



In the Matter of a tract of land called
The Bloreng

DECISION

This dispute relates to the registration at Entry Nos. in the Land, Rights and Ownership Sections of Register Unit No. CL 18 in the Register of Common Land maintained by the Gwent County Council and is occasioned by Objection Nos. 17, 18, 25, 73, 78, 90, 118, 129, 130, 92, 93, 101, 103, 104, 131-137 and noted in the Register.

I held hearings for the purpose of inquiring into the dispute at Monmouth from 28 June - 1 July 1983 and at Abergavenny on 5 and 6 October 1983. The hearings were attended by Mr D R B Beavan, Solicitor who appeared for the National Coal Board, Mr H J Payne, Solicitor for the Welsh Water Authority, Mr H K Aitken Solicitor for Pontypool Park Estate and Mr Hanbury Tenison, Mr N C Williams of Llewelyn and Burge, Solicitors of Newport for the Trustees of Coldbrook and Llanover Estates, Mr B Edwards for the Farmers Union of Wales and numerous Applicants in the Rights Section, Mr E Harris of Edward Harris and Son, Solicitors of Swansea for Mr A Elliott, Mr M J Stock of Gabb and Co, Solicitors of Abergavenny for Davenco Group Limited, Mr R W Lewis, Mrs D Roberts and many applicants in the Right Section appeared in person.

The following oral evidence was given. For the purpose of this decision I have omitted details of the evidence where an agreed result was reached during the course of the hearing. The expressions "the Common", "the Mountain" and "the Bloreng" all refer to the Register.

Mr T J Roberts the applicant at Entry Nos. 1 and 2 said that he lived as 23 Hartford Road, Garredifaith. He had acquired Pistyle Gwyn Farm from his grandmother by a Deed of Gift dated 27 November 1982. He produced a copy of particulars of sale which referred to Pistyl 3 Gwyn. There was a reference there and in the subsequent conveyance, to rights of common going with the Farm. There is no other Common apart from the Bloreng.

His grandmother went to Pistyle Gwyn 38 years ago. He had helped his grandmother and his parents by working on the farm. There were 400 sheep on the two farms Pistyle Gwyn and Penyreol, which adjoin each other. Pistyle Gwyn was purchased in 1933 and Penyreol in 1953.

In 1953 there were 300 sheep on Pistyle Gwyn. His grandmother bought sheep to bring the numbers up to 400. There was no system of stinting. He would go to the Common at least once a day. The ewes were brought back to the home farms for ramming, lambing, shearing, and dipping. No one objected to the sheep being grazed on the Common.

In answer to cross-examination Mr Roberts said that he was 38 years of age. He could not remember a Ranger on the Common. When they were brought down from the Common, the sheep were kept on the in-by land of the two farms. During the winter the flocks would be brought in in periods of severe weather. Sometimes fodder was imported. None of his flocks grazed on land to the registration of which the water authority had objected.



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Mr W E Lewis the applicant at Entry No. 18 said that he had sold Penyreol Farm to Mr Roberts' grandmother. He had lived at Penyreol Farm which had been bought by his father for his brother and himself. His brother was aged 18 at the time. There were about 50 sheep on the farm which were put on the Mountain. Cattle were not allowed to graze on the Mountain. Mr Steel was the agent for the Marquis of Abergavenny. Control of grazing was much stricter then than after the Mountain was sold to the National Coal Board. Meetings of Commoners were held from time to time. He was Chairman for a good many years. The subject of straying sheep was discussed at such meetings. There had never been complaints about the number of sheep grazed on the Common, only about the presence of horses and cattle. The limit of 3 sheep to 2 acres allowed by the National Coal Board would affect a lot of commoners if it were upheld. The agent told farmers to fence against the common. He had not heard of any complaint being made about the number of sheep put on the common from individual farms. On the sale of Penyreol he took his flock with him. He knew of no record being kept of the number of sheep put on the mountain from specific farms.

In support of his own application at Entry No. 18 Mr Lewis said that today he grazed 350 ewes in the mountain. He bought Blaengwenffrwd Farm in 1942. By then he had left Penyreol Farm. He might have had 400 sheep in 1970.

In cross-examination he said that he did not agree that in earlier times the size of flocks grazing the mountain was smaller. Horses had been allowed on the Mountain but not cattle. In winter he spent money on the purchase of nuts. 3 sheep to 2 acres as a stocking rate was never laid down as a limit for the Mountain. His sheep used to go on the land where the reservoirs had been built. There used to be good spiked railings round the reservoirs. Sheep were not allowed on if the land was fenced. He had turned out upwards of 20 cattle on the Mountain. The practice was different on the lower parts of the Mountain from what it was on the Grouse Moors.

Mr Arthur Davies the applicant at Entry Nos 25 and 26 said that several generations of his family had lived at Penyreol and when he left, a cousin had taken over. He remembered the working of the farm until it was sold to Mr Lewis's father. Cattle were allowed on the Mountain but there was a different rule on the Grouse Moor. A good water supply kept the cattle in the grazing area. No horses grazed the Mountain. No meetings of commoners were called by the agent of the Marquis of Abergavenny. There was no specific limit on the number of animals grazing the common.

The owners of Penyreol had always put sheep and cattle on the common.

He purchased Lsgarn Farm in 1949 and Pen-y-ddoygga in 1965. He had not kept a flock of sheep for the past 14 years. He kept cattle. When he kept sheep he had 300 ewes 3 sheep for each in-bye acre would equal 480 sheep. In cross-examination he said that he purchased Coed-Cae Farm from the National Coal Board without grazing rights. In an exceptionally severe winter he would purchase additional fodder. His stock had never grazed the areas covered by the Water Authority's Objection or the Little Mountain.



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Mr Ivor Gordon Elliott said that the original applicant at Entry No. 3 was his father, whose farm he now owned. Red House Farm had six acres and he rented an additional 8 acres. His father had been tenant of Red House Farm since 1933. The witness was now aged 55 years and had lived at Red House Farm for the past 50 years. His parents had sheep, horses and cattle but never horses and cattle at the same time. In 1946 the flock of sheep was reduced to 125 and the cattle and horses were abandoned. This was due to open-cast mining. Except in a severe winter he had enough feed on the land to carry him through the winter. There had never been any complaints about the number of sheep put on the mountain from the farm or any mention of a maximum stocking rate.

In cross-examination said his sheep were brought down from the Mountain for short periods for different purposes but spend the greater part of the year on the Mountain.

The application at Entry No. 9 was withdrawn on the ground that ownership of the dominant and servient tenement had become vested in the National Coal Board. Mr Williams Robert Heathcote of the Estate Office Llanover Abergavenny said he had been agent for the Abergavenny Estate since 1962. He was a F.R.I.C.S. and held the degree of M.Sc.(Agriculture). He had never heard of the proposition that the number of sheep on the mountain was limited to 3 sheep to 2 acres of dominant land. No such proposition was to be found in the Estate Records.

Mr Stinchcombe, aged 67, said that he had been a tenant since 1942 of Cwm Mawr and, since 1944, of the Malps and had grazed sheep on the mountain. He had never heard of any limit on the number of sheep that could be run on the Mountain. He had not heard of a limit of 3 sheep to 2 acres.

In cross-examination the witness said that no one could remember the exact number of sheep he had on the Mountain.

The application at Entry No. 53 was withdrawn as the applicant was the tenant of the National Coal Board in respect of the dominant tenement.

Mr Ronald Hubert Phillips (Entry No. 64) said that he was the owner of Penrhiw Farm which he had acquired from his mother in 1980. His father had purchased the farm in 1964, and his father had been a tenant of the farm in 1931 and the owner in 1936. The title deeds stated that ownership of the farm carried with it 'the right to run 30 sheep on the commonable land near to or adjoining the said premises. Mr Phillips produced a notebook kept by his father which recorded the weight of wool produced annually by his flock.

The figures showed an annual crop of about 60lbs and the witness said that the average yield was 2.3 lbs per sheep.

In 1965 his father took over the tenancy of another farm. For the period 1965-70 the wool figures were about the same as in previous years.



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There were no buildings at Penrhir. There was never any complaint that his father was over stocking. The subsidy was used to pay for the animals' keep. In winter the sheep fed either on the mountain or in the fields.

In cross-examination the witness said that 5 sheep per acre of enclosed land was an appropriate rate for grazing the mountain.

The applications at Entry Nos. 55 and 56 were withdrawn.

With regard to the applications at Entry Nos. 32 and 33 by the Hon. Mrs G Kitson, Mr C G Roberts said that Mr B W M Clarke and his wife had purchased Castell Prydydd and Lower Pen-Y-Craig Farms from her in 1972. The combined acreage of these two farms was of 285½. Mr Evans had been tenant of Castell Prydydd from 1935 to 1960, when he purchased Pen-Y-Craig, and gave up his tenancy. During his tenancy, Mr Evans had about 1,000 sheep at Castell Prydydd.

Mr Thomas Elliott, 86, said that he was a retired farmer and had grazed sheep on the Blorenge for 47 years. He had worked on farms since 1917. Since the 1930's food stuffs had been bought to feed sheep in the winter. He had turned out 300 sheep on the mountain from Pistyll Gwyn. In winter Indian Corn was fed to the sheep. The purpose of the Hill Farming Subsidy was to help with the purchase of feed for the winter.

In cross-examination he said that a limit of 3 sheep to every 2 acres of in-bye land would be unprofitable.

Mr Trevor John Davies aged 60 was the applicant at Entry No. 12. He had purchased Cwm Farm in 1958 and was the owner of 200-250 ewes. He took over a flock of 20 sheep. He grazed his sheep on the mountain.

Mr Andrew Robert Darby, aged 28, said that he was the present applicant at Entry No. 44 along with his brother William and his sister Mrs Mary Elizabeth Morgan. They were the children of the original applicant W E Darby who had farmed Gartwen Farm from 1952-72. The farm was 72 acres in area and was owned jointly by the three children.

Mr Beavan conceded that this farm had rights of common over the mountain.

Mr William Lloyd Griffiths said that he had farmed in the area for 38 years. Before 1947 a Mr Williams farmed Gartwen Farm on which he kept 400 ewes and cattle. He gave up in 1947 and the Farm was taken over by a Mr Truscott who sold to Mr W E Darby in 1952.

Mr W R Griffiths the applicant at Entry No. 20, said that he had purchased Penlasgarn Farm in 1946. He then had 22 cows and 2 heifers. He started a flock of sheep in 1947 and increased his stock to 250 sheep, 70 cattle and 1 horse.

In cross-examination he said that he had 24 milking cows and the figure 70 included followers. He claimed a subsidy for both cows and sheep.

Mr Albert Embrey, the applicant at Entry No. 42, said that he had owned Tyle Gwilon Farm for 35 years. It was 68 acres in area. He had a flock of 200 ewes which regularly grazed on the mountain.



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The applications at Entry Nos. 52, 57 and 58 were withdrawn as the dominant tenements were now owned by the National Coal Board.

It was accepted that the applications at Entry Nos. 81 and 95 relating to Nant-Y-Gollen Farm were duplicates and should be treated as a single application. The Farm comprised 85 acres and had been tenanted ~~since 1961~~ by Mr Frederick Glyn Warren since 1961, the previous tenant being Mr Glyn Jenkins. The acreage of the farm had been increased from 48 acres in 1965 and while it was conceded that this acreage had common rights, this concession did not extend to the added acres.

Mr F G Warren said that he became a tenant of Nant-Y-Gollen Farm in 1961. The outgoing tenant had told him that there were common rights for 80-100 sheep, 10 cattle and 6 horses. When he started he had 140 ewes and 3 horses on the Common. At present he has no sheep, 40 cattle and 3 horses. He had never been told about a limit to the number of animals he could put on the Common.

Mr Warren said that he was also tenant of Addawint Farm referred to in Entry No. 82, which he ran in conjunction with Nant-Y-Gollen Farm. The claim was now in respect of 15 acres not the 31½ acres in the original claim. He had grazed animals from this farm on the Common every year.

Mrs Olwen Roberts, the applicant at Right Entry No. 85 claiming estovers and turbarry, was also the applicant at Entry No. 2 in the Land Section relating to the Pontypool Park Estate. Both applications were the subject of Objections by the Richard Hanbury Estate represented by the Agent Mr Harry Kerr Aitken.

Mrs Roberts said that when she was a child, her parents used to take her to this area for walks and picnics from which they would return with bunches of bluebells and other wild flowers. Many other families did the same. In her view it was common land because the public resorted to it for walks and picnics.

Mr Aitken said that most of the area was now developed and had previously been fenced.

Mrs Roberts subsequently withdrew both her applications.

No one appeared to support the applications at Entry Nos. 69 and 71. Mr Beavan for the National Coal Board said that the respective acreages of the two farms were 41 and 361. The existence of rights was not challenged and he was prepared to concede the claims to the extent of 65 sheep and progeny for No. 69 and 552 sheep and progeny for No. 71 and the right to take bracken in both cases.

Mr Allan Bevington Stinchcombe aged 36, said that he had been tenant of Castell Ferwynt Farm for 15 years. He also farmed 18 acres of Hollybush Farm. The present strength of his flock was 400 ewes and 120 followers which he sent to the Mountain. In 1968 he had 250 ewes.

Mr Beavan said the existence of common rights was conceded.

Mr Sidney Bevington Stinchcombe, aged 67, said that a Mr Edmunds a previous tenant of the farm had kept 600-700 sheep. He was a good shepherd. More sheep on the Mountain would produce a better feed.



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Mr Victor Charles Watkins F.R.I.C.S. said that he was aged 63 and was Deputy Area Estates Manager in South Wales for the National Coal Board. He had worked in Blaenavon from 1946-59. Captain John was his first principal as estate agent to Blaenavon Colliery. Captain John was also a Ranger.

During that period, if an animal was found trespassing, the owner would be informed by letter that the animal might be sold, if not removed. Horses were rounded up. Horses were not allowed on the Common. Stray horses were sold and the owners fined. To be able to cut bracken on the Common it was necessary to purchase a licence. Mr Evans, the Secretary of Blaenavon Farmers Union, would lodge a complaint about stray animals and Captain John would take action. He was told by Captain John that the stocking limit was 3 sheep to 2 acres of in-bye land.

In 1952 the National Coal Board acquired the Mountain from the Marquess of Abergavenny. The witness prepared the list of objections to claims in the Rights Section. These were based on information contained in a list which had been in the Office since 1945.

In cross-examination the witness said that he had no recent manorial records. The last manorial court records covered the period 1850-1900. In 1950-60 he was invited to a meeting called by the Blorenge Commoners Association. Haywardens represented local farmers. There was a Ranger and a Gamekeeper. Bracken was removed. Cattle were never banned from grazing on the Mountain, but they were not present in any number when he first took over responsibility for the Common.

Mr C J Wernett the applicant at Entry No. 30 said that in 1946 his father purchased Hollybush farm and went into possession. He kept a flock of 100 sheep which grazed on the Mountain.

Mr R W Watkins the applicant at Entry No. 17 said that he had become the owner of Cwmavon Farm on his father's death in 1967. His father succeeded his own father on the latter's death in 1943. The grandfather became tenant of the farm in 1933. The witness was born in 1934. His grandfather kept 300 sheep and 12 cattle. His father kept 200-300 sheep and 12 cattle. This situation did not vary in the period 1943-1967. The animals grazed on the Mountain.

Mr J R Lewis said that his father W J Lewis owned the farms which were the subject of Entry Nos. 40, 41 and 46 and he became the owner of all three on his father's death in 1976. He was also the owner of the farms mentioned in Entry Nos. 67 and 68. The acreages of the first three farms were respectively 15, 32 and 15½; the acreages of the other two were 4½ and 45. His father took over the first three farms as owner in 1910 and with them about 400 sheep and 6 cows. The three farms were farmed as one unit.

The witness said that before he purchased the Old Prince of Wales Farm (No. 67) in 1963 the previous owner had a flock of 30 sheep and he replaced them with 30 sheep purchased from his brother. He sold the farm in 1980; in the same year he sold the three farms he had inherited from his father.



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When he purchased Wenallt Farm (No. 68) he bought 180 sheep to stock it; the previous owner had a flock of 20-30 sheep.

In cross-examination Mr Lewis said one of the five farms (No. 40) was in Gwent and the remainder were in Brecon. Many of his sheep lived on the Common throughout the year.

The applicant at Entry No. 31 Mr D R Morgan said that he had purchased the farm in 1963 from Mr Joe Pritchard and sold it in 1983 to Mr Trask. Mr Pritchard had never farmed the property (80 acres) to its full capacity and had sold most of his livestock about two years before he sold the farm. The witness started in 1963 with 50 sheep which he increased to 150 over the next five years and the flock remained at that figure until he sold the farm in 1983. The sheep grazed regularly over the Common. He had formulated his claim with advice from the Farmers Union.

Mr William Zephaniah Parry, aged 82, the owner of The Firs, Allws said that he had farmed this unit for about 30 years. He had taken over from his cousin in the early 1930's and that his cousin had followed his father. The farm was $9\frac{3}{4}$ acres and his flock was 35 ewes. His ewes grazed regularly on the Mountain.

The following evidence was given in support of the objections to applications No. 1 in the Land Section. The application at Entry No. 2 in that section was withdrawn during the hearing, the number of the related objection being 118.

In support of objection no. 78 originally made by Gwent Water Board and now taken over by the Welsh Water Authority, Mr Geoffrey Moore said that he had held the post of Supply Superintendent since 1961 under the previous Authorities and now under the Welsh Water Authority. The small area of land at the North end of the plan attached to the objection had been conveyed to the Blaenau Urban District Council by the then Marquess of Abergavenny in 1897. A tank had been built on this land with a concrete cover and the area had been fenced off until 8 years ago. The other two pieces of land had been conveyed to the Welsh Water Authority's predecessors in title in 1884. These two pieces were leased to the Forestry Commission in 1964 and the Commission had fenced them off and planted them. These two pieces of land are also included in Objection No. 25 made by the Forestry Commission.

The Water Authority also sought to include another area of land which was not covered by any objection. In my view it is not permissible to lodge applications for entry on the Register after the final date has expired and the same rule applies to objections. However I allowed the Solicitor appearing for the Water Authority to ask witnesses in support of the applications whether they claimed to have grazed the area not covered by the Objections already lodged. None of the persons who gave evidence made such a claim. As I have indicated the objection was in my view out of time and must be rejected. If however I am wrong in my view of the law and the objection could have been made then on the evidence it would have succeeded and the further area of land would have been excluded from registration.



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In my view objection No. 78 is well founded but only in respect of the land mentioned in the objection.

Mr Watkins who had previously given evidence for the National Coal Board was recalled to give evidence in support of objection no. 17, originally made by British Rail, and objection no. 90 made by the National Coal Board.

Objection no. 17 related to a Railway Station or Halt which British Rail had conveyed to the National Coal Board. The area had been fenced off since 1960 and the whole area was surfaced with either concrete or ballast.

The area which was the subject of objection no. 90 had been used as a brickworks until about 1960 since when the materials lying on the service had been removed.

Mr Watkins' evidence with regard to objection no. 90 that there had been no grazing was challenged by Mrs Elliott the wife of the applicant at Rights Entry No. 3, who produced photographs showing a considerable area of grass on the site. She said that her husband's sheep grazed the site and it was not suggested on behalf of the National Coal Board that either of these events was of recent origin. I allow objection no. 17 but objection no. 90 fails.

Objection no. 73 originally made by Mr W J Lewis (now deceased) and objections no. 129 and 130 both made by Mr R W Lewis were supported by Mr R W Lewis who claimed that in each case the land which was the subject of the objection had been fenced off for many years before the Commons Registration Act came into force. The area of land concerned is in each case small and his evidence was not challenged.

All these three objections are allowed.

Before dealing individually with those applications in the Rights Section to which objections have been made and not withdrawn, I will set out the numbers of the applications which fail either because they were withdrawn, cancelled or for which no one appeared, confirmation of which will be refused.

The applications at the following Entry Nos. were withdrawn: 9, 39, 51, 52, 53, 55-58, 81 and 85.

The applications at the following Entry Nos were cancelled 72, 73, 87 and 98.

No one appeared in support of the applications at the following Entry Nos 5, 7, 16, 27, 29, 36, 37, 43, 45, 47, 48, 60-62, 70, 74, 77, 79, 80, 86, 90-93.

In the cases of the applications at the following Entry Nos. the objection was withdrawn during the hearing either unconditionally or subject to one or more modifications of the claim: 2, 4, 6, 8, 12, 15, 17, 19, 21-24, 30, 34, 35, 38, 50, 54, 59, 63, 65, 66, 75, 76, 78, 83, 84, 94, 96-98.

This leaves in dispute the applications at the following Entry Nos. 1, 3, 10, 11, 18, 20, 25, 26, 31-33, 40-42, 44, 46, 49, 64, 67-69, 71, 81, 82, 89 and 95.



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Before I deal specifically with these applications I must first deal with the claim by the National Coal Board that there was an overall limit of 3 sheep to every 2 acres of in-bye land which applied throughout the Mountain. The only person who had heard of this alleged limit was Mr Watkins a Chartered Surveyor who is currently Deputy Area Estates Manager in South Wales for the National Coal Board. Mr Watkins had worked in Blaenavon since 1946. His first principal was Captain John the Estate Agent to Blaenavon Colliery, who was also a Ranger. Mr Watkins said that Captain John told him that on the Mountain the stocking limit was three sheep to two acres and that horses were not allowed on the Common. Although Mr Watkins said that the objections to Rights claim were based on records which had been in the Estate Office since 1945 none of these records was produced to me nor was it clear whether the office referred to was that of the National Coal Board or of the Abergavenny Estate from which the Common had been purchased in 1952.

None of the witnesses who gave evidence in support of the Rights application agreed that a limit of 3 sheep to 2 acres existed and no one, apart from Captain Watkins, admitted ever having heard such a limit mentioned. Several witnesses said that such a limit would make sheep farming uneconomic and that the limit was below what the Mountain could carry in size of flocks.

I accept Mr Watkins as a truthful witness but in my view making the statement about the stock limit alleged to have been made by Captain John did not accord with the facts and my finding is that the existence of such a limit at any time is not established by the evidence.

At the time the application at Rights Entry No. 1 was made Pistyle Gwyn Farm and Penyreol Farm had been in joint ownership and farmed as a single unit since 1953, Pistyle Gwyn Farm had been purchased in 1953. Before 1953 there was 50 sheep on Penyreol and by that time 300 on Pistyle Gwyn. According to Mr Roberts his grandmother bought sheep to bring the aggregate number on the two farms to 400. Mr Roberts was born in 1945. The acreage of Pistyle Gwyn Farm is 24 acres and of Penyreol 16 acres. The claim for each farm is to graze 200 sheep and 7 cattle. No evidence was given that any cattle were kept at either farm. I am not satisfied that there has been a flock of 200 sheep put on the Common from Pistyle Gwyn for the requisite statutory period. There is a wide difference between the figure of 300 put forward by Mr Roberts and the figure of 50 given by Mr Lewis for Penyreol Farm, even after making allowance for the difference in acreage.

I would allow the claim at the reduced figure of 130 sheep and no cattle.

The claim at Rights Entry No. 3 was supported by the Claimant Mr Gordon Elliott who had lived on the farm for 50 years and was now aged 55. His evidence was not effectively challenged in cross-examination and I allow his claim for 125 sheep.

Mr R W Z Parry's evidence in support of his claim at Right Entry No. 10 was not challenged and I allow his claim for 35 ewes and followers. No evidence was given in support of the claim to graze one horse.



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Mr G P Roberts who gave evidence in support of his own claim at Rights Entry No. 6 had been a tenant of Green Meadow Farm since 1947. He gave evidence in relation to the claims at Rights Entry Nos. 11 and 89 originally put in by Mr J D G Pudney. No. 11 relates to 66.75 acres of land at Garn Gofen and No. 89 to 52 acres of land at Pentwyn. Mr Roberts said that the figure of 66.75 acres included the 52 acres.

Mr Beavan accepted the claim at 24 sheep for the 14 acres of No. 11 not included in No. 89 and 78 for the latter on the basis of 3 sheep for each 2 acres, there being no evidence to support a higher figure.

Mr Lewis the applicant at Rights Entry No. 18 said that he bought Blaengwenffrwd Farm, 68 acres, in 1942. He grazed 350 ewes today and might have had 400 sheep in 1970. He did not agree that in earlier times the size of flocks grazing the Mountain was smaller. His claim was to graze 10 cows and 400 sheep. There was no evidence given in support of the claim to have grazed cattle. The most positive evidence of the number of sheep put on the mountain was 350 and I allow his claim for that figure and reject his claim in respect of cattle.

Mr W R Griffiths of Penlasgarn Farm (107 acres) the applicant at Rights Entry No. 20 who claimed grazing rights for 250 sheep, 70 cattle, 6 horses, 6 goats and 20 geese, said that he had purchased the farm in 1946 and the acreage was 127½ and not as stated in the application. When he purchased the farm there were 22 cows and 2 heifers. He started a flock of sheep in 1947 and he now had 250 sheep, 70 cattle and 1 horse. In cross-examination he admitted that the 70 cows included followers. He alleged that he claimed a subsidy for sheep and cows. I regard the claim as excessive and I would allow only 100 sheep and 40 cattle and followers.

Mr Arthur Davies the applicant at Rights Entry Nos. 25 and 26 said that he purchased Lasgan Farm and Coedcae Ambrose (117 acres) in 1949 and Penn-Y-Ddoyga Farm in 1949. There is no evidence as to the period before 1969 when cattle were kept or as to the number nor any evidence as to the number of animals kept on Penn-Y-Ddoyga Farm before 1965. I therefore reject the whole of the claim in Entry No. 25 and allow the claim at Entry No. 26 for 300 ewes but not for any other animals.

Rights Entry No. 28 relates to a claim to graze 12 sheep and 3 cattle from Old Mill Farm, Cwmavon (6½ acres) Mr Elliott Thomas aged 86 who had known the property since 1936 said that sheep were kept on the farm but no cattle. Mr Beavan conceded the claim in respect of 12 sheep and in the absence of evidence the claim to graze cattle must fail.

Mr D R Morgan the applicant at Rights Entry No. 31 said that he had purchased Pantysgawn Farm (80 acres) in 1963 from a Mr Joe Pritchards. The claim was to graze 375 sheep based on 4 sheep per acre and 10 sheep for every 100 yds of hill fence. Mr Morgans evidence as to what happened since 1963 did not support the claim. Mr Morgan had sold the farm in 1983 to Mr Trask who was present in Court and to whom Mr Beavan made an offer to concede 150 sheep, which is slightly better than 3 sheep per 2 acres. Mr Trask rejected the offer, although I urged him to have second thoughts. The claim fails for lack of evidence and, unless Mr Beavan is willing to renew his offer, the claim must be rejected.



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The claims at Entry Nos. 32 and 33 are compatible with the acreage of the dominant tenements and I would allow the claims but only in respect of sheep.

Mr J R Lewis said that his father in 1910 purchased the farms which are the dominant tenements referred to at Rights Entry Nos. 40, 41 and 46 taking over 400 sheep and 6 cows and farmed them as a single unit until he died in 1976. The respective acreages are 15, 32 and 15 $\frac{1}{4}$. This evidence was not challenged and I allow the claims in the approximate ratio of 1-2-1, No. 40, 100 sheep, 1 cow, No. 41, 200 sheep and 4 cows, No. 46, 100 sheep and 1 cow.

The claim at Rights Entry No. 44 is not supported by any evidence that horses were ever kept on the farm. I allow the claim to the extent of 250 sheep and 20 cattles in each case with followers. I have qualified the claim for cattle by taking into account the difference between the number of sheep claimed and the number proved.

Mr Embrey the applicant at Rights Entry No. 42 had owned and farmed Tyle Farm for 35 years during which he kept 200 ewes which grazed regularly on the Mountain. He gave no evidence in support of his claim to graze cattle and horses and that part of his claim must fail. The claim in respect of 200 sheep succeeds.

Mr Harry Lane's evidence in support of the application at Rights Entry No. 49 was not challenged and I allow the claim at 200 sheep, 10 cattle and 5 ponies.

Mr Howard Jenkins' evidence in support of the application at Rights Entry No. 59 was accepted and it was agreed that I should confirm the registration for 300 sheep 10 cattle and 10 horses.

Mr Phillips' evidence relating to the application at Entry No. 64 establishes a claim for grazing 30 sheep which is far short of the original claim for 150 sheep, 2 cattle, 2 ponies and rights to cut furze and bracken. The claim is allowed for 30 sheep only and the remainder of the claim is rejected.

Mr J R Lewis gave evidence in support of his applications at Rights Entry Nos. 67 and 68, the acreages of which are respectively 4 $\frac{3}{4}$ and 45. His evidence does not establish exercise of a right of grazing in respect of either property for a sufficient length of time to satisfy the Prescription Act and both these claims fail.

The applications at Rights Entry Nos. 69 and 71 now both owned by the Davenco Group were not challenged and I confirm them.

The evidence in support of the applications at Rights Entry Nos. 82 and 95 fell far short of what was required in length of user to support claims under the Prescription Act and though the existence of the Rights was accepted the claim can only be admitted at 3 sheep for every two acres which is 48 for No. 82 and 129 for No. 95. The application at No. 81 duplicated that at No. 95 and was therefore cancelled.

For these reasons I confirm the Registration at Entry No. 1 in the Land Section subject to the exclusion of the areas mentioned in Objections Nos. 17, 25, 73, 78, 129 and 130 and I refuse to confirm the registration at Entry No. 2 in this section.



I confirm without modification the Registrations in the Rights Section at Entry Nos. 3,6,13,34,69,71,76,96,97 and 98 and the Registrations at the following Entry Nos. in the same section subject to the modifications set out below.

- 1 120 sheep, no cattle
- 2 75 sheep, no cattle
- 4 60 sheep, no cattle or horses
- 8 100 ewes
- 10 35 ewes, no horses
- 11 24 animals
- 12 225 sheep
- 14 278 sheep
- 15 186 sheep
- 17 250 sheep, 12 cattle
- 18 350 sheep, no cattle
- 19 600 sheep on Cwm Mawr and Upper Cwm Mawr Farms (228 acres)
- 20 100 sheep, 15 cattle, no other animals
- 21 30 sheep, 15 cattle
- 22 400 sheep, 15 cattle, no ponies or geese
- 23 10 cattle, no other animals
- 24 80 sheep, 6 cattle, no goats or geese
- 26 300 ewes, no cattle or ponies
- 28 12 sheep, no cattle
- 30 100 sheep
- 32 200 sheep, no other rights of common
- 33 400 sheep, no other rights of common
- 35 45 sheep, no cattle
- 38 70 sheep, no horses or cattle
- 40 100 sheep, 1 cattle
- 41 200 sheep, 4 cattle, no horses
- 42 200 sheep, no ponies or cattle
- 44 250 sheep and 20 cows both with followers, no other rights
- 46 100 sheep, 1 cattle but no other rights
- 49 200 sheep, 10 cattle, 5 ponies
- 50 25 sheep, no cattle or ponies
- 59 300 sheep, 10 cattle, 10 horses, no vesture
- 63 70 sheep, no cattle or ponies
- 64 150 sheep, no cattle or ponies or bracken
- 65 225 sheep, no ponies or estovers
- 66 350 sheep, no cattle or horses
- 75 57 ewes
- 78 50 sheep, or 10 cattle or 10 horses
- 82 48 sheep, or 12 cattle or 12 ponies
- 83 300 sheep, 20 cattle, no horses
- 84 113 sheep from Brooks Farm (119 acres including 6 acres from Upper Cwm Farm) 60 sheep from Upper Cwm Farm (40 acres)
- 89 78 animals
- 94 10 sheep or 2 cattle or 2 horses
- 95 129 sheep or 32 cattle or 32 ponies

I refuse to confirm the Registrations at the following Entry Nos. in the Rights Sections 5,7,9,16,25,27,29,31,36,37,39,43,45,47,48,51,52,53,55,56,57,58,60,61, 62,67,68,70,74,77,79,80,81,85,86,87,88,90,91,92,93.



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I confirm the Registrations at Entry Nos. 2 and 4 in the Ownership Section and refuse to confirm the Registrations at Entry Nos. 3 and 5.

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

16th

day of

July

1984

A handwritten signature in cursive script, appearing to read "Perry H. H. H. H.", written in dark ink.

Commons Commissioner