

## The History of Moistown: Part 6 by Dr. Sylvia Warham c. February 2010

In Part 5 of the history of Moistown I looked at what happened to Moistown after it passed into the hands of the Couch family of South Petherwin. In Part I shall continue the story by telling you about the challenge to the ownership of Moistown.

Throughout this series of articles I have been at pains to emphasize the importance of property rights. The medieval system of feoffment meant that when a feoff died without a clearly recognised heir, there were frequently several claims by interested parties to the rights of the property, and in 1737 this happened to Moistown. In order to deal with claims and counterclaims there was a special law called the Law of Common Recovery and it is important to understand roughly how this law worked before we look at what happened to Moistown.

The medieval laws of Recovery are quite complicated, but a solid explanation is given of them at 'The Lectric Law Library's Lexicon' [www.lectlaw.com/def2/q116.htm](http://www.lectlaw.com/def2/q116.htm). The main thing is to remember the main roles and titles of those involved :

'The first thing therefore necessary to be done in suffering a common recovery is, that the person who is to be **the demandant**, and to whom the lands are to be adjudged, would sue out a writ or praecipe against the tenant of the freehold; whence such tenant is usually called the **tenant to the praecipe**. In obedience to this writ the tenant appears in court either in person or by his attorney; but, instead of defending the title to the land himself, he calls on some other person, who upon the original purchase is supposed to have warranted the title, and prays that the person may be called in to defend the title which he warranted, or otherwise to give the tenant lands of equal value to those he shall lose by the defect of his warranty. This is called the voucher vocatia, or calling to warranty. The person thus called to warrant, who is usually called **the vouchee**, appears in court, is impleaded, and enters into the warranty by which means he takes upon himself the defence of the land. The defendant desires leave of the court to imparl, or confer with the vouchee in private, which is granted of course. Soon after the demandant and returns into court, but the vouchee disappears or makes default, in consequence of which it is presumed by the court, that he has no title to the lands demanded in the writ, and therefore cannot defend them; whereupon **judgment is given for the demandant**, now called **the recoverer**, to recover the lands in question against the tenant, and for the tenant to recover against the vouchee, lands of equal value in recompense for those so warranted by him, and now lost by his default.'

The Recoveries Act was replaced by the Fines and Recoveries Act in 1833.

From the description above the judgement for the property rights should go to the Demandant. Let us now look at what happened to Moistown.

On the 7th January 1716 : Richard Couch of South Petherwin, Cornwall and his son John Couch sold 5/7ths of Moyestown to Rev John Webber of Broadwoodkelly. (Devon Record Office:1931B/T46) Couch received £200.00 from Webber which was a considerable sum of money considering it was only 5/7ths of the property rights. (Devon Record Office:1931B/T47) John Webber was a Clerk and vicar of Broadwoodkelly.

On the 20th October 1737:John Webber leased Moistown to Theodore Darley of Okehampton. (Devon Record Office: 1931B/T48) and it was in 1737 that the Common Recovery was recorded. John Luxmoore was the Demandant, Theodore Darley was the tenant to the praecipe and John Webber was the Vouchee (Devon Record Office:1931B/T50)

According to the explanation above the judgement should have gone to the demandant, John Luxmore, but the records show that it went to the vouchee John Webber. It may have been that this case was brought to establish John Webber's rights to the property, because he was in the process of selling it.

On the 16th September 1737 John Webber of Eggesford and his son, Simon Webber of Broadwoodkelly, sold 5/7ths of Moyestown to Edward Gostwyke, Mercer of North Tawton for £174 6s 0d (Devon Record office:1931B/T51) Edward was a Mercer, that is, a dealer in textiles (especially silks), so here we can see a continuation of the textile links.



**The Coat of Arms of Sir William Gostwick**

Edward Gostwyke, married Marjory Couch of South Petherwin in 1725, so by a circuitous route Moistown did come back into the hands of the Couch family. The Gostwyke's were a well known local family of the Gentry, such that the Gostwyke Arms in North Tawton was named after them. Edward Gostwyke was a direct descendant of Sir John Gostwick of Houghton Regis, Bedfordshire, about whom there is an ancient legend. It is said that John Gostwick, Master of King Henry the VIII's hounds was found dead on his Devon estate. The story is not clear about whether he had killed himself or he had been murdered, but it is said that the hounds now haunt the family seat at Houghton Regis in Bedfordshire. I am pleased to tell you that they do not haunt his Devon estate!

Edward and Marjory Gostwyke had three children Loveday, Edward and John. John died in 1747. Loveday married Sir William Gostwyke in 1765 and Edward married Elizabeth Cole. Edward and Elizabeth had five daughters and this is important, because in this case the property was passed along the female line.

In 1821 5/7ths of Moyestown was inherited by Elizabeth Gostwick, daughter of Edward Gostwick, alias Elizabeth Goodridge widow of Sturminster, Dorset. She was the widow of Thomas Prideaux by her first marriage and then had a second marriage to John Goodridge of North Tawton. In 1822 Elizabeth (Gostwyke) Prideaux had two children by her first marriage to Thomas Prideaux, Elizabeth Prideaux and Rev Gostwyck Prideaux, of Stevington, Kent. Elizabeth Gostwyke/Prideaux/ Goodridge also had a third child, Loveday Goodridge, from her second marriage. Certainly a Loveday Goodridge is mentioned on the later deeds. On the death of Elizabeth Goodridge the property was to be divided between Elizabeth Prideaux and Gostwycke Prideaux. Elizabeth Prideaux, daughter of Elizabeth Goodridge by her first marriage to Thomas Prideaux, married Thomas Viney Saunders, Surgeon of Bruton Somerset in 1821. Thomas Viney Saunders died 1864.

In 1834 Elizabeth Prideaux inherited her share of the property as part of her marriage settlement of Thomas Viney Saunders (Devon Record Office:1931B/T55) and on 12th August 1875 Rev. Gostwyck Prideaux sold his 1/2 of 5/7ths share to Mr. Paris Sweeting Saunders, who sold to Benjamin Cleave, Lord of the Manor of Broadwoodkelly. The sale document has interesting references to Moistown having 'woodland, orchards and cellars' in the house. (Devon Record Office:1931B/T54)

In the meantime, the remaining 2/7ths of the property rights turned up in the hands of John Andrews and his wife Sarah who lived in Broadwoodkelly and I shall tell you more about them in Part 7.