



COMMONS REGISTRATION ACT 1965

Reference Nos. 273/D/152-169

In the Matter of Black Mountains
(part of Fwddog Mountain) and the
Gaer Common in Crucorney Fawr,
Monmouth District, Gwent

DECISION

Introduction

This Matter relates to about 50 registrations made under the 1965 Act. My decision as regards each of the registrations is set out in the Fourth (and last) Schedule hereto. The disputes which have occasioned this decision, the circumstances in which they have arisen and my reasons for my decision are as follows.

These disputes relate to the registrations at Entry No. 2 in the Land Section, at Entry Nos. 1, 2, 4 to 15 inclusive, 17 to 25 inclusive, 27, 29 to 39 inclusive and 41 to 52 inclusive (Nos. 49 and 50 and Nos. 51 and 52 replace Nos. 28 and 26a) in the Rights Section, and at Entry Nos. 1, 2 and 5 in the Ownership Section of Register Unit No. CL1 in the Register of Common Land maintained by the Gwent County Council and are occasioned by the Objections and conflicts specified in the First Schedule hereto.

The land ("the Unit Land") in this Register Unit is a tract containing about 2,627 acres. From northnorthwest to southsoutheast it is about $5\frac{1}{2}$ miles long; the north part (about 4 miles of it) has a width varying between $\frac{1}{2}$ of a mile and $\frac{3}{4}$ miles; its south part (about $1\frac{1}{2}$ miles of it) has a width varying between about $\frac{1}{2}$ of a mile and about 15 yards and in places may be less. Described shortly, it is the high ground between farm lands in the Vale of Ewyas (Afon Honddu) down which runs the road from Hay-on-Wye through Llanthony to Abergavenny on the east, and the enclosed farm lands in Grwyne Fawr up which runs a minor road to (not beyond) Grwyne Fawr Reservoir on the west. Its southsoutheast end is about $\frac{1}{2}$ of a mile northeast of Pont Yspig, so the Unit Land includes the old Hill Fort on Gaer; its northnorthwest end is on or a little to the south of the Gwent-Powys County boundary. The Land Section registration was made by the registration authority without application; their registration was subsequently supported by applications by Mrs C M Hunter and by Colonel Donald Rose Paterson of land by them respectively described as "The Fwddog near Patrishow" and "part of Black Mountains in Ffawydd (Grwyne Fawr)"; the only now subsisting Land Section registration at Entry No. 2 made in 1970 is an amended version of that at Entry No. 1 made in 1967. In the Rights Section there were in February 1986, when the references about these disputes were made, 47 subsisting registrations: Nos. 1 to 52 excluding the registrations numbered 3, 16 and 40 which had been deleted, No. 26 and No. 28 which had been replaced by Nos. 51 and 52 and Nos. 49 and 50 respectively.



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In the Ownership Section at Entry No. 1 Mrs C M Hunter is registered (provisionally) as owner of part of the Unit Land adjoining its west boundary, being an L shaped area about 2 miles long from north to south and about one mile long from such boundary to the west, and in her son's statement* called "Ffwddog Moor in the parish of Crucorney Fawr". In the Ownership Section at Entry No. 2, Messrs Michael John Stock and Robert John Richmond White are registered (provisionally) as owners of another part of the Unit Land being approximately the part south of Bal Mawr and west of the watershed; so at its north end it overlaps about 1/6th of Entry No. 1. In the Ownership Section at Entry No. 4 Sir Robert Godfrey Llewellyn is registered as owner of the part of the Unit Land being approximately all that is east of the watershed. In the Ownership Section at Entry No. 5 Mr John Ivor Rogers is registered as owner of part of the Unit Land which, having regard to his withdrawal below recorded, I need not specify.

I held a hearing for the purpose of inquiring into the disputes at Abergavenny on 24 and 25 June 1987. At the hearing:- (1) Black Mountain Graziers Association ("BMGA") who made Objections Nos. 56, 57 and 58 were represented by Mr Wilfred Herbert Stephens their former chairman, and with him was Mr S G Gwillim of Cwm Farm, Talgarth their present chairman; (2) Mr Michael John Stock solicitor of Gabb & Co, Solicitors of Abergavenny who with Mr Robert John Richard White (he died 26 July 1974) made Objections Nos. 64 and 65 and applied for the Rights Section registrations Nos. 43 and 44 and the Ownership Section registration No. 2 attended in person on his own behalf and as representing Mrs Sarah Christine Paterson who is their successor in respect of the said Objections and registrations and is the daughter-in-law of the said Colonel Donald Rose Paterson; (3) Mrs Elizabeth Margaret Jones of Pentwyn Farm, Fforest Coal Pit widow of Mr Merton Trevor Jones (he died 24 May 1982) who made Objection No. 163 was represented by Mr G C Clarke, solicitor of G Colin Clarke & Co, Solicitors of Abergavenny; (4) Mr Michael Hunter of Michaelchurch Escley, Herefordshire as successor of his mother Mrs Margaret Hunter (she died 27 February 1984) who applied for the Ownership Section registration at Entry No. 1 was represented by Mr C Islam, barrister-at-law employed with Howard Kennedy, Solicitors of London; (5) Mr John Ivor Rogers who applied for the Ownership Section registration at Entry No. 5 was represented by Mr R G Sheldrake, solicitor of T A Matthews & Co, Solicitors of Hereford; (6) Mr John Morris of Penrheolmerch Farm, Llanbedr, Crickhowell, Breconshire, as successor of his father-in-law Mr Alfred James Gundy who applied for the Rights Section registrations at Entry Nos. 4 and 7 attended in person; (7) Mr James Abraham Thomas Powell who applied for the Rights Section registrations at Entry No. 32 attended in person; (8) Mr William Robert Woodcock Winstanley of Glangrwny Court, Crickhowell as successor of

*Exhibit CI. 1 to MH/1 specified in Part VI of the Second Schedule hereto.



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Mr Robert Godfrey Llewellyn who applied for the Ownership Section registration at Entry No. 4 attended in person; and (9) Gwent County Council as registration authority were represented by Mrs Jill Clarke.

Course of proceedings

The proceedings were much simplified by many of those concerned with the Rights of Ownership registrations having before February 1986 (the date of the references about these disputes) written to the registration authority asking them to note their then wishes: these letters were all written on a type printed form ("please note letter"), the manuscript additions being either to "(a) Withdraw my application" or "(b) Amend the registration by deleting the figures of stock claimed and substituting in their place the following", or "(c) Delete the following items". These please note letters are summarised in Part I of the Second Schedule hereto.

After February 1986 the proceedings were further simplified by more please note letters written to the registration authority and the receipt by them of other information as by them specified in their letter of 10 June 1987 summarised in Part II of the Second Schedule hereto.

(24 June) At the beginning of the hearing statements were made as follows:-
Mr M J Stock said that the Ffawddog Trust specified in Objections Nos. 64 and 65 was a private family trust which no longer existed as such; the property formerly subject to it is now owned by Miss S C Paterson. Mr Sheldrake said that Mr J I Rogers withdraws his claim to own the part of the Unit Land in the Ownership Section at Entry No. 5 claimed to be owned by him (therein described as being withog); Mr J I Rogers in person looked at his Ownership Section application dated January 1970 and said he withdraws. Mr G C Clarke said Objection No. 163 (by Mr M T Jones) would be supported. Mr Islam said that the plan mentioned in Entry No. 1 of the Ownership Section (column 4: "area bordered red on the plan attached") was the same as that attached to the application dated 27 May 1968 of Mrs C M Hunter: he claimed that I should confirm Entry No. 1 with the modification that part be excluded. Mr Stock claimed that the Ownership Section registration at Entry No. 2 should be confirmed without any modification. Mr Islam and Mr Stock said that neither of them claimed that the land belonging to their clients should not remain registered in the Land Section. Mrs J Clarke said that the County Council as registration authority had cancelled the Ownership Section registration at Entry No. 3 made on the application of Mr J R Rennie and accordingly about it no decision of a Commons Commissioner was required.



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Next, (24 June), oral evidence was given by Mr W H Stephens who said (in effect):-
 The Black Mountains Graziers Association ("BMGA") was formed after the (1939-45) war; they were concerned not only with the Unit Land but also all the common land of the Black Mountains of Brecon in Powys. He had been chairman from 1947 to 1982, so he had (as also had his family) been concerned with BMGA since its inception. (The witness then went through the 1987 please note letters WHS/1 to 8 relating to Rights Section Entry Nos. 30, 41, 42, 47, 23, 33, 43, 44, 4, 7 and 5 explaining as he went along the views of the BMGA). The please note letters were negotiated by the Association; the signature "S G Gwillim" which appears on some of them was their area representative. A grazier was considered to be entitled to so many stints; each being of 3 to 7 sheep for every acre of inby land. But this rule was flexible, for example where all the graziers (as a whole) were getting the advantage of a fence maintained by a grazier having a farm adjoining the Unit Land, such grazier would be allowed extra stints. The registrations were considered in sheep units; 1 beast equals 6 sheep and 1 pony equals 5 sheep; 1 sheep includes 1 lamb until weaning; these words should appear in all the registrations. It was understood by graziers that their rights extended over the whole of the Unit Land; at one time the right was considered to be between dingles (water courses) but that had all gone by the board. The right to take and cut bracken (such as was registered at Entry No. 43) was "in accordance with the requirements of the holding", and should be so expressed since complaints had been made of taking and cutting otherwise; but clearing of bracken from the Common was beneficial. (The witness then went through the 1971 please note letters held by the County Council as registration authority WHS/9 to WHS/26 relating to Rights Section Entry Nos. 1, 2, 6, 10, 11, 12, 13, 15, 17, 18, 19, 20, 21, 22, 24, 25 and 27). The BMGA had made no Objection particularly relating to the Rights Section registrations at Entry Nos. 3, 9, 14, 28 and 29; but they should be modified as he suggested. Entry Nos. 17 and 43 relate to the same farm, so if 43 is confirmed (see above), confirmation of 17 should be refused. He made submissions about the Rights Section Entry No. 31 as to which there had as yet been no agreement. (The witness' observations about each registration are summarised in the Third Schedule hereto).

Next the Rights Section registration at Entry No. 32 and the please note letter WHS/27 were reconsidered and agreed between Mr J A T Powell (the applicant present in person) and Mr W H Stephens as summarised in the Third Schedule hereto.

Next (24 June) in support of the Ownership Section registration at Entry No. 2 (in conflict with that at Entry No. 1), oral evidence was given by Mr Iain Stayton



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Paterson (called by Mr M J Stock) in the course of which he produced or referred to the documents specified in Part IV of the Second Schedule hereto, and said (in effect):- The part of the Unit Land of which his family (or Trustees for them) had for many years been the owner, was the area ("the Paterson Claimed Part") verged in pink on the map annexed to the application No. 589 (ISP/1) dated 27 June 1968 and made by Messrs M J Stock and R J R White as then identified by him*. The Paterson Claimed Part is the land coloured pink on the 1889 conveyance plan (ISP/2). Donald Rose Paterson named in the 1965 conveyance as settlor was his father. Richard Baker Gabb who died in 1915 was his (the witness') great grandfather; Blanche Baker Gabb mother of and John Walter Cecil Baker Gabb named in the 1937 assent (ISP/7) were his father's aunt and uncle.

Next, Mr Islam in support of the Ownership Section registration at Entry No. 1 produced the documents MH/1 specified in Part V of the Second Schedule hereto. He said that he understood the plan MHH1 was taken from a plan dated 28 February 1889 of the Michaelchurch Court Estate. Mr Islam said that he personally had no knowledge of the land of which Mrs Hunter had claimed ownership, and could therefore add nothing to the documents he had produced. Being then uncertain whether such documents satisfactorily supported the registration made on her application, I asked if any person present with local knowledge could help. So Mr Paterson in support of the registration at Entry No. 1 so far as it did not conflict with that at Entry No. 2, being of the part ("the Hunter Agreed Part") of the Unit Land shown edged red on the plan M.H.H.1, also MH/2, and not thereon hatched blue, continued his oral evidence saying (in effect):- He (the witness) now shot over the Hunter Agreed Part under a licence for which he paid Mr Michael H Hunter. It was known as part of the Michaelchurch Estate. He and his family before him back to the time of his great grandfather Richard Baker Gabb had similarly shot over the Hunter Agreed Part under such a licence from the Michaelchurch Estate. He (the witness') memory of it goes back to 1960, when the ownership was in Mrs Hunter;

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*Note:- The Register at Entry No. 2 refers to "part ... shown on the plan marked A annexed and thereon verged pink", presumably meaning annexed to application No. 589. To my copy of such application are annexed two plans: (1) 26" x 8" not marked A and (2) 17" x 12" marked A. Plan (1) shows verged pink a part of the Unit Land extending for a little more than 3 miles southwards from the names "Bal Mawr" marked on the Register Map, being except at its north end and perhaps a little more or less the part of the Unit Land south of Bal Mawr and west of the watershed. Plan (2) appears to be a copy of the plan attached to application No. 411 made by Mrs C M Hunter and dated May 1968. The witness identified Plan (1) as that to which he was referring, and Plan (2) as being relevant only as showing the extent of the conflict between Entry Nos. 1 and 2.



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later Mr Michael Hunter became the owner. He understood that in 1913 Richard Baker Gabb offered to buy the Michaelchurch Estate (? this part of it) then owned by the Trafford family of which Mrs Hunter was a member. As appears in the 1961 letter (MH/2bis) the offer was refused. The 1882 indenture (MH/3) shows that Richard Baker Gabb recognised Henry Randolph Trafford as the owner. The boundary was agreed in 1913, see the documents MH/4 and MH/5.

Next Mr John I Rogers said (in effect):- ———→ The Michaelchurch Estate in 1836 belonged to the Reverend Rudolph Trafford. — Mrs Margaret Hunter's first husband was Mr H R Trafford, but he died in the early 1920s (motor accident) and she had since remarried becoming Mrs Hunter.

Next (24 June) Mr W H Stephens continued his evidence. (The witness went through other 1971 please note letters held by the County Council as registration authority WHS/27 bis, 28, 29, 32 and 32 bis relating to Rights Section Entry Nos. 34, 35, 36, 37, 39, 46 and 48). The BMGA made no Objection relating particularly to Rights Section Entry No. 37. The letter dated 3 June 1987 from the Treasury Solicitor relates to Entry No. 45. (The witness' observations about each registration are summarised in the Third Schedule hereto).

Next (24 June) there was some discussion as to whether the land specified in Objection No. 163 was included in the Unit Land as now registered. I understood from Mr Stephens that the BMGA had no objection to this land being excluded from the registration so far if at all as it was now included.

Next, I identified the land specified in Objection No. 166, therein said to be OS Nos. 360, 361, 362, 363 and 364 as a short distance west of Sychere. On the Objection map and on the Register map this land appears as enclosures. Mr Stephens said that the BMGA agreed that effect should be given to this Objection.

Next (24 June) I considered Objection No. 164 made by Mr J C Lewis and Mrs G M Davies relating to land therein specified as OS Nos. 256 and 356. Before the hearing I received a letter (GH1) dated 2 June 1987 to myself from Mrs G M Davies by her sent to the Town Hall at Abergavenny; it was at the hearing endorsed by Mr W R Winstanley as "Conceded & Agreed". The plan with the letter shows OS Nos. 256 and 356 as part of Crofftau Farm. Mr Stephens said that the BMGA agreed that I should give effect to this Objection.

Next (25 June) in support of Objection No. 163, oral evidence was given by Mr G C Clarke on behalf of Mrs E M Jones in the course of which he produced the documents specified in Part VII of the Second Schedule hereto. He said the plan EMJ/8 specified the OS Nos. and acreages of the land edged pink on the 1944 conveyance plan (EMJ/1) and edged green on plan EMJ/7 during its relationship with the Unit Land; the EMJ/8 plan was by him obtained from estate agents.



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Land Section

The three Land Section Objections made by (1) Mr M Trevor Jones, (2) Mr J C Lewis and Mrs G M Davies, and (3) Mr M L Knight put in question the parts of the Unit Land specified in them, so the burden of proof is on those who claim these parts are common land within the meaning of the Commons Registration Act 1965, see *Corpus Christi v Gloucester* 1983 1QB 361. So for the purpose of determining the disputes about these parts, it is perhaps enough that nobody at the hearing offered any evidence that these parts were common land, or suggested any reason why these parts should be included in the Land Section.

Additionally:- As regards all these parts I had the above summarised evidence of Mr W H Stephens about them. As regards the parts specified in the Trevor Jones Objection, I have the documents produced by Mr G C Clarke which show that the Objection No. 163 land was conveyed with other farm lands without any difference or distinction by the 1944 conveyance (EMJ/1) and referentially by the 1949 conveyance (EMJ/2); I accept his identification of the OS Nos. specified in the Objection with the parts of the Unit Land specified in the plan annexed to it and with the edged green on the plan he produced (EMJ/8). As regards the parts specified in the Lewis and Davies Objection, I have Mrs Davies' June 1987 letter (GHI), and Mr Winstanley's agreement to it at the hearing. Although neither Mr M L Knight or anyone claiming under him at the hearing supported his Objection, I have his statement endorsed on the map annexed to it: "This area has now been enclosed by a P & W fence. The area was originally enclosed by a wall and was not part of the common. I suggest we have no grounds for preventing the property being fenced and that the area should be excluded from CL1"; this statement has some support from the delineations on the OS map of the area as enclosed pieces of land.

Upon the above considerations I conclude that these three Objections all succeed, and my decision is therefore as set out in Part I of the Fourth Schedule hereto.

Ownership Section

The registrations at Entry Nos. 1 and 2 conflict to the extent of a triangular area ("the Disputed Area") having sides of about 1500 yards, 1000 yards and 380 yards, being the overlap mentioned above.

In his telephonically approved declaration CI.1 Mr M H Hunter claimed his mother Mrs C M Hunter owned the land edged in red on the plan MHH1, and on this plan the land so edged includes the Disputed Area. Mr Islam explained that the claim was not so intended; this explanation is consistent with (1) the Disputed Area being distinct on the plan (it is thereon hatched blue), although not particularly mentioned in the body of the declaration, and (2) with the endorsement dated 23 June 1987 signed by a partner of Knight Frank and Rutley as agents for Mr M H Hunter on a plan showing the Disputed Area particularly, see Part VI of the Second Schedule hereto.



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In case I am mistaken and Mr M H Hunter was on the telephone claiming that the Disputed Area was in 1968 owned by his mother, I record that balancing as best I can the documents and statements made by Mr Paterson to the contrary against the telephonically confirmed declaration made by Mr M H Hunter, I prefer the documents and statements of Mr Paterson.

Because the registrations at Entry Nos. 1 and 2 conflict as to the Disputed Area, under regulation 7 of the Commons Commissioners Regulations 1970, each is deemed to be an objection to the other and to be wholly in question, see re West Anstey 1984, 1Ch 172; so I must consider each of these registrations as a whole. As to Entry No. 2, I accept —————→ the —————→ evidence of Mr S C Paterson and conclude that the registration was wholly (including the Disputed Area) rightly made. As to Entry No. 1, exclusive of the Disputed Area:- I doubt whether I can properly act on a telephonically approved declaration which in the absence of special circumstances would not be legally admissible evidence in a court of law; but however this may be, I have the detailed evidence volunteered by Mr S C Paterson that in 1968 Mrs C M Hunter was the locally reputed owner of the land comprised in Entry No. 1 (exclusive of the Disputed Area), and bearing in mind that if she had not included in her application the Disputed Area; the resulting registration would have become final under section 7 of the 1965 Act without ever having been considered by a Commons Commissioner, I conclude that the registration if modified so as to exclude the Disputed Area, was properly made.

On the above considerations my decision as regards Entry Nos. 1 and 2 is as stated in Part III of the Fourth Schedule hereto.

The registration at Entry No. 5 was made on the application of Mr J I Rogers. Mr Sheldrake on his behalf said his ownership claim was withdrawn, and as above recorded Mr Rogers in person confirmed this. Accordingly I conclude that the registration was not properly made, and as stated in the Fourth Schedule hereto I refuse to confirm it.

Rights Section

The only formal evidence I had about the Rights Section registrations was that given by Mr W H Stephens orally at the hearing. Nobody challenged what he said. He has for many years been chairman of the BMGA, and is therefore likely to be informed about what those concerned with the Unit Land do and think about the rights over it, at least as well, and possibly much better than anyone else. Some of what he said was inconsistent with or additional to the statutory declarations annexed to the applications upon which the registrations were made, and with letters and other documents I have; but he explained all such inconsistencies and additions. I consider his evidence to be reliable: nobody suggested otherwise.



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Nearly all of what he said accorded with views said by him to be agreed by the BMGA Committee and with what they had agreed with the applicants for the registrations or their successors in title; such agreement being expressed by their signature to please note letters, or in a letter from those concerned or their solicitor (eg the Treasury Solicitor). I am concerned not only with the substance of each registration but also with its wording. Although the please note letters give guidance about important questions of substance, they give no guidance as to the consequential new wording of the registration, and in many cases are silent about some matter of substance, the writer seemingly expecting the County Council as registration authority to do all that was needed. Further the please note letters mostly merely ask the County Council to "note" something; on my copy of the Register there are some manuscript additions more or less according with some of the please note letters, but for the most part the County Council has done nothing about such letters. Under the Commons Registration (General) Regulations 1966 as amended, the County Council as registration authority could not, or it is at least doubtful whether they could, do anything to the Register on receiving a please note letter; their contents are not within regulation 24 which specifies the matters about which a "note" may be made on the Register. So I give this decision on the basis that the Register now stands as it appeared on 2 January 1970 when No. 47 was made with the addition only of No. 48 which seems to be out of place, and the removal of Nos. 3 and 40 (a mistaken duplication of No. 1), the removal of No. 16 (made in error) and the replacement of Nos. 26 and 28 by Nos. 51 and 52 and Nos. 49 and 50.

Although Mr Stephens was authorised to represent the BMGA at the hearing, he did not claim to represent every person interested in or concerned with every registration. A person merely by joining the BMGA would not authorise their Committee to represent him at my June 1987 hearing.

So the Rights Section questions raised at the hearing as regards those who at it were neither present nor represented, must be divided into two classes: first those questions which a person concerned with them may justly be treated as having notice that they would at the hearing be raised and that accordingly by his non-attendance and non-representation at the hearing deliberately risked an adverse decision; and secondly those questions which a person cannot justly be treated as having notice would be raised at the hearing and must therefore before a final adverse decision is given against him, be given an opportunity of disputing what was in his absence said at the hearing.

Within the first class fall all questions coming within the grounds particularly specified in any Objection. So without giving any person concerned a good reason for complaining of lack of notice, (A) I may finally decide all questions relating to Entry Nos. 4, 5, 7, 11, 12, 15, 31, 35, 36, 41, 42, 45, 46 and 47, being the registrations specified in BMGA Objection No. 57 because the grounds of the Objection put these registrations wholly in question (Nos. 4, 5, 7, 11, 12, 15, 31, 35 and 36 are also specified in FT Objections Nos. 64 and 65); and (B) I may finally decide that as regards numbers, the registrations at Entry No. 6 and Nos. 1, 2, 8, 9, 10, 13, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 30, 32, 33, 34, 38, 39, 43 and 44 being the registrations in BMGA Objections Nos. 56 and 58, were wrongly made or as regards numbers should be altered as suggested by Mr Stephens, because the grounds of the Objections put the number of animals wholly in question (No. 10 is also specified in FT Objection No. 64).



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As regards all questions within this first class, no evidence was offered against the result suggested by Mr Stephens, and my final decision about (A) is that they were wrongly made in all respects except so far as Mr Stephens suggested they should be created as properly made; and about (B) that as regards numbers they were wrongly made save so far as Mr Stephens in his evidence otherwise suggested.

As regards all questions in the second class, my decision is subject to notice being given to those concerned (they will get such notice by a copy of this decision being sent to them by the Clerk of the Commons Commissioners) and to their being at liberty to apply to a Commons Commissioner to correct or amend this decision so far as it determines a question not particularly raised in the grounds of any Objection. So in this respect my decision about such questions is not final but is subject to any such application (to be made as specified below under the heading: Final).

Treating the burden of proof of the validity of every registration being upon those concerned who support it and treating every registration as wholly in question notwithstanding that the grounds of every objection to it are limited, I am following *Corpus Christi v Gloucestershire* 1983 1QB 360, and *re West Anstey* 1984 1Ch 72. By making my decision partly subject to notice being given to those concerned and to their having liberty to apply, I am guided by the observations of Walton J at page 657 of *re Sutton* 1982 1WLR 647.

The evidence of Mr Stephens (all I had) was to this effect:- (a) Grazing rights were sheep units meaning, —, of sheep with equivalent beasts and ponies; one sheep includes one lamb until weaning; the equivalent was 1 pony equals — sheep, 1 beast equals 6 sheep; the numbers were generally based on the acreage of the relevant inby land; exceptionally attached to farms adjoining the Unit Land were larger numbers based on the length of the boundary fence between them, for the owner/occupier keeping such fence in repair; otherwise all the rights were essentially the same, eg all over the whole of the Unit Land. (b) Cutting and taking bracken was recognised provided it was limited to the requirements of the holding; (c) estovers except so far as it might include bracken) and rights such as picking berries etc were not allowable.

Mr Stephens distinguished between sheep only rights from rights for sheep or equivalent beasts or ponies according to whether application was or was not for sheep only; and included bracken only if such a right was specified in the original registration or in some please note agreed on behalf of the BMGA.

So far as any registration is contrary to the evidence of Mr Stephens, I consider I have good reason for refusing to confirm it in the absence of any evidence in support of it at my June 1987 hearing or as a result of any application made under the liberty hereinbefore granted. I have not overlooked that in some cases Mr Stephens suggested that the number of animals specified in a registration should be increased, and that the total number of sheep resulting from his suggestions is very large (I make it 13,566). As to these increases: the BMGA made Objection 58 on a basis which later they were unable to support; it seems right (the contrary may be arguable) that those who made their registration on such a basis should not be deprived of the benefit of the larger number —————.



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obtained by others who successfully resisted it. As to the 13,566 sheep: there is nothing in the 1965 Act requiring the number of animals registered to equal the capacity of the common at any particular time of the year; because many having rights would not exercise them, in proceedings before a Commons Commissioner the capacity of a common may be of no practical consequence; no one at my June 1987 hearing raised any question about this.

Some of the descriptions in column 4 of the Rights Section (... land ... to which the right is attached) appear to be possibly inadequate or ambiguous. However they were not criticised at the hearing and I am unable to suggest how, if at all, the descriptions in this column could be improved.

A right to cut and take bracken to an unlimited extent is not a right of common recognised by law. So the limitation suggested by Mr Stephens "to the requirements of the holding" subtracts nothing from a registration which contained no such limitation.

At the hearing there was no discussion as to how on the register it should be recorded that some of the numbers were for fencing. —————→
In *R v Whixley* (1786) 1TR 137, a right of common conditional on keeping in repair a gate across a highway, was treated by the West Riding Justices as regular and its legality accepted by Mansfield LCJ; it follows I think that a right of common conditional on keeping for the benefit of the other commoners in repair part of a boundary fence is legally acceptable. So I have in the Third Schedule hereto treated the registration at Entry Nos. 14, 18, 19, 20 and 21 as intended to describe such a conditional right. When writing this decision it occurred to me that some of the sheep specified at Entry No. 24 and possibly other Entry Nos. should be similarly treated and I felt some doubt whether any of the land specified in column 5 of Entry No. 21 adjoin the Unit Land. Because there may be questions about the obligation to fence not ————— discussed at my June 1987 hearing I give to BMGA and any other person concerned or interested in any Rights Section registration liberty to apply to correct or amend this part of this decision.

So subject as aforesaid upon the considerations summarised in the Third Schedule hereto my decision as regards each of the Rights Section registrations is as therein stated.

Final

My decision as regards Land Section, Rights Section and Ownership Section registrations occasioned by the disputes with which I am concerned are set out in the Fourth and last Schedule hereto. Part II dealing with the Rights Section registrations should be read with the last sub-paragraph of every paragraph of the Third Schedule and headed with the number of a registration.



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By regulation 33 of the Commons Commissioners Regulations, a Commons Commissioner may correct the error or mistake arising from any accidental slip or omission. Because the length and complication of this decision, I may have made such error or mistake, I give to the person affected liberty to apply for an appropriate correction.

Additionally, under the heading: Rights Section, I have given to the BMGA and others for corrections and amendments to this decision as therein specified.

Any application pursuant to any such liberty should be in the first instance made by letter to the Clerk of the Commons Commissioners. The applicant in it should specify the corrections and amendments for which he applies and summarise the evidence he would give and the documents he would produce if, to deal with his application, a Commons Commissioner re-opened the hearing held by me in June 1987. Any such application should be made within THREE MONTHS (or such extended period as a Commons Commissioner may allow) of this decision being sent to the persons concerned. A copy of any such application if not made by the BMGA should be sent to their Secretary and if made by them should be sent to the last known owner and occupier of the land to which is attached the rights specified in the relevant Rights Section registration.

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.

FOR SCHEDULES TURN OVER



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FIRST SCHEDULE
(Objections and conflicts)

Objection No., date, name of Objector, and Entry No. affected (and when noted in the Register)	Grounds
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Part I: Land Section Objections

163, 23 May 1972, Merton Trevor Jones, Entry No. 2: (noted 26 May 1972).	The objection is limited to the land verged red on the attached plan and is made by me as owner of the land verged red, which is not and never has been common land, but private agricultural enclosed land. It should therefore be removed from the Register of Common Land altogether. (The O.S. Nos. concerned are 426, 427, 428, 429, 430, 431, 432, 473 and 474).
164, 27 June 1972, John C Lewis and Mrs Gladys M Davies, Entry No. 2: (noted 29 June 1972).	We, the undersigned, are the owners of the two sections Nos. 256 and 356, marked in red on the plan enclosed; so we object to Sir Godfrey Llewellyn claiming ownership of section No. 256, and for registering both sections mentioned as common land.
166, 21 July 1972, Mathew Latham Knight, Entry No. 1/2: (noted 31 July 1972).	The land shown on the enclosed O/S map Fields No. 360, 361, 362 & 363 was not common land at the date of registration.

Part II: Rights Section Objections

56: 22 September 1970: Black Mountains Graziers' Association: Entry No. 6 (noted 23 October 1970).	The right is claimed for too many animals.
57: 22 September 1970: Black Mountains Graziers' Association: Entry Nos. 4, 5, 7, 11, 12, 15, 31, 35, 36, 41, 42, 45, 46 and 47; (noted 23 October 1970).	No rights of common are attached to the land. Alternatively the rights are not as described in the Application.



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- 58: 22 September 1970: The animals are incorrectly quantified.
Black Mountains Graziers'
Association: Entry Nos. 1,
2, 8, 9, 10, 13, 17, 18,
19, 20, 21, 22, 23, 24, 25,
26, 27, 30, 32, 33, 34, 38,
39, 43 and 44:
(noted 23 October 1970).
- 64: 25 September 1970: (A) That the land of the persons who have registered
Ffawyddog Trust, M J Stock under the above numbers is too far removed from Unit CL1
& R J R White: Entry Nos. for them to have rights over the land for grazing.
4, 5, 7, 10, 11, 12, 15,
35 and 36: (B) That the right to pick whinberries etc. does
(noted 26 October 1970). not exist at all.
- 65: 25 September 1970: That the right does not exist at all.
Ffawyddog Trust, M J Stock
& R J R White: Entry No. 31:
(noted 26 October 1970).
- 163, 164 and 166: as in By section 5(7) of the Commons Registration Act 1965
Part I above. an objection to a Land Section registration is to be
treated as an objection to any registration in the
Rights Section.
- Part III: Ownership Section Objections
- 164: 27 June 1972: See Part I above.
Mr J C Lewis and Mrs G M
Davies: Entry No. 4:
(noted 29 June 1972).
- Deemed: 16 August 1968: Conflict with Entry No. 2 made by
Entry No. 1: deemed made Michael John Stock and Robert John Richmond White of
by M J Stock and R J R an area on plan A verged pink.
White.
- Deemed: 16 August 1968: Conflict with Entry No. 1 made by Mrs Clare Margaret
Entry No. 2: deemed Hunter: area on plan attached bordered red.
objection by Mrs C M Hunter.



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Deemed: 2 January 1970: Conflict with Entry No. 5: made by Mr John Ivor Rogers:
Entry No. 1: deemed by part of land in Register Unit described as Fwthog.
Mr J I Rogers.

Deemed: 2 January 1970: Conflict with Entry No. 1 (made as above).
Entry No. 5: deemed
objection by Mrs C M Hunter.

Deemed: 2 January 1970: Conflict with Entry No. 5 (made as above).
Entry No. 2: deemed
objection by Mr J I Rogers.

Deemed: 2 January 1970: Conflict with Entry No. 2 (made as above).
Entry No. 5: deemed
objection by M J Stock and
R J R White.

SECOND SCHEDULE

(Documents produced or referred to)

Part I: Before 1986, "please note letters" to
registration authority

Hearing mark	Date	Rights Section Entry No. specified	Person signing letter
WHS/9	11. 1.71	1	Maurice North of Pen-yr-Heol.
WHS/10	11. 1.71	2	James David Provins Graham of Tycwm, Llanthony.
WHS/11	13 Dec 71	6	Mrs Helen Elizabeth Davies: Monastery, Capel-y-Ffin.
-	11. 1.71	8	Denise S Mill: Troedrhiwmon, Llanthony.
-	13. 1.71	9	Thomas Glyn Lewis: Upper House, Fwthog.
WHS/12	9.12.71	10	Peter William Anson Mansell: The Fawydd, Llanbedr.
WHS/13	Jan 18 1971	11	G Amery: Ty-croes, Llanbedr.



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WHS/14	13. 1.71	12	Ronald Howells: Ty-Phillib, Llanbedr.
WHS/15	Dec 11 1971	13	Dora Christine Geraldine Olsen: Pant Farm, Fforest.
WHS/16	29 Nov 1971	15	Geoffrey Denis Brazier: Milaid Fach, Llanbedr.
WHS/17	13. 1.71	17	George Walter James: Ty-Mawr Farm, Fwthog.
WHS/18	Jan 11 1971	18	John Cyril Lewis: Troedrhuglace, Llanthony.
WHS/19	13.12.71	19	Russell John James: Fwthog Farm, Fforest Coal Pit.
WHS/20	11. 1.71	20	Robert John Gwillim: Upper Henllan, Cwmyoy.
WHS/21	13. 1.71	21	Montague Percy Lewis: Pontysgib Fforest Coal Pit.
WHS/22	11. 1.71	22	Charles Morgan: Sychtre, Llanthony.
WHS/23	Jan 11 1971	24	Wilfred Davies, Noyaddllwyd, Cwmyoy.
WHS/24	(5 Sept 1978 (23 Aug 1978	(CL2 (36	Wilfred James Davies: Noyaddllwyd, Cwmyoy.
WHS/25	Jan 11 1971	25	Kenneth James Harris: Coed Farm, Cwmyoy.
WHS/26	20 Jan 1971	27	Merton Trevor Jones: Pentwyn Lands, Ffwthog, Cwmyoy.
WHS/27	Jan 1 1971	32	John Abraham Thomas Powell: Llwyncelyn Farm, Cwmyoy.
WHS/27bis	Jan 11 1971	34	I G Watkins: Nantygwyddel Farm.
WHS/28	13. 1.71	35	William John Williams: The Draen Farm, Llanbedr.
WHS/29	13. 1.71	36	William John Williams: Gelli-Fanw, Llanbedr.
WHS/30	13. 1.71	39	Thomas Glyn Lewis: Pentwyn Land, Ffwyddog.
WHS/31	23.2.72	39	Ditto.
WHS/32	Dec 15 1971	46	Sir Robert Godfrey Llewellyn: Tredrenow Holding, Cwmyoy (5.127 acres).
WHS/32bis	Aug 14 1979	(CL2 (58	W H Stephens (for BMGA) withdraws objection to CL2 No. 58; filed with application of Richard Moland Betham for CL1 No. 48 registration.



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Part II: Gwent County Council June 1987 letter

Enclosing:-

Hearing mark	Date	Rights Section Entry No. specified	Person signing letter
WHS/1	19. 5.87	30	S G Gwillim (for BMGA: registration of Elizabeth Dorothea Wood: Cwm Bwchel Farm and Gunters Farm.
WHS/2	12. 3.87	41, 42 and 47	W H Stephens on behalf of BMGA: registrations of S of S for Wales, Forestry Commission: Ffawyddog Fawr, Cadwgan Farms, Ffawydd Farm, and Cefn Coed Euas.
WHS/3	Apr 1987	23	Mary Curtis Levinson: Penrhiw Farm, Cwmyoy.
WHS/4	12. 3.87	33	W H Stephens (for BMGA: registration of Raymond Stuart Stanley Wood: Fosse Farm, Fforest.
WHS/5	19. 5.87	43	S G Gwillim (for BMGA: registration of M J Stock and R J R White: Tymawr Ffwddog, Cwmyoy.
WHS/6	19. 5.87	44	S G Gwillim (for BMGA: registration of M J Stock and R J R White: Coed Dias in Cwmyoy and Grwyne-Fawr.
WHS/7	17. 3.87	4 7	J Morris: Penrheolmerch Farm and Milaid Uchaf, Llanbedr.
WHS/8	17. 3.87	5	Mr E J Topps: Penrheolmerch Cottage, Llanbedr.
--	3 Jun 87	41 42 47 45	Treasury solicitor: as to 41, 42 and 47: in July 1972 agreed to the areas referred to in objections 163, 164 and 166 being removed from the Common: No. 45 having been withdrawn.
--	26 May 87	38	Letter from Secretary of BMGA enclosing form relating to Entry Nos. above listed: "Entry No. 38 in respect of Middle Gaer Farm is owned by a Mrs Huxley from Wiltshire and our area representative has not yet been able to get contact".



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Part III: by Mr W H Stephenson

WHS/1-8 1987
1971
1979

Copy please note letters above referred to.

Part IV: by Mr I S Paterson

ISP/1 27 June 1968 Copy application of Michael John Stock and Robert John Richmond White for the registration of a claim to ownership of land with plan marked A annexed: being part of the Unit Land thereon verged in pink.

ISP/2 28 Feb 1889 Conveyance by the Most Hon Marquess of Abergavenny with the concurrence of the Rt Hon Gathorne Viscount Cranbrook to, Richard Baker Gabb of Firstly land in the hamlet of Fwthog coloured green on the plan, Secondly the waste and common land attached to the Manor of Ewyas Lacy in the hamlet of Fwthog coloured pink on the plan, and Thirdly ... (chief rents).

Note: The Paterson Claimed Part is the land coloured pink on the conveyance plan.

ISP/3 17 Aug 1977 Conveyance by M J Stock and Henry Brydon Philip to Sarah Christine Paterson, after reciting conveyance of 31 March 1967 and death of R J White on 22 July 1972 of lands comprised in the 1967 conveyance.

ISP/4 31 Mar 1967 Conveyance by Donald Rose Paterson as settlor to Michael John Stock and Robert John Richard White of the property described in the Schedule on the trusts of a settlement dated 30 March 1967. The First Schedule included (paragraph 1) All that Manor or reputed Manor of Ffawyddog, Ffwydd or Fwthog together with (1) farms and lands in the hamlet and (5) all that piece or parcel of Mountain land situated in the Manor of Fwthog.

ISP/5 12 Apr 1919 Probate of will of R B Gabb (died 15 February 1919) granted to Walter Baker Gabb and Blanche Baker Gabb.

ISP/6 15 Feb 1920 Assent by W B Gabb and B B Gabb to the devise to the testator's son Walter of the Manor of Ffawyddog and the common land.



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ISP/7	15 June 1937	Assent by Blanche Baker Gabb as personal representative of John Walter Cecil Baker Gabb in favour of herself.
ISP/8	18 Jan 1954	Probate of will of Blanche Rose Minnie Baker Gabb (she died 31 July 1953) granted to Donald Rose Paterson and another.
ISP/9	28 Oct 1957	Assent in favour of Donald Rose Paterson of lands described in the Schedule (1) Manor or reputed Manor Fwthog and (5) All that piece of Mountain land in the said Manor and all the farm lands in the Parish of Cwmyoy formerly owned by Blanche Rose Minnie Baker Gabb.

Part V: on behalf of Mr M H Hunter

MH/1	23 June 1987	Declaration by Carl Islam with exhibits CI.1 and CI.2:- Mr Hunter ill, cannot swear declaration in person, statement read and explained on telephone.
CI.1	--	Paper in the form of a statutory declaration (not signed) by Michael Henry Hunter with exhibits MHH.1 and MHH.2; land Fwddog Moor delineated and edged red on plan marked MHH1 since prior to 1925 owned by members of my family with other parcels of land; Mother Clare Margaret Hunter and I have successively enjoyed undisturbed possession; mother emigrated to Portugal in 1968, never returned and died on 27 February 1984; since 1960 she had exercised the right of ownership.
M.H.H.1 MH/2	--	Plan headed "Estate of M H Hunter Esq, the Ffwddog Moor". Note, plan same as that attached to May 1968 application except area conflicting with No. 2 Ownership Section registration hatched blue and approximate location of Forestry Commission lookout marked.
M.H.H.2	--	Copy of Entry Nos 1 to 5 of the Ownership Section.
--	23 June 1987	Plan marked "A" endorsed by a partner of Knight Frank and Rutley as agents for M H Hunter in respect of Commons Commissioners hearing on 24 June 1987 showing edged red part of the land "no claim as to ownership will be disputed".



Part VII: by Mr Paterson for Mr M H Hunter

- MH/2 bis 7 March 1961 Copy letter from Gabb & Co to Knight Frank & Rutley, re Michaelchurch Court Estate, re shooting: Colonel Paterson is interested in purchasing the 450 acres of land.
- MH/3 12 April 1892 Copy indenture by which Henry Randolph Trafford demised to Richard Baker Gabb the exclusive right of shooting and sporting upon portion of Fyddog which forms part of Ewyas Lacy Manor and is the property of the lessor (yearly tenancy).
- MH/4 22 Oct 1913 Copy letter from Apperley & Brown to R Baker Gabb: I have now written the District Valuer that the boundary of Ffwddog will stand as read by you.
- 23 Oct 1913 Copy letter from District Valuer to R Baker Gabb about Ffwddog Mountain.
- MH/5 27 Oct 1913 Copy letter from District Valuer to R Baker Gabb thanking for letter enclosing form 4 completed and sending therewith 6 inch ordnance marking the "the exact division of the mountain in accordance with the arrangement which we have now arrived at" together with copy of provisional valuation dated 29 Oct 1913.

Part VIII: sent by Mrs G M Davies

- GHI 2 June 1987 Letter from Mrs G M Davies to Commons Commissioners:-
... disablement ... unable to attend hearing ...
enclosed copy of deed map for the disputed area ...
outlining my ownership ... this particular tract ...
is not part of the common or Black Mountain. With map annexed.

Note: on annexed plan "disputed area shaded red part of Troedrwglas and Croftau Farm" being Nos 227, 228 and 255 and copy deed plan; Objection Nos 256 and 356 not so shaded but included in edged black with part of Farm.



-- 24 June 1987 Endorsement on above letter "conceded & agreed,
W R Winstanley ... at Council Chamber, Town Hall,
Abergavenny".

Part VIII: on behalf of Mrs E M Jones

EMJ/1 25 Oct 1944 Conveyance by Charles Henry Blackwell to Mary Frances Washbourne Edwards of five pieces of land and the buildings thereon known as the Croft formerly Tycock and the Gaer Farm in the hamlet of Fwthog delineated in the plan annexed edged pink.

EMJ/2 19 Feb 1949 Conveyance by Mrs M F Washbourne-Edwardes to Elizabeth Smith of the said premises.

EMJ/3 19 April 1951 Letters of administration to estate of Mrs E Smith (she died 24 January 1951) granted to her daughter Ada Sarah Devlin.

EMJ/4 30 June 1972 Conveyance by Mrs A S Devlin to Merton Trevor Jones of the said premises.

EMJ/5 16 Sept 1982 Letters of administration (with the will) to the estate of Mr M T Jones (he died 24 May 1982) granted to Elizabeth Margaret Jones.

EMJ/6 22 Oct 1982 Assent by Mr E M Jones as personal representative of Mr M T Jones in favour of herself of (among other property) the said premises described in the said 1944 conveyance.

EMJ/7 -- Extract from Register map showing edged green part of said premises.

EMJ/8 -- Plan 1/2500 showing said premises with OS Nos and acreages.

Part IX: after hearing

18 June 1987 Letter from Treasury Solicitor to Commons Commissioners enclosing regulation 31 requests signed by him on behalf of Secretary of State for Wales per Forestry Commission and M Jones the Secretary of BMGA (Objection 57 about Entry Nos 47, 42 and 41 with copy letter of 28 July and 7 September 1972 conceding Objections 163, 164 and 166.

8 June 1987 Received by Commons Commissioners from Gwent County Council: copy letter of 1 July 1987 to them from Gabb & Co about Mrs Paterson being the successor of the interest formerly belonging to the late Colonel D R Paterson.

6 August 1987 Letter from Gwent County Council to Commons Commissioners enclosing copy letter from BMGA and form signed by Mr C G Huxley about the registration at Entry No. 38: to graze to 126 sheep or sheep equivalent, 1 pony = 5 sheep: 1 beast = 6 sheep.



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THIRD SCHEDULE
(Rights Section details)

p. 1

aurice North; Penyrhoel Farm, Cwmyoy, (45.817 acres, OS Nos 398 etc); owner; graze 275 sheep, 12 mountain ponies; on adjacent Fwddog Mountains being the whole of the Unit Land.

objection:- BMGA 58, incorrectly quantified.

lease note letter WHS/9:- 11.1.71; (b) amend "to graze 275 sheep or sheep equivalent, 1 pony = 5 sheep, a beast = 6 sheep; 1 ewe and lamb = 1 sheep until weaning.

WHS 1987 evidence:- BMGA agree WHS/9.

decision: I CONFIRM this registration with the modification column 4 to become: "To graze 275 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination; 1 sheep includes 1 lamb until weaning) over the whole of the land comprised in this register unit".

p. 2

James David Provins Graham, Tycwm, Llanthony, (coloured blue on map, 5 acres, OS 431 etc); owner; graze 50 sheep on Bwlch Bach part of Unit Land (MS overwritten Mr & Mrs C P Pascoe" and "Modified to 33 sheep).

objection:- BMGA 58: incorrectly quantified.

lease note letter, WHS/10:- 11.1.71; (b) amend "To graze 50 sheep or sheep equivalent 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe with lamb = 1 sheep until weaning".



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WHS 1987 evidence:- Mr Graham in 1970 said in a letter he agreed 33, but to the MGA, 50 sheep is acceptable and the registration should be over the whole of the Unit Land.

Decision:- I CONFIRM this registration with the modification column 4 to become: "graze 50 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination; 1 sheep includes 1 lamb until weaning.

No. 3

Deleted

No. 4

Alfred James Gundy; Penrheolmerch Farm, Llanbedr, Crickhowell; owner: graze 180 sheep or 45 cattle or 45 horses or any combination of these numbers on a pro-rata basis, common of estovers, right to gather moss, whinberries, bogberries, blackberries and watercress over the whole of the Unit Land.

Objections:- BMGA 57, no rights or not as described. FT 64, too far removed; whinberries etc not exist.

Please note letter, WHS/7: 17.3.87; J Morris of Penrheolmerch; "I now wish to (a) withdraw my application" applicable to Nos 4 & 7.

Mr John Morris present in person said that he was successor or his father-in-law Mr Alfred James Gundy and he withdraws.

Decision:- I REFUSE to confirm this registration.

No. 5

Lewis Islwyn Watkins; Penrheolmerch Cottage, Llanbedr, Crickhowell; owner; to graze 180 sheep or 45 cattle or 45 horses or any combination of these numbered on a pro-rata basis, common of estovers, right to gather moss, whinberries, bogberries, blackberries and watercress over the whole of the Unit Land.

Objection:- BMGA No. 57, no rights or not as described. FT 64, too far removed, whinberries etc does not exist.

Please note letter WHS/8:- 17.3.87; Mrs E J Topps of Penrheolmerch Cottage; "I now wish to (a) withdraw".

WHS 1987 evidence:- Nobody present to support registration.

Decision:- I REFUSE to confirm this registration.



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No. 6

Helen Elizabeth Davies: the Monastery Lands, Capel-y-Ffin; owner; to —————
graze 200 sheep, 40 ponies, the right to gather tree cuttings, turf or peat; "over
part of land described in this register unit".

Objections:- BMGA56, to many animals.

Please note letter WHS/11; 13 Dec 71. Mrs H E Davies, "I now wish to (a) withdraw".

Decision:- I REFUSE to confirm this registration.

No. 7

Alfred James Gundy; Milaid Uchaf, Llanbedr Ystradwy; owner; graze 300 sheep or
75 cattle or 70 horses ... (etc. as No. 4).

Objections:- BMGA57 and FT64, as for No. 4.

Please note letter WHS/7; as for No. 4.

Mr J Morris present in person withdraws (see No. 4 above).

Decision:- I REFUSE to confirm this registration.

No. 8

Henry Leslie Jasper; Troedrhiwmon Farm, Llanthony, (60 acres; owner;
graze 300 sheep, 1 pony (equivalent to 5 sheep); "over part of the land described
in this register unit".

Objection:- BMGA58, incorrectly quantified.

Please note letter, :- 11.1.71; Denise S Hill of Troed Rhiw Mon, now wish
to (b) amend: "To graze 300 sheep or sheep equivalent, 1 pony = 5 sheep, 1 beast =
6 sheep, 1 ewe and lamb = 1 sheep until weaning".

WHS 1987 evidence:- No particular objection (query see above); should be over Unit
Land; suggest modify as before No. 1.

Decision:- I CONFIRM this registration with the modification column 4 to become:
"To graze 300 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep,
or any combination; 1 sheep includes 1 lamb until weaning) over the whole of the
land comprised in this register unit".



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No. 9

Thomas Glyn Lewis; Upper House, Fwddog, ————— (76.745 acres, OS Nos. 384 etc); tenant; graze 632 sheep; "over part of the land comprised in this register unit".

Objection:- BMGA58, incorrectly quantified.

Please note letter, :- 13.1.71; by T G Lewis, "I now wish to (b) amend "to graze 632 sheep or sheep equivalent: 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe & lamb = 1 sheep until weaning".

WHS 1987 evidence: Same as No. 8.

Decision:- I CONFIRM with modification column 4 to become: "To graze 632 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep, or any combination, 1 sheep includes 1 lamb until weaning). Over the whole of the land comprised in this register unit."

No. 10

Peter, William Anson, Mansell; the Fawydd, Llanbedr, Crickhowell; owner; graze 40 sheep or 10 cattle or 10 horses or any combination of these numbers on a pro-rata basis; common of estovers; rights of common together moss, whinberries, bogberries, blackberries, watercress and hazel nuts; over the whole of the Unit Land.

Objections:- BMGA58, incorrectly quantified. FT64, too far removed, wimberries etc not exist.

Please note letter:- 9.12.71, by V W A Mansell; "I now wish to (a) withdraw".

Decision:- I REFUSE to confirm this registration.

No. 11

William John Howells; Ty-croes Farm, Llanbedr, Crickhowell; tenant; to graze 250 sheep or 60 cattle or 60 horses or any combination of these numbers on a pro-rata basis, common of estovers, rights to gather moss, whinberries, bogberries, blackberries, watercress; over the whole of the Unit Land.

Objection:- BMGA57, no rights, or rights are not as described. FT64, too far removed, wimberries etc does not exist.

Please note letter WHS/13:- Jan 18, 1971, by G Amey of Ty-Croes; "I now wish to (a) withdraw".

Decision:- I REFUSE to confirm this registration.

No. 12

Ronald Howells; Ty-Phillip, Llanbedr, Crickhowell, (7 acres); owner; to graze 50 sheep or 12 cattle or 12 horses or any combination of these numbers ... (as in No. 11 above).

Objections:- BMGA57, no rights, or rights not as described. FT64, too far removed, wimberries, etc does not exist.

Please Note letter (WHS/14):- 13.1.71, by Ronald Howells, "I now wish to (a) withdraw".

Decision:- I REFUSE to confirm this registration.

No. 13

Dora Christine Geraldine Olden; Pant Farm, Fforest, (92 acres); owner; to graze 200 sheep, 20 ponies on a part of land described in this register unit.

Objection:- BMGA58, incorrectly quantified.

Please note letter, WHS/15:- Dec 11, 1971 by Christine Olsen; I now wish to (b) amend "the right to graze 368 sheeps or equivelants. 1 pony = 5 sheep, 1 beast = 6 sheep. 1 ewe and lamb = 1 sheep until weaning. The right to cut and remove fern.

WHS 1987 evidence:- BMGA agreed 368 sheep or equivalent, for part of land substitute the whole of the Unit Land, otherwise same formula (meaning animal as for No. 1 and bracken for No. 44 below discussed earlier in his evidence).

Decision:- I CONFIRM this registration with modification, column 4 to become: "to graze 368 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination: 1 sheep includes 1 lamb until weaning); to cut and take bracken in accordance with the requirements of the holding; over the whole of the land comprised in this register unit".

No. 14

Jeffrey John Greenow; Penywylod, Llanthony, owner; to graze as follows 707 sheep: sheep per 100 yds over 700 yds 7 per acre over 91 acres. Or part in equivalent to ponies or cattle; 6 sheep equal 1 cow or 5 sheep = 1 pony; "over part of the land described in this register unit.,

Objection:- None particularly applicable.

WHS 1987 evidence:- After discussion in context of earlier observation about numbers added for a farm adjoining the Unit Land conditional on maintaining a fence between them, BMGA (having made no objection) and having agreed whole being substituted for part, concedes 707 sheep over whole.



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Decision:- I CONFIRM this registration with the modification column 4 to become "to graze 707 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination: 1 sheep includes 1 lamb until weaning), grazing as to 70 sheep or equivalent conditional as to 70 sheep or equivalent of the said 707 sheep or equivalent upon maintaining the fence between the land in this register unit and Penywylod; over the whole of the land in this register unit.

No. 15

Geoffrey Dennis Brazier; Milaid Fach, Llanbedr, Crickhowell (0.438 acres); owner; graze 8 sheep or 2 cattle or 2 horses or any combination ... (as for No. 10).

Objections: BMGA57, no rights of common, or rights not as described. FT64, too far removed, wimberries etc does not exist.

Please note letter, WHS/16:- 29 Nov 1971 by G D Brazier; "I now wish to (a) withdraw".

Decision:- I REFUSE to confirm this registration.

No. 16

Deleted.

No. 17

George Walter James; Ty-Mawr, Fwthog, - (94 acres); tenant; to graze 530 sheep and 10 ponies; over the whole of the Unit Land.

Objection:- BMGA58, incorrectly quantified.

Please note letter, WHS/17:- 13.1.71 by George Walter James, I now wish (b) amend "to graze 400 sheep or sheep equivalent, 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe & lamb = 1 sheep until weaning.

WHS 1987 evidence:- This registration relates to the same farm as specified in registration No. 43, one pursuant to application No. 228 by the tenant and the other pursuant to application No. 795 by the owners. No. 43 was agreed earlier during the hearing; both cannot stand.

Decision:- I REFUSE to confirm this registration.



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No. 18

Evan Thomas Lewis: Troedrhuglace Farm, Llanthony, graze 610 breeding ewes (sheep), based on a stocking rate of 7 ewes per acre and 10 ewes per 100 yds of hill fence. 70 acres and 1,200 yds hill fence. Over the whole of the Unit Land.

Objection:- BMGA 58, incorrectly quantified.

Please note letter, WHS/18:- Jan 11, 1971, by John Cyril Lewis "I now wish (b) to amend "To graze 610 sheep or sheep equivalent 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe & lamb = 1 sheep until weaning".

WHS 1987 evidence:- As in similar registrations before mentioned.

Decision:- I CONFIRM that registration with the modification, column 4 to become "To graze 610 sheep or equivalent (1 beast equals 6 sheeps, 1 pony equals 5 sheep, or any combination, 1 sheep includes 1 lamb until weaning) but as to 120 sheep or equivalent of the said 610 sheep or equivalent conditional on the maintenance of the fence between the land in this register unit and Troedrhuglace Farm. Over the whole of the land in this register unit.

No. 19

Russell John James; Fwthog Farm, Fforest Coalpit, (35 acres); tenant; graze 235 sheep, 10 ponies based on a stocking rate of 7 sheep per acre and 10 sheep per 100 yds hill fence, 35 acres 500 yds, 1 pony = 6 sheep; over the whole of the Unit Land.

Objection:- BMGA58, incorrectly quantified.

Please note letter, WHS/19:- 13.12.71, by R J James: I now wish to (b) amend "The right to graze 195 sheep or equivalents. 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe and lamb = 1 sheep until weaning. The right to cut and remove fern.

WHS 1987 evidence:- The "235" in the original registration (and in the application) must have been an error in calculation; 295 in the WHS/19 is correctly calculated.

Decision:- I CONFIRM this registration with the modification, column 4 to become "To graze 295 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning), but as to 50 sheep or equivalent of the said 295 sheep or equivalent conditional on the maintenance of the fence between the land in this register unit and Fythog Farm. To cut or take bracken in accordance with the requirements of the holding. Over the whole of the land in this register unit."



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No. 20

Robert John Gwillim; Upper Henllan, Cwmyoy (90 acres); tenant; graze 720 sheep, as follows: 900 yds of hill fence @ 10 per 100 yds = 90, 90 acres of enclosed land @ 7 per acre = 630; "over part of the land described in this register unit".

Objection:- BMGA58, incorrectly quantified.

Please note letter, WHS/20:- 11.1.71 by Robert James Gwillim, I wish to (b) amend: "to graze 720 sheep or equivalent, 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe & lamb = 1 sheep until weaning.

WHS 1987 evidence:- Agreed, should be over whole of Unit Land.

Decision:- I CONFIRM this registration with the modification, column 4 to become "to graze 720 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning) but as to 90 sheep or equivalent of the said 720 sheep or equivalent conditional on the maintenance of the fence between the land in this register unit and Upper Henllan, Cwmyoy. Over the whole of the land comprised in this register unit.

No. 21

Montague Percy Lewis; Pantyllwyfan Fwddog (18 acres), OS Nos. 63 etc) and Pontysgib Forest Coalpit (OS Nos. 616 etc); - -; graze 500 yds of Hill fence @ 10 per 100 yds = 50 shp. 18 acres of enclosed land @ 7 per acre = 126 shp over Pantyllwyfan Fwddog. 86 acres of enclosed land @ 7 per acre = 602 shp; over the whole of the Unit Land.

Objection:- BMGA58, incorrectly quantified.

Please note letter, WHS/21:- 13.1.71, by M P Lewis of Pontysgib, I wish to (b) amend "To graze 478 sheep or sheep equivalent, 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe and lamb = 1 sheep until weaning".

Note, query 478 altered from 778.

WHS 1987 evidence:- after discussion, only 478 specified in WHS/21 is conceded, so registration should be reduced from 778.

Decision:- I CONFIRM this registration with the modification, column 4 to become: "To graze 478 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning) but as to 50 sheep or equivalent of the said 478 sheep or equivalent conditional on the maintenance of the fence between the land in this register unit and Pantyllwyfan Fwddog. Over the whole of the land comprised in this register unit."



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No. 22

Charles Morgan; Sychtre Farm, Llanthony (76 acres) and Blaenycwm Farm, Fwddog (103 acres); owner/occupier of Sychtre Farm and tenant of Blaenycwm Farm; to graze 11 cattle and 412 sheep over (sic) Blaen-y-cwm Farm and 3 cattle & 304 sheep over (sic) Sychtre Farm; over part of the land described in this register unit.

Objection:- BMGA58, incorrectly quantified.

Please note letter WHS/22:- 11.1.71. by Charles Morgan; I wish to (b) amend "To graze 500 sheep (Blaen-y-cwm) or sheep equivalent. To graze 400 sheep (for Sychtre) or sheep equivalent. 1 pony = 5 sheep, 1 beast = 6 sheep 1 ewe & lamb = 1 sheep until weaning".

WHS 1987 evidence:- BMGA agrees 900 sheep over whole of Unit Land.

Decision:- I CONFIRM with the modification, column 4 to become:- (A) as attached to Sychtre Farm, to graze 400 sheep or equivalent (1 beast equals 5 sheep, 1 pony equals 5 sheep, or any combination, 1 sheep includes 1 lamb until weaning); over the whole of the land comprised in this register unit AND (B) as attached to Blaen-y-Cwm Farm to graze 500 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning); over the whole of the land comprised in this register unit.

No. 23

Gordon Alfred Lewison and Mary Curtis Lewison; Penrhiw Farm, Cwmyoy (acreage 23.658 OS Nos. 485 etc); owner; to graze 168 sheep representing 7 sheep per acre of enclosed land 24 acres plus ponies over the whole of the Unit Land.

Objection:- BMGA58, incorrectly quantified.

Please note letter, WHS/3:- Ap 19. 87 by Mary C Levinson; I now wish to (b) amend "To graze 140 sheep or sheep equivalent, 1 pony = 5 sheep, 1 beast = 6 sheep.

WHS 1987 evidence:- BMGA agree 140 sheep; Lewison should be Levinson

Decision:- I CONFIRM this registration with the modification in column 3, for "Lewison" substitute "Levinson" in the 2 places where this name occurs; and column 4 to become: "To graze 140 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning); over the whole of the land comprised in this register unit.



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No. 24

Wilfred James Davies; Newaddlwyd Farm, Cwmyoy: owner; to graze 1,399 sheep or their equivalent in cattle and/or ponies; "over part of the land described in this register unit".

Objection:- BMGA58, incorrectly quantified.

Please note letter, WHSA/23: Jan 11, 1971 by Wilfred Davies: I wish to (b) amend "To graze 1399 sheep or sheep equivalent, 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe & lamb = 1 sheep until weaning. Delete quantity of sheep on CL2 reg 36 as the main right is CL1 reg 24".

Please note letter WHS/24 applicable to CL2 registration No. 36; dated Aug 23, 1978 unsigned and dated 5 September 1978 signed by W Davies, I now wish to (b) amend "To graze 700 sheep or sheep equivalent on CL2 and to graze 700 sheep or sheep equivalent on CL1, 1 horse = 5 sheep, 1 beast = 6 sheep".

WHS 1987 evidence:- The controversy was that the original registration was on both CL1 and CL2; the 1978 agreement was in effect that the registration should be split, so there should be a registration of 700 sheep or equivalent over the whole of CL1.

Decision:- I CONFIRM this registration with the modification, column 4 to become "To graze 700 sheep or equivalent (1 beast = 6 sheep, 1 pony = 5 sheep, or any combination, 1 sheep includes 1 lamb until weaning); over the whole of the land comprised in this register unit.

No. 25

Kenneth James Harris; Coed Farm, Cwmyoy, (15 acres); occupier (?); To graze 105 sheep; "over part of land described in this register unit".

Objection:- BMGA58, incorrectly quantified.

Please note letter WHS/25:- Jan 11, 1971, by K Harris, I now wish to (b) amend "To graze 105 sheep or sheep equivalent 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe & lamb = 1 sheep until weaning.

WHS 1987 evidence:- BMGA agree; should be over the whole of the Unit Land.

Decision:- I CONFIRM this registration with the modification, column 4 to become: "To graze 105 sheep or equivalent (1 beast = 6 sheep, 1 pony = 5 sheep, or any combination, 1 sheep includes 1 lamb until weaning). Over the whole of the land comprised in this register unit.



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No. 26

Replaced by Nos 51 and 52, see below

No. 27

Merton Trevor Jones: Pentwyn lands, Ffwthog Cwmyoy: owner: to graze 246, 28 ponies, 20 cattle or a combination of such stock pro rata (one sheep to include progeny until weaning time), the right to cut and take bracken (estovers): over the whole of the Unit Land.

Objection:- BMGA 58, incorrectly quantified.

Please note letter WHS/26:- 20 Jan 1971: (b) amend "To graze 390 sheep or sheep equivalent 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe & lamb = 1 sheep until weaning.

WHS 1987 evidence:- should be 390 sheep and the word "estovers should be omitted.

Decision:- I CONFIRM with the modification, column 4 to become "To graze 390 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination; 1 sheep includes 1 lamb until weaning). To cut and take bracken in accordance with the requirements of the holding; over the whole of the land comprised in this register unit.

No. 26

Replaced by Nos. 51 and 52 see below.

No. 28

Replaced by Nos. 49 and 50, see below.

No. 29

Thomas Ivor Jones: The Gaer Farm, Ffwthog, Cwmyoy, 63a.lp.: owner: graze 378 sheep or 38 ponies or 38 cattle or a combination of such stock pro rata (one sheep to include progeny until weaning time). Right to cut and take bracken (estovers): over the whole of the Unit Land.

Objection:- None particularly applicable.

Please note letter:- None.

WHS 1987 evidence:- modify as for other cases, eg cut out estovers.

Decision:- I CONFIRM this registration with the modification column 4 to become: "To graze 378 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or



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any combination; 1 sheep includes 1 lamb until weaning); to cut and take bracken in accordance with the requirements of the holding; over the whole of the land in this register unit.

No. 30

Elizabeth Dorothea Wood; Cwm Bwchel Farm and Gunters Farm, Llanthony, (1) 47 acres OS Nos. 385 etc, and (2) 30 acres OS Nos. 524 etc: owner: graze 228 sheep and 5 ponies: "over part of land described in this register unit".

Objections:- BMGA 58, incorrectly quantified.

Please note letter WHS/1:- 19.5.87: (a) withdrawn "our objection"; (b) amend "to graze 260 sheep or sheep equivalent"; Sgd "S G Gwillim (for BMGA).

WHS 1987 evidence:- (This registration was the first by him particularly mentioned). The please note letter indicates agreed withdrawal of objection and increase of number.

I CONFIRM this registration with the modification column 4 to become: "To graze 260 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination; 1 sheep includes 1 lamb until weaning); over the whole of the land comprised in this register unit.

No. 31

Gwenith Mary Harfest & Joan Helen Harfest; the Studio Llanbedr, Crickhowell OS 660 (pt) and 681 (pt); joint owners; "To graze - right of estovers, to gather moss, whimberries, bobberries, blackberries, watercress and a leaf mould; over the whole of the Unit Land.

Objections:- BMGA 57, no rights alternatively not as described. FT65 right does not exist at all.

Please note letters:- None.

WHS 1987 evidence:- He remembers speaking to the Misses Harfest some years ago, and they said to him that they withdraw their registration. There is no evidence supporting the registration.

Decision:- I REFUSE to confirm this registration.



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No. 32

James Abraham Thomas Powell: Llwyn Celyn Farm, Cwmyoy, 150 acres, and Berllam Farm, Ffwyddog, 24 acres: owner: graze 1258 are part equivalent in ponies over the whole of the Unit Land.

Objection:- BMGA 58, incorrectly quantified.

Please note letter WHS/27:- Jan 11 1971, (b) Amend "To graze 1258 sheep or equivalent, 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe & lamb = 1 sheep until weaning."

WHS 1987 evidence:- Mr J A T Powell present in person and Mr Stephens agrees 1258 sheep in accordance with Mr Stephens' observations about other registrations.

Decision:- I CONFIRM this registration with the modification column 4 to become: "To graze 1258 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination; 1 sheep includes 1 lamb until weaning); over the whole of the land comprised in this register unit.

No. 33

Raymond Stuart Stanley Wood; Fosse Farm, Fforest, 29½ acres: owner: graze 80 sheep over the whole of the Unit Land.

Objection:- BMGA 58, incorrectly quantified.

Please note letter WHS/4:- withdraw objection signed W H Stephens (for BMGA).

WHS 1987 evidence:- The withdrawal was decided at a meeting: Mr G E Gwillim who witnessed signature was the area representative.

Note:- Mrs Clarke said this Entry No. has been replaced by registrations at Entry Nos 53 and 54, the number 80 being split 40 and 40.

Decision:- I am not concerned with the replacements occurring after the notices of reference (Forms 36 dated 17 February 1986). I CONFIRM this registration with the modification, column 4 to become: "To graze 80 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination; 1 sheep includes 1 lamb until weaning); over the whole of the land comprised in this register unit."

No. 34

Arthur James Watkins; Nant-y-Gwddel Farm, 75.122 acres; owner; graze 525 sheep and 10 ponies (one sheep to include progeny until weaning time) over the whole of the Unit Land.

Objection:- BMGA 58, incorrectly quantified.

Please note letter WHS/27 bis:- Jan 11 1971 signed J G Watkins: (b) Amend "To graze 578 sheep, 1 beast = 6 sheep, 1 ewe & lamb = 1 sheep until weaning.



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WHS 1987 evidence:- Registration should be 575 sheep or equivalent

Decision:- I CONFIRM this registration with the modification column 4 to become:
 "To graze 575 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination: 1 sheep includes 1 lamb until weaning) over the whole of the land comprised in this register unit.

No. 35

William John Williams: Draen Farm, Llanbedr, Crickhowell, OS Nos 491 etc: tenant: to graze 320 sheep or 80 cattle or 80 horses or any combination of these numbers upon a pro-rata basis, common of estovers, rights to gather chimberries, bogberries, blackberries and watercress, over the whole of the Unit Land.

Objections:- BMGA 57, no rights, alternatively are not as described. FT64, too far removed, whimberries etc do not exist.

Please note letter WHS/28:- 13.1.71. "(a) withdraw my application" (signature witnessed by W H Stephens).

WHS 1987 evidence:- Confirmation should be refused.

Decision:- I REFUSE to confirm this registration.

No. 36

William John Williams: Gelli-Farw Farm, Llanbedr, Crickhowell, 25.168 acres; owner; graze 175 sheep or 44 cattle or 44 horses ... (as for No. 35 above).

Objections:- BMGA 57 and FT64 ... (as for No. 35 above).

Please note letter WHS/29:- 13.1.71. ... (as for No. 35 above).

WHS 1987 evidence:- Confirmation should be refused.

Decision:- I REFUSE to confirm this registration.



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No. 37

Charles Frederick Richard Price; The Gaer Farm, Cwmyoy, 67 acres; owner: to graze 500 sheep or 400 sheep and 20 ponies or cattle or any combination of 20 ponies and cattle, right to cut and take bracken; over the whole of the Unit Land.

Objection:- None particularly applicable.

Please note letter:- None.

WHS 1987 evidence:- Confirmation should be in accordance with other confirmed registrations.

Decision:- I CONFIRM this registration with the modification, column 4 to become: "To graze 500 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination; 1 sheep includes 1 lamb until weaning). To cut and take bracken in accordance with the requirements of the holding: over the whole of the land in this register unit.

No. 38

Elsbeth Huxley: Middle Gaer Farm, Cwmyoy, 18,500 acres OS Nos. 545 etc: owner; graze 90 sheep, 18 cattle, 18 ponies or a combination of such stock pro-rata (one sheep to include progeny till weaning time), rights to cut and take bracken (estovers): over the whole of the Unit Land.

Objection:- BMGA 58, incorrectly quantified.

On file of Commons Commissioners:- Letter dated 9 June 1987 from Mr C G Huxley asking explanation "how my rights attaining to Middle Gaer ... are actually affected" and copy reply dated 10 June 1987 from Clerk. Also letter dated 10 June 1987 from County Council enclosing letter of 26 May 1987 from BMGA Secretary saying "Entry No. 38 in respect of Middle Gaer Farm, Cwmyoy is owned by a Mrs Huxley from Wiltshire and our area representative has not yet been able to get contact. If the form arrives, I will forward it onto you (meaning the County Council)".

WHS 1987 evidence:- There has been no agreement, see County Council letter of 10 June 1987. Suggest 90 sheep or equivalent (as in other registrations), deleting "including progeny" and "estovers".

After hearing: Letter dated 6 August 1987 from County Council to Commons Commissioners, enclosing a letter dated 28 July 1987 from Secretary of BMGA: "I have now received the form duly signed by Mr C G Huxley ... which I enclose herewith ...": said form, 13 June 1987 signed Charles Grant Huxley, "(b) amend ... To graze 126 sheep or sheep equivalent: 1 pony = 5 sheep: 1 beast = 6 sheep".



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Decision:- At hearing, apart from the evidence of Mr W H Stephens, I had no evidence in support of the registration and nothing to suggest that the number of sheep in it should be greater than the "90" specified in the registration and in the application signed by Mrs Elspeth Huxley on 20 August 1968. I decline to speculate what Mr W H Stephens might have said if he had on 25 June at the hearing known of the please note letter signed by Mr Huxley and dated 13 June. I have no evidence that what he signed was the result of any agreement made with any representative of BMGA or what Mr W H Stephens now thinks about it. In these circumstances, I consider I should act on the evidence as it was at the hearing and disregard any information I have after it received. The burden of proof about a disputed registration lies on the applicant or her successors and in the absence of any representations at the hearing, I shall give effect to and to no more than the evidence of Mr Stephens. But because there may be some mistake or misunderstanding about this registration my decision about it is subject to the liberty to apply specified in Part IV of the Fourth Schedule hereto. So subject to such liberty, I CONFIRM this registration with the modification: column 4 to become: "To graze 90 sheep or equivalent (1 beast equals 1 sheep, 1 pony equals 5 sheep or any combination; 1 sheep includes 1 lamb until weaning; to cut and take bracken in accordance with the requirements of the holding; over the whole of the land comprised in this register unit".

No. 39

Thomas Glyn Lewis; Pentwyn land, Ffwyddog, Cwmyoy, 33.682 acres; graze 200 sheep, 10 ponies (one sheep to include progeny until weaning time), right to cut and take bracken (estovers), over the whole of the Unit Land.

Objection:- BMGA 58, incorrectly quantified.

Please note letters WHS/30 and 31:- 13.1.71: To graze 250 sheep or sheep equivalent, 1 pony = 5 sheep, 1 beast = 6 sheep, 1 ewe & lamb = 1 sheep until weaning. 23.2.72: The right to graze 200 sheep or sheep equivalent. Ewe & lamb equals 1 sheep until weaning. 1 pony equals 5 sheep. 1 beast equals 6 sheep. The right to cut and remove fern.

WHS 1987 evidence:- 200 sheep.

Decision:- I CONFIRM this registration with the modification, column 4 to become:- "To graze 200 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning); to cut and take bracken in accordance with the requirements of the holding; over the whole of the land comprised in this register unit".



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No. 40

Deleted.

No. 41

Secretary of State for Wales, for Forestry Commission: Ffawyddog Fawr, Cadwgan Farms: owner: graze 800 sheep: "over the part of the land described in this register unit as shown verged green on the plan attached to the application".

Objection:- BMGA 57, no rights, alternatively the rights not as described.

Please note form WHS/2:- 12.3.87: from BMGA: Entry Nos. 41, 42 & 47; (b) amend "Entry 41 - To graze 300 sheep or sheep equivalent. Entry 42 - To graze 100 sheep or sheep equivalent. Entry 47 - To graze 350 sheep or sheep equivalent. 1 pony = 5 sheep, 1 beast = 6 sheep". (Signed) W H Stephens.

Letter from Treasury Solicitor to Commons Commissioners dated 3 June 1987 ref L83/2170/JEP:- "... With regard to Objection 57, I am pleased to confirm that application 45 was withdrawn by the Forestry Commission in 1972 and the graziers association has confirmed that it will agree the registrations for Entries 41, 42 & 47. I enclose a copy of their letter of 26 May confirming this". Letter dated 26 May 1987 from Mrs M Jones as BMGA Secretary to Treasury Solicitor (being that enclosed as above), enclosing the above summarised please note form.

WHS 1987 evidence:- Rights used to be between dingles (watercourses), this agreed registration should be over all.

Decision:- I CONFIRM this registration with the modification, column 4 to become: "To graze 300 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning); over the whole of the land comprised in this register unit".

No. 42

Forestry Commission: Ffawydd Farm: owner: graze 270 sheep: "over part of land described in this register unit verge green on plan marked A".

Objection:- No rights, alternatively not as described.

Please note letter WHS/2:- See Entry No. 41.

Letters from Treasury Solicitor and Secretary of BMGA:- See Entry No. 41.



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WHS 1987 evidence:- See Entry No. 41.

Decision:- I CONFIRM this registration with the modification, column 4 to become:
 "To graze 100 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning); over the whole of the land comprised in this register unit".

No. 43

Mr M J Stock and Mr R J R White; Tymawr Ffwddog Cwmyoy, Dial Careg Ffwddog Cwmyoy; graze 758 sheep, 95 cattle, 95 ponies, one animal to include progeny till weaning time; right to cut and take bracken; (over) parish of Cwmyoy.

Objection:- BMGA 58, incorrectly quantified.

Please note letter WHS/5:- By S G Gwillim on behalf of BMGA, "I now wish to withdraw our objection".

WHS 1987 evidence:- Mr Gwillim is area representative of BMGA; bracken registration should be reworded (as below stated) and right should extend over whole of Unit Land; delete in column 4 "Parish of Cwmyoy". Later during the hearing Mr Stephens referred to this registration as relevant to Entry No. 17.

Decision:- I CONFIRM this registration with the modification, column 4 to become:
 "To graze 758 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep, or any combination; 1 sheep includes 1 lamb until weaning); to cut and take bracken in accordance with the requirements of the holding; over the whole of the land in this register unit".

No. 44

M J Stock & R J R White; Coed Dias, Cwmyoy and Grwyne-Fawr: owners: graze 727 sheep, 91 cattle, 91 ponies, one animal to include progeny till weaning time: over the whole of the Unit Land.

Objection:- BMGA 58, incorrectly quantified.

Please note letters, WHS/6:- 19.5.87. by S G Gwillim on behalf of BMGA: "I now wish to withdraw our objection".

WHS 1987 evidence (in effect):- Equivalence should be as agreed for other cases (Mr Stock agreed, observing they would do better), a right to cut and take bracken should be included.



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Decision:- I CONFIRM this registration with the modification, column 4 to become:-
 "To graze 727 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning); to cut and take bracken according to the requirements of the holding; over the whole of the land comprised in this register unit".

No. 45

Forestry Commission: Llanthony Estate (Pt) verged red on plan A: lessee: graze 1,000 sheep or equivalent number of cattle or ponies: over all the Unit Land except verged yellow on plan A.

Objection:- BMGA 57, no rights, alternatively not as described.

Treasury Solicitor's letter of 3 June 1987 to Commons Commissioners includes:- "With regard to Objection 57, I am pleased to confirm that application 45 was withdrawn by the Forestry Commission in 1972".

WHS 1987 evidence:- In view of letter, refuse.

Decision:- I REFUSE to confirm this registration.

No. 46

Sir Robert Godfrey Llewellyn; Tredrenow Holding, Cwmyoy (5.127 acres); owner; graze 30 sheep, one sheep to include progeny till weaning time; right to cut and take bracken; over whole of Unit Land.

Objection BMGA 57:- No rights, alternatively not as described.

Please note letter WHS/32:- 15 Dec 1971 by Godfrey Llewellyn and W H Stephens:
 "(b) amend ... to cut and remove fern (c) to graze 30 sheep or sheep equivalent, 1 ewe & lamb equals 1 sheep until weaning, 1 pony equals 5 sheep, 1 beast equals 6 sheep".

WHS 1987 evidence:- 30 sheep agreed; bracken in accordance with requirement of holding.

Decision:- I CONFIRM this registration with the modification, column 4 to become:
 "To graze 30 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep, or any combination, 1 sheep includes 1 lamb until weaning); to cut and take bracken in accordance with the requirements of the holding; over the whole of the land comprised in this register unit.



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No. 47

Forestry Commission: Cefn Coed Ewas: owner: graze 350 sheep: "over part of the land described in this register unit shown green on Plan A".

Objection:- BMGA 57, no rights, alternatively not as described.

Please note letter WHS/2: see Entry No. 41.

Letters from Treasury Solicitor and Secretary of BMGA, see Entry No. 41.

WHS 1987 evidence:- see Entry No. 41.

Decision:- I CONFIRM this registration with the modification: column 4 to become "to graze 350 sheep or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning); over the whole of the land in this register unit."

No. 48

Richard Moland Betham; Sunnybank, Llanthony, 9.358 acres; ; graze 6 ponies or 8 cattle or 24 sheep; over part of the land described in this register unit coloured green.

Objection:- None particularly.

Please note letter WHS/32 bis, W H Stevens for BMGA withdraws objection to CL2 registration No. 58, filed with application No. 642 by R M Betham leading to unit land registration No. 48.

WHS 1987 evidence: Refuse confirmation.

Decision:- Application describes land over which rights exercisable by reference to words in a conveyance "... on the adjacent mountains ...". I have no copy of plan attached to application showing "Sunnybank"; but a place of that name appears on my copy of the Register Map at grid reference 290270. I have no note or recollection as to why Mr Stevens suggested that confirmation of this registration should be refused. It may be a mistake to which the liberty to apply specified in Part IV of the Fourth Schedule hereto may be applicable. My decision, subject to the liberty to apply, is: I REFUSE to confirm this registration.

Nos. 49 and 50 replacing No. 28

49: Mr Richard and Mrs Frances Kenward: Tycoch Farm, Fforest Coal Pit: : To graze 240 sheep or 24 ponies or 24 cattle or a combination of such stock pro rata (1 sheep to include progeny until weaning time): also the right to cut and take bracken (estovers): over the whole of the unit land.

50: Mrs E M Jones: Croft Land: : To graze 150 sheep or 16 ponies or 16 cattle ... (as at 49 above) ...



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28 was:- Morton Trevor Jones: Ty Coch Farm, Ffwthog, Cwmyoy, 55.800 acres and Croft Land 9.305 acres: owner: graze 290 sheep, or 40 ponies or 40 cattle or a combination of such stock pro rata (1 sheep to include progeny until weaning time) right to cut and take bracken; over the whole of the unit land.

Objections:- None particularly.

Please note letters:- None.

WHS 1987 evidence:- Should be 390 sheep altogether, and "estovers" should be out; otherwise as for other registrations.

Decision:- I CONFIRM these registrations at Entry Nos 49 and 50 (replacing No. 28) with the modification: column 4 of No. 49 to begin: "to graze 240 sheep ..." and No. 50 to begin "to graze 150 sheep ..." and column 4 of 49 and 50 to continue "... or equivalent (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning; to cut and take bracken in accordance with the requirements of the holding; over the whole of the land comprised in this register unit."

Nos. 51 and 52 replacing No. 26

51: Mr A P Holland; Dol Alice, Llanthony, 97 acres: : graze 610 sheep "over part of the land described in this register unit".

52: Mr M L Knight; Abbey Farm, Llanthony, 46 acres: : graze 290 sheep "over part of the land in this register unit".

26 was:- Matthew Latham Knight: Abbey Farm, Llanthony, 46 acres & Dol Alice Llanthony 97 acres: owner/occupier: graze 1,121 sheep "over part of the land described in this register unit".

Objection (26):- BMGA 58, incorrectly quantified.

Please note letters - :- Dated 23.2.72 by Matthew L Knight, now wish (CL1) to (b) amend "the right to graze 1121 sheep or sheep equivalent: 1 ewe & lamb equals 1 sheep until weaning, 1 pony equals 55 sheep, 1 beast equals 6 sheep; the right to cut and remove fern. Dated Aug 23, 1978 by Matthew L Knight, now wish (CL1 registration ? blank ? 40) now wish to amend (b) "To graze 900 sheep or equivalent, 1 horse = 5 sheep; 1 beast = 6 sheep". Dated 8 Nov 78 by M L Knight, now wish (CL2) to withdraw and "transfer to the Common CL1."

WHS 1987 evidence:- Suggest 1121 on No. 26 be reduced to 900 (such reduction not needed for Nos. 50 and 51) and over whole of the Unit Land.

Decision:- I CONFIRM the registration at Entry Nos. 50 and 51 which replace No. 26 with the modification, column 4 of No. 51 to begin: "To graze 610 sheep ..." and column 4 of No. 52 to begin: "To graze 290 sheep and column 4 of Nos. 51 and 52 to continue "...or equivalent: (1 beast equals 6 sheep, 1 pony equals 5 sheep, or any combination, 1 sheep includes 1 lamb until weaning); over the whole of the land comprised in this register unit.



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FOURTH SCHEDULE

Decision Table

Part I: Land Section

I CONFIRM the registration at Entry No. 1 in the Land Section with the MODIFICATION that there be removed from the Register:-

- (1) OS Nos 426, 427, 428, 429, 430, 431, 432, 473 and 474 specified in Objection No. 163 made by Merton Trevor Jones, being at or near Grid Reference 287227, a short distance northeast of Ty-coch.
- (2) OS Nos 256 and 356 specified in Objection No. 164 made by Mr J L Lewis and Mrs G M Davies, at Grid Reference 278295 and 280293, a short distance south of Crofftau and Pen-y-beth-glau respectively.
- (3) OS Nos 360, 361, 362 and 363 specified in Objection No. 166 made by Mr M L Knight being land at or near Grid Reference 270290, a short distance west of Sychdre.

Part II: Rights Section

(A) I REFUSE to confirm the registrations at the following Entry Nos:-

- No. 4: Alfred Jones Grundy: Penrheolmerch Farm, Llanbedr.
- No. 5: Lewis Islwyn Watkins: Penrheolmerch Farm, Llanbedr.
- No. 6: Helen Elizabeth Davies: the Monastery Lands, Capel-y-Ffin.
- No. 7: Alfred James Gundy: Milaid Uchaf, Llanbedr, Ystradwy.
- No. 10: Peter William Anson: the Fawydd, Llanbedr, Crickhowell.
- No. 11: William John Howells: Ty-croes Farm, Llanbedr, Crickhowell.
- No. 12: Ronald Howells: Ty-Phillip, Llanbedr, Crickhowell.
- No. 15: Geoffrey Denis Brazier: Milaid Fach, Llanbedr, Crickhowell.
- No. 17: George Walter James: Ty-Mawr Farm, Fwthog.
- No. 31: Gwenith Mary Harfest & Joan Helen Harfest: the Studio, Llanbedr, Crickhowell.
- No. 35: William John Williams: The Draen Farm, Llanbedr, Crickhowell.
- No. 36: William John Williams: Gelli-Farw Farm, Llanbedr, Crickhowell.
- No. 45: Forestry Commission: Llanthony Estate (Pt).

(B) I CONFIRM the registrations at the following Entry Nos for the number of sheep hereinafter specified against each such No. and also for the right (if hereinafter so specified) to cut and take bracken and so the grazing right if so hereinafter specified) will be subject to the fencing condition hereinafter defined. Every such registration will be modified so that column 4 begins "To graze x sheep (x being the number of sheep so specified) followed by the words "or equivalent" (1 beast equals 6 sheep, 1 pony equals 5 sheep or any combination, 1 sheep includes 1 lamb until weaning"; and so if "bracken" is so hereinafter specified registration will continue with the words "to cut and take bracken in accordance with the requirement of the holding"; and also if the fencing condition is so specified for any number of sheep registration will include the words "but as to y sheep (y being the number so specified) or equivalent of the said x sheep or equivalent conditional on the maintenance of the fence between the land in this register unit and z (z being farm specified in column 5 of the registration); and so every registration shall end "over the whole of the land comprised in this register unit"; that is to say:-



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- No. 1: Maurice North; Penyrhoel Farm, Cwmyoy: 275 sheep.
- No. 2: James David Provins Graham: Tycwm, Llantony: 50 sheep.
- No. 8: Henry Leslie Jasper: Troedrhwiwmon Farm, Llanthony: 300 sheep.
- No. 9: Thomas Glyn Lewis: Upper House, Twddog: 632 sheep.
- No. 13: Dora Christine Geraldine Olsen: Pant Farm, Fforest: 368 sheep: bracken.
- No. 14: Jeffrey John Greenow: Penywyrldod, Llanthony: 707 sheep; of which 70 conditional on fencing.
- No. 18: Evan Thomas Lewis: Troedrhuglace Farm; 610 sheep; of which 120 conditional on fencing.
- No. 19: Russell John Jones: Fwthog Farm, Fforest Coalpit: 295 sheep of which 50 conditional on fencing.
- No. 20: Robert John Gwillian: Upper Henllan, Cwmyoy; 720 sheep of which 90 conditional on fencing.
- No. 21: Montague Percy Lewis: Pantyllwyfan Fwddog and Pontysgib Fforest Coalpit; 478 sheep of which 50 conditional on fencing.
- No. 22: Charles Morgan: Sychtre Farm, Llanthony: as attached to Sychtre Farm 400 sheep and as attached to Blaen-y-Cwm Farm 500 sheep.
- No. 23: Gordon Alfred Lewison & Mary Curtis Lewison: Penrhiw Farm, Cwmyoy: "Lewison" substitute "Levinson": 140 sheep.
- No. 24: Wilfred James Davies; Newaddlwyd Farm, Cwmyoy; 700 sheep.
- No. 25: Kenneth James Harris: Coed Farm, Cwmyoy: 105 sheep.
- No. 27: Merton Trevor Jones: Pentwyn Lands, Ffwthog, Cwmyoy, 390 sheep; bracken.
- No. 29: Thomas Ivor Jones: Gaer Farm, Fwthog Cwmyoy: 378 sheep; bracken.
- No. 30: Elizabeth Dorothea Wood: Cwym Bwchel Farm and Gunters Farm, Llanthony; 260 sheep.
- No. 32: James Abraham Thomas Powell: Llwyn Celyn Farm, 1,258 sheep.
- No. 33: Raymond Stuart Stanley Wood: Fosse Farm, Fforest: 80 sheep.
- No. 34: Arthur James Watkins: Nant-y-Gwddel Farm: 575 sheep.
- No. 37: Charles Frederick Richard Price: Gaer Farm, Cwmyoy: 500 sheep; bracken.
- No. 38: Elspeth Huxley; Middle Gaer Farm: 90 sheep: bracken.
- No. 39: Thomas Glyn Lewis, Pentwyn Land, Ffwyddog, Cwmyoy: 200 sheep.
- No. 41: Secretary of State for Wales, Forestry Commission: Ffawyddog Fawr, Cadwgan Farms: 300 sheep.
- No. 42: Forestry Commission: Ffawydd Farm, 100 sheep.
- No. 43: M J Stock & R J R White: Tymawr Ffwddog, Cwmyoy and Dial Careg Ffwddog, Cwmyoy; 758 sheep; bracken.
- No. 44: M J Stock & R J R White: Coed Dias, Cwmyoy and Grwyne-Fawr: 727 sheep; bracken.
- No. 46: Sir Robert Godfrey Llwelllyn, Tredrenow Holding, Cwmyoy; 30 sheep.
- No. 47: Forestry Commission, Sefn Coed Euas; 350 sheep.
- No. 49: Richard and Francis Kenward; Tycoch Farm, Fforest Coalpit; 240 sheep.
- No. 50: E M Jones, Croft Lands: 150 sheep.
- No. 51: A P Holland: Dol Alice, Llanthony: 610 sheep.
- No. 52: M L Knight, Abbey Farm, Llanthony: 290 sheep.

This Part should be read with the last subparagraph of every paragraph of the Third Schedule hereto headed with the number of a registration.

TURN OVER



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Part III: Ownership Section

- (A) I CONFIRM the registration at Entry No. 1 (C M Hunter) with the modification that from the land specified in column 4 there shall be excluded all the land against Entry No. 2 specified in such column.
- (B) I CONFIRM the registration at Entry No. 2 (M J Stock and R J R White) without any modification.
- (C) I REFUSE to confirm the registration at Entry No. 5 (J I Rogers).

Part IV: Liberty to apply

As explained under the heading Final, some parts of this decision are subject to any application which may be made under any liberty in this decision contained to apply to a Commons Commissioner to correct or amend such parts. Any person wanting any such correction or amendment should apply for it within THREE MONTHS of this decision being sent out to those concerned with it and such application should otherwise fulfil the requirements specified under such heading.

Dated this 22nd day of March 1988

John C. Breen Jones

Commons Commissioner