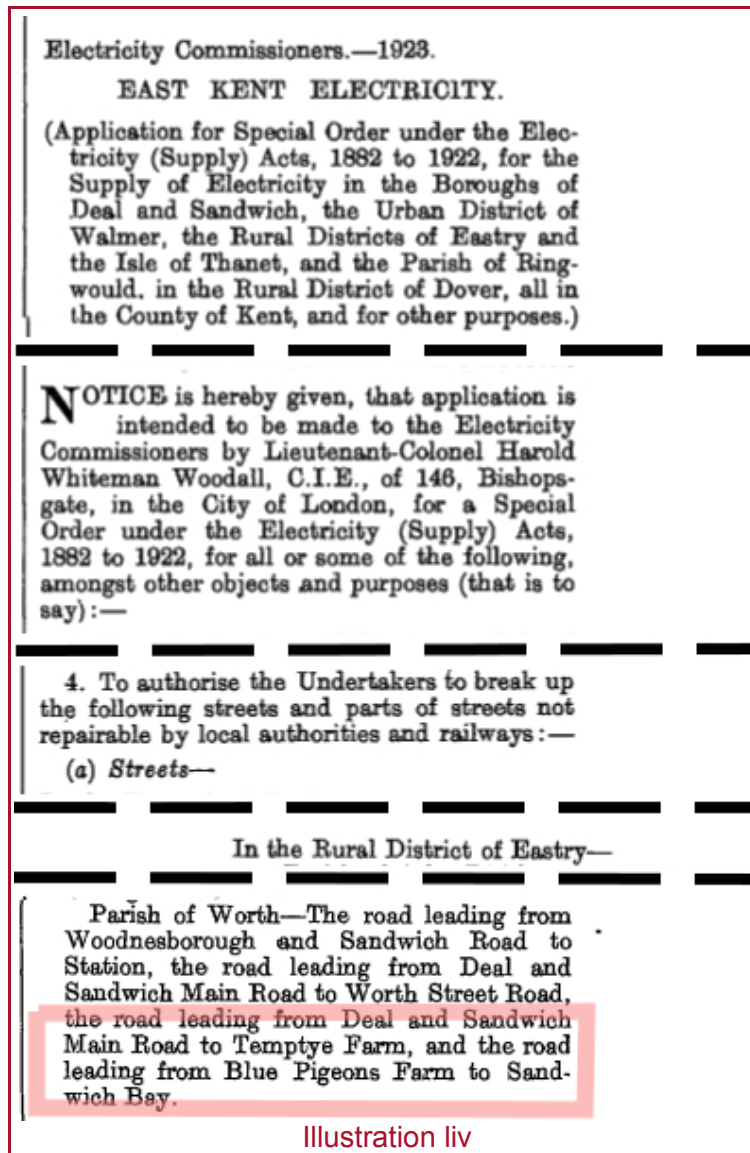
N.7. **Points:** 0

O. Electricity Supply Acts 1882 to 1922

O.1. **Date:** 1923

O.2. **Source:** London Gazette⁴²

Notice in London Gazette



O.3. **Description:** The notice published in the London Gazette on 23 October 1923 gives notice of the intention of an electricity undertaker for East Kent to lay its apparatus in certain streets not repairable by local authorities and railways, including: ‘the road leading from Blue Pigeons Farm to Sandwich Bay’. The application was withdrawn in February 2024.

⁴² Issue 32873, p.7140: www.thegazette.co.uk/London/issue/32873/page/7140.

O.4. **Analysis:** The Electricity (Supply) Acts 1882 to 1922 provided for powers to be conferred on undertakers for the supply of electricity for public and private purposes. In the present case, notice of intention was given in the London Gazette on 23 October 1923 that application would be made to the Electricity Commissioners for a Special Order under the Electricity (Supply) Acts 1882 to 1922, to confer powers for the supply of electricity in East Kent on Lt-Col. Harold Whiteman Woodall.⁴³

O.5. The notice sets out, *inter alia*, details of 'streets and parts of streets not repairable by local authorities and railways' which the applicant wishes to 'break up' in order to lay its apparatus. The notice gives an opportunity for any 'local or other public authority, company or person desirous of bringing before the Electricity Commissioners any objection respecting the application'. The notice also contains for the same purpose a list of routes which are county roads, and of roads over railway bridges and level crossings. It seems that none of those roads listed is considered to be maintainable by the local district council as highway authority for local roads, and that therefore public notice need be given of the application.

O.6. **Conclusion:** It therefore is submitted that ways in the notice identified as streets not repairable by local authorities are likely to be those which were regarded at the time as of either bridle or vehicular road status, being described as 'roads'. While not corroborative of public vehicular rights, the way is confirmed as privately-maintainable. It is submitted that, as such, the way was likely to have been a public road, and that such status should also be read with the proceedings of Eastry Rural District Council highway authority (item IV.L. above) to confirm that the reports of the council related to a public road which was privately maintainable.

O.7. **Points:** 0

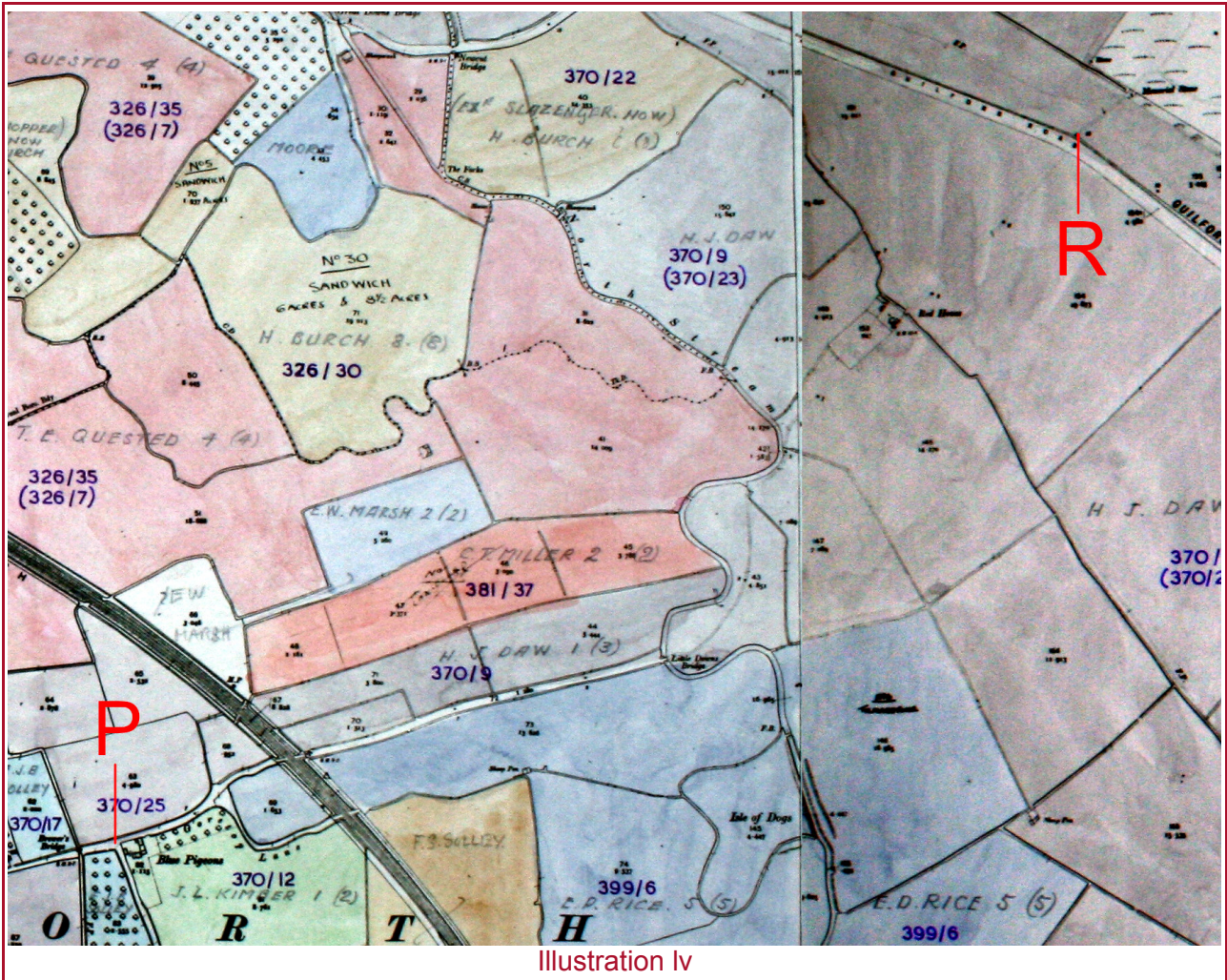
P. National Farm Survey map

P.1. **Date:** 1941–43

P.2. **Source:** National Archives⁴⁴

⁴³ The notice records that powers alternatively might be conferred on a company to be registered for the purpose.

⁴⁴ MAF 73/20/48



P.3. **Description:** original scale: 1:10,560 (marked on Ordnance Survey County Series maps at this scale); orientation: unchanged (north at top).

P.4. These records are maps prepared in conjunction with the individual farm records of the National Farm Survey conducted by the (then) Ministry of Food (subsequently the Ministry of Agriculture, Fisheries and Food). The maps show the extent of each farm, or other agricultural holding, with its boundaries. The area of each farm is indicated on the map by the use of a coloured outline or a colour wash, and its code number is added in black or red ink. The relevance of these records is that where a vehicular highway route runs between holdings, it generally is excluded from the marked extent of the holdings.

P.5. **Conclusion:** The application way divides two holdings west of Little Downs Bridge — that of H J Daw and that of E D Rice (a further holding, that of J L Kimber, is south of the application way west of the junction with Goretop Lane). The way is shown uncoloured as far east as Little Downs Bridge. East of the bridge, the application way is wholly within the holding of H J Daw (which straddles the North Stream).

P.6. The exclusion of the enclosed part of the application way on the National Farm Survey map suggests that the way was considered to be unproductive land not belonging to the holding on either side of it, and that it was excluded because it was a carriageway. This provides some support for the application as a restricted byway.

P.7. **Points:** 2

Q. Part IV of the National Parks and Access to the Countryside Act 1949

Q.1. **Date:** 1952

Q.2. **Source:** Kent County Council

Worth draft map



Illustration Ivi

Worth draft statement

| | | FOOTPATH | | | |
|---|---------|-------------|--|-----|--------|
| 6 | 6 dable | XLVIII N.S. | FOOTPATH. New Down Farm to Royal St. George's Golf Club. Commences at junction F.P.4/F.P.5 and proceeds S.E. for approx. 200 yds. to meet F.P.29. | | |
| 7 | | XLVIII N.S. | FOOTPATH Prince's Drive to Worth. Commences at Prince's Drive, approx.400 yds. N.W. from Coastguard Station and proceeds W.S.W. for approx. 800 yds. making a junction with F.P.30 and terminating at Guilford Road. | .46 | 1 F.G. |

Illustration Ivii

Q.3. **Description:** original scale: 1:10,560; orientation: unchanged. The statement has been stretched vertically to render the entries more legible.

Q.4. Part IV of the National Parks and Access to the Countryside Act 1949 required surveying authorities to prepare a draft, provisional and then (final) definitive map and statement of public rights of way in their area. Parish councils were required to draw up an initial parish map. The application way was recorded as a carriage (or cart) road — foot-path (CRF) from the near end of the spur to the south of the application way named as the continuation of Goretop Lane, to the Old Coach Road. A CRF is a representation of a ‘road used as public path’ (RUPP), which was defined in s.27(6) of the 1949 Act as:

...a highway, other than a public path,⁴⁵ used by the public mainly for the purposes for which footpaths or bridleways are so used.

Q.5. The way was reclassified from RUPP to bridleway under the surveying authority’s 1970 review, and it is not known what, if any, evidence was relied upon in support of the reclassification. It is inferred that the absence of any objection led to it remaining on the map as a bridleway rather than reverting back to RUPP status when the review was abandoned in 1983.

Q.6. **Conclusion:** The original classification of the application way as RUPP is some evidence that, in the opinion of the parish council and the surveying authority, higher rights were believed to subsist than merited designation as a footpath or bridleway.

Q.7. **Points:** 1

R. Highway inspector's map

R.1. **Date:** 1952

R.2. **Source:** Kent County Council⁴⁶

45 A “public path” means a highway being either a footpath or a bridleway’ (also s.27(6)).

46 Highway inspector's map supplied by the council on request.

Highway inspector's map

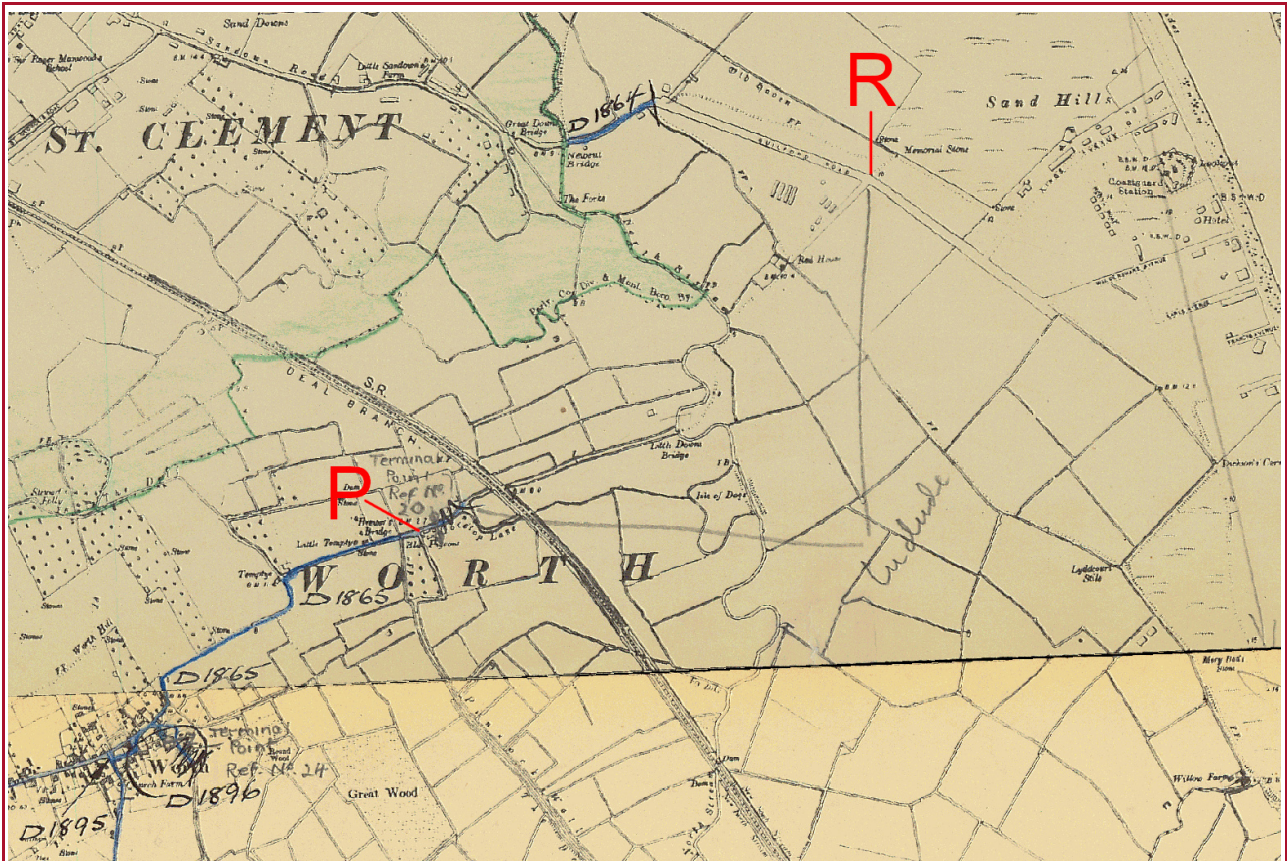


Illustration lviii

Highway inspector's notes

| | | | |
|-------|-----------|------------------------|-----------------|
| D1865 | XLVIII NE | From D1883 at | |
| 7 | XLVIII SE | "Jolly Gardener" B.H. | 2.24 |
| | XLVIII SW | north-eastward through | 2.30 |
| | | Worth to Blue Pigeons. | |

Illustration lix

R.3. **Description:** original scale: 1:10,560; orientation: unchanged.

R.4. The county council, as highway authority, prepared a map of all roads in the county which were under the control of the council. It seems likely that these roads were publicly maintainable, but the council interprets those shown with a dashed blue line as non-maintained — *i.e.* not maintained *de facto* by the highway authority. However, given that many, if not most, of such ways appear to be pre-1835 in origin, it seems that the council distinguished those ways which were actively maintained, from those which were not (notwithstanding that the ways were publicly maintainable).

R.5. The highway inspector's map shows Goretop Lane as a publicly-maintainable public road (the D1865) leading from Worth to Blue Pigeons. Beyond Blue Pigeons, the application way originally was marked with similar status as far as the turning of Goretop Lane, but this has been crossed out.

R.6. The whole of the application way is marked in pencil 'Include', suggesting that the map was revised to include the application way.

R.7. **Conclusion:** The highway inspector's map does not expressly record the application way as publicly-maintainable. This is to be expected, because the evidence is that it was a privately-maintainable public road. But at an unknown stage, the map has been marked to include the way.

R.8. The correction to the map between P and the turning of Goretop Lane suggests that this part of the way was considered to be publicly-maintainable, but the entry was crossed out because it was little used, and the short section as far as the turning of Goretop Lane was considered to be of little use.

R.9. **Points:** 0