



In the Matter of Bedwellty Common, Tredegar  
and Rhymney

DECISION

This dispute relates to the registration at Entry No.28 in the Rights section of Register Unit No.CL.10 in the Register of Common Land maintained by the Gwent County Council and is occasioned by Objection No.3 made by Bedwellty & Rhymney Commoners Association and noted in the Register on 8 June 1970.

I held a hearing for the purpose of inquiring into the dispute at Cwmbran on 18 March 1987.

At the hearing Mr T Murnane, solicitor of Hugh James Jones and Jenkins of Bargoed represented Mr David Philips the registrant at entry no. 28, Mr Mark Powell, solicitor of D J Treasure and Co, Blackwood represented the objectors, Mr B. Hill FRICS represented Blaenau Gwent B.C and Mr Norman represented the Registration Authority.

Rights entry 28 claims a right to graze "400 sheep, 40 horses, 40 cattle" as attached to "Heathcock, Tredgar Mon 80 acres." The objection was on the grounds that the area of the dominant tenement was not 80 acres but approximately 59 acres and that the number of animals claimed was more than that acreage would reasonably support. Since, as a result of a combination of ambiguous handwriting and duplicate registration, the numbers claimed appeared to be 1100 sheep, 80 horses, 80 cattle, it is not surprising that the Association objected. It was the only registration to which they did object.

At the hearing Mr Murnane accepted that the area in respect of which Mr Philips was entitled to claim rights was in fact 57.021 acres consisting of 56.021 acres below the common and above the Tredgar to Hollybush road to which he has title deeds and one acre called Heathcock to which he has no deeds but of which it was admitted he was the owner. This lies actually within the common land. The remainder of the 80 acres in respect of which Mr Philips originally claimed was, it was agreed, accounted for by part of the common to the north of the Heathcock land which Mr Philips had enclosed by a barbed wire fence but which is registered as common land. That registration, never having been objected to by Mr Philips or anyone else, has become final. Indeed in 1970 Mr Philips was ordered by the County Court under section 194 of the Law of Property Act 1925 to remove the wire and did so.

The question which I have to decide is how many animals Mr Philips' land could support during the winter from its own produce. Mr Powell for the objectors claimed that it would not support more than 3 sheep to the acre. Mr Murnane claimed it would support the number provisionally registered. He made it clear that the registration, though perhaps ambiguous, was intended to be cumulative, that is to say, 400 sheep and 40 cattle and 40 horses. Both sides agreed that 5 sheep were equivalent to one horse or one head of cattle. On that basis Mr Philips' registration is the equivalent of 800 sheep or 14 sheep per acre of the dominant tenement.



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Mr Philips in evidence said that he was farming the same land now as in 1968 when he turned out 250 sheep and 15-20 ponies. He mowed about 12-14 acres and fed the sheep in winter on hay made on his holding. He never took grasskeep in the winter but bought some straw and nuts for the ewes at lambing time, in bad winters he bought hay and in some years grew roots for his sheep.

In cross-examination he admitted that he had another 7 acres to which no rights attached but which he used for wintering stock. He said that he had sometimes kept 300 sheep through the winter without buying any feed except the nuts for the ewes.

Mr Islwyn Perkins, the secretary of the Commoners Association and the registrant at entry 29 at which 800 sheep, 30 ponies and 20 cattle are finally registered in respect of 301.278 acres said that he had been farming since 1949 and secretary of the Association since 1952. His farm was, taken through and through, approximately the same quality land as Mr Philips', that is to say, not very good.

He had turned out as many as 1,000-1,200 sheep from his farm and supported them in the winter on the farm using his own hay, only buying in hay in bad winters. He did not consider that land like his and Mr Philips' could winter at best more than 3.5-4 sheep per acre.

At present he had 800 sheep, 20 cattle including calves and 8 ponies. He did, however, tack 100 ewes in winter. He mowed 70-80 acres making about 25 cwt to the acre.

Cross-examined he said that some of his land was far better than that of Mr Philips'. He agreed that he had another interest. He was not pressed to say what it was and denied that it made him neglect his farming.

He agreed that some of the other registrations on the common were for more than 5 sheep to the acre but he had not objected.

For example RE3 was for 20 sheep, 3 cattle and 3 breeding mares on 2.562 acres which amounted to 19.5 sheep per acre. However, most of the registrations were for less than 5 sheep or equivalent per acre.

I accept Mr Perkins' figures for his own farm. This means that at present he is wintering 700 sheep plus 20 cattle plus 8 ponies - 840 units on 300 acres - just under 3 sheep per acre. Even allowing for the possibility that having other interests he may not farm as intensively as he might, this more than supports his figure of not more than 3.5-4 sheep per acre.

Taking now Mr Philips' farm the land on which he was wintering his sheep includes not only the 57 acres to which the rights attach but also the 7 additional acres of similar land to which no rights attach, bought in 1969 and, for what it is worth, the land illegally enclosed from the common amounting to another 23 acres. Even



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supposing this land had only one third of the wintering capacity of the other land this makes the equivalent of 57 plus 7 plus 7 or 71 acres. If in a good year he could winter 300 sheep this gives an average of about 4 sheep per acre in a good year buying in nuts.

Even ignoring the illegally-enclosed land on his own evidence in a good year it would only be  $4\frac{1}{2}$  to an acre.

Taking the evidence as a whole I am not convinced that this land in an average year can from its own produce winter more than 4 sheep to the acre.

Since that is within the figure put forward by Mr Perkins, whose evidence I accept, I shall fix the stocking rate at 4 sheep per acre making a total of  $4 \times 57.021 = 228$  sheep.

Since the parties agree that the registration should be on the basis of one head of cattle or one horse for each 5 sheep in the alternative I confirm the registration with the modification that column 4 shall read:

"To graze 228 sheep or 46 cattle or 46 horses or sheep and/or cattle and/or horses together to a limit of 228 units, each head of cattle and each horse counting as 5 units and each sheep as one unit, and to cut and haul fern over the whole of the land described in this register unit:"

and that in column 5 "57.021 acres" shall be substituted for "80 acres".

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.

Dated this

31<sup>st</sup>

day of

March

1987

Peter Landon-Davis

Chief Commons Commissioner