



In the Matter of land identified as Llanfihangel,  
Brynpaubuan Common, Llanfihangel, Brynpaubuan

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DECISION

This dispute relates to the registration at Entry Nos. 19, 22 and 23 in the Rights Section of Register Unit No. CL 54 in the Register of Common Land maintained by the Powys County Council and is occasioned by Objection Nos. 503, 518 and 519 made by the Llanfihangel Commoners Association and the Agent for the Glanusk Estate and noted in the Register.

I held a hearing for the purpose of inquiring into the dispute at Brecon on 12 July 1983. The hearing was attended by Mr J L Grieve of Dilwyn Jones and Sons, Solicitors of Llandrindod Wells appearing for Mr W J Thomas, the applicant at Entry 19 in the Rights Section, Mr R Perrett for the Treasury Solicitor appearing for the Forestry Commission, the applicant at Entry No. 22 in the Rights Section and Mr A Van Lees of Messrs Sidney G Thomas and Co, Solicitors of Brecon appeared for Mr A B L Williams the applicant at Entry No. 23 in the Rights Section.

Mr Grieve said that his client wished to reduce his application from 450 to 300 sheep and to amend his application in Column 5 of the Register by deleting O.S. Nos. 24 and 810 (2.694 acres) by substituting O.S. No. 817 for 417 at the same acreage and by transposing the acreage figures for O.S. Nos. 802 and 807, remitting in a total acreage of 185.393. As a result of these changes the two objections to Entry No. 19 were withdrawn.

Mr Perrett produced a photostat copy of a Conveyance made the 8th February 1950 between Edward Jones and Ethel Jones of the one part and the Minister of Agriculture and Fisheries of the other part whereby the Minister acquired for the sum of £2,500 Bwlhciliau Farm of 304.121 acres and 36.733 acres of land in the parishes of Llanfihangel (sic) and Brynpaubuan known as Pontprenddu, in each case in fee simple together with in the case of Pontprenddu all such rights of grazing and pasturing sheep on the hills called Rhos Saith Maen and Hafen shown on Plan B as were then and had hitherto been enjoyed by the Vendors and their tenants in respect of Pontprenddu.

In its original form the application by the Forestry Commission at Entry No. 22 was for the right to graze 650 sheep alleged to be attached to Pontbrenddu (as it is spelled on the O.S. Map) and Bwlhciliau Farms. The application was dated 29 August 1969 and on 29 December 1969 an application was made (Entry No. 23) by Mr Williams for the right to graze 240 sheep or 40 horses or 40 cattle on the Common and to cut and harvest bracken which right was alleged to be attached to Bwlhciliau Farm an area of 88.663 part of the property described in the Conveyance of 1950 as having an area of 304.121 acres.

This duplication of claims was subsequently discovered and the Forestry Commission modified its claim by deleting Bwlhciliau Farm from Part 6 of the Register but leaving the number of sheep unchanged.



The Trustees of the Glamusk Estate originally objected to the claims at Entry Nos. 22 and 23 by disputing that either holding had any on the Common.

After the amendment of the claim at Entry No. 22, this objection was modified and it was accepted that there were rights of common attaching to Pontbrennddu but not for as many as 650 sheep.

Mr John Richard Pugh said that he was aged 38 years and lived at The Cwm, Llamwarch near Llandrindod Wells. He had rented Pontbrennddu from the Forestry Commission since 1971. His father and grandfather had lived there before him. His grandfather moved in in 1905 and was the shepherd. The witness had no sheep in 1971 but today he had a settled flock of 370-375.

When his grandfather was shepherd from 1905-1913, there were approximately 1000 sheep. His grandfather moved to Ty-Coch in 1913. From 1920-1950 a family called Jones occupied Pontbrennddu and kept a flock of 1000 sheep.

Mr Perrett tendered an undated statement signed by Mr J R Pugh's father. On inquiry Mr Pugh said his father would be able to attend the hearing and give his evidence; I adjourned the hearing for him to attend on the following day.

Mr Edward Dykes Pugh said that he was born in 1905 when his parents lived at Pontbrennddu. The family moved to Ty-Coch in 1912. His father was the shepherd at Pontbrennddu which was then rented by a Mr Williams, who remained there for about three years after the Pughs left. Mr Jones took over from Williams. There were about 1000 sheep from Pontbrennddu on the Common. The flock was sold in 1950, but from 1906 to 1950 the sheep had the same earmark.

In cross-examination he said that the flock that the former Pontbrennddu flock was now owned by a Mr Davies. His son's flock has a different earmark from the sheep from Pontbrennddu. His son's flock of about 350 were kept at Ty-Coch.

Mr A B L Williams, the applicant at Entry No. 23, said that he was aged 45, when he was 15 he went to work at Cwmbradach which adjoined Bwlchciliau. Mr Llewelyn Jones was then at Bwlchciliau. He had a flock of 400 sheep which he kept on the Common in Summer and on his farm in Winter. Before 1953, the flock at Bwlchciliau had been 800. In 1960 the Caffé brothers purchased Bwlchciliau and Nant-y-Fardy from the Forestry Commission. He went to work for them; they had seven farms in the area. The sheep from Bwlchciliau went to the Common to graze until 1962. The Caffés then stopped sending their sheep to graze on the Common from all their farms including Bwlchciliau because the lambs did not gain weight.

He purchased Bwlchciliau in 1967 together with 300 ewes. He did not send any of his sheep to graze on the Common.

When he first worked at Bwlchciliau the shepherd was Bill Mason. A farmer would not employ a shepherd unless he had a flock of sheep which grazed on the Common.

The witness produced a note book which he said had been given him by Bill Mason's son and which had belonged to Bill Mason. The note book contained drawings of the earmarks of different flocks in the area and a statement that the writer had started work at Bwlchciliau in December 1946.



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I am satisfied on the evidence of Mr E D Pugh that during the period from 1906 to 1950 there was a flock of sheep which grazed the Common from Pontbrennddu. The alleged dominant tenement shown on the plan annexed to the application is the same as that shown on the plan annexed to the 1950 Conveyance, where the area is stated to be 36.733 acres. The figures of 1000 given by Mr E D Pugh and 650 mentioned in the application involve a density of 30 sheep and 17½ sheep respectively per acre. If Mr Pugh's recollection as to a flock of 1000 is correct the dominant tenement must have included more land than the 37 acres of Pontbrennddu.

In my view a generous allocation to Pontbrennddu would be 150 sheep.

The claim at Entry No. 23 in respect of Bwlhciliau is for 240 sheep or the equivalent in horses or cattle on the scale of 6 sheep equals 1 beast for an area which less than one-third of the area sold as Bwlhciliau to the Forestry Commission in 1950. There has been no grazing on the Common from this farm since 1962 and no evidence was produced to me that there was any grazing on the Common from Bwlhciliau before 1950.

For these reasons I confirm the registrations at Entry Nos. 19 and 22 with the following modifications:

- 19 Limited to 300 sheep and to 185.393 acres
- 22 Limited to 150 sheep

and I refuse to confirm the registration at Entry No. 23.

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

21<sup>st</sup>

day of

July

1983

*Comp. Hester*

Commons Commissioner