



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

## **The Petitions Committee**

### **Completion Report**

**Summary of the Petitions Committee's consideration of  
P-03-080 Old School and Old School House, Caergeiliog, Anglesey**

**October 2008**

**Petition Received**

4 October 2007

**Ruled Admissible**

6 November 2007

**Initial Consideration****31 January 2008**

The Committee gave initial consideration to this petition and agreed to await further information from the Assembly Parliamentary Services' legal team.

(See Annex 1 for the relevant extract from the transcript of the meeting on 31 January 2008)

**6 March 2008**

The Committee agreed to write to the Bangor Diocesan Trust for further information.

(See Annex 1 for the relevant extract from the transcript of the meeting on 6 March 2008, and Annex 2 for the letter sent to the Bangor Diocesan Trust)

**8 May 2008**

The Committee considered an update from the Assembly Parliamentary Services' legal team, and agreed to refer this petition to the Minister for Children, Education, Lifelong Learning and Skills to ask that she investigates the original granting of the statutory instrument in 1989, and that she reports her findings to the Committee.

(See Annex 1 for the relevant extract from the transcript of the meeting on 8 May 2008, and Annex 3 for the letter sent to the Minister for Children, Education, Lifelong Learning and Skills)

**16 October 2008**

The Committee considered a response from the Minister for Children, Education, Lifelong Learning and Skills, and agreed to close the petition as they were unable to progress it any further.

(See Annex 1 for the relevant extract from the transcript of the meeting on 16 October 2008, and Annex 3 for the response from the Minister for Children, Education, Lifelong Learning and Skills)

**Petitions Clerk**

**October 2008**

## Annex 1

## Extracts from Petitions Committee Meetings

### 31 January 2008

**Val Lloyd:** The first petition that we have to consider is P-03-080, on the Old School and House at Caergeiliog. This petition calls on the National Assembly to request that the Assembly Government rescinds a decision made by the Welsh Office regarding a property. The petitioner has said that the request is based on evidence and that the ownership of the property has been disputed. I understand that this is currently being looked at by the legal team.

**Ms Jackson:** That is right. We will come back to you.

**Val Lloyd:** Thank you.

**Andrew R.T. Davies:** We will have to wait for the legal advice, will we not? We cannot progress any further until we know what ground we are standing on.

**Val Lloyd:** That is a sound decision. Bethan, are you content with that?

**Bethan Jenkins:** Will they provide us with the additional information?

**Mr Sanchez:** We have a lot of additional information.

**Bethan Jenkins:** You have that. Is that what has been passed to the legal team?

**Mr Sanchez:** Yes.

**Bethan Jenkins:** Okay, that is fine.

**Val Lloyd:** That is a sound decision in view of the amount of information. If we tried to consider it before we received the advice of the legal team, we would not be in possession of the full facts.

### 6 March 2008

**Val Lloyd:** The next petition is about the old school house. This petition has run for some time. One thing that we have overlooked is that it is a long case that has been ongoing with the petitioner; it has been to court several times. I suggest that we write to the diocesan board for its view on this issue before we take any further action. We have not heard the views of the diocesan board, and I think that we should before we decide what to do with the petition, so that we have both sides of the coin. I see that everyone is agreed.

**Michael German:** Does the church own it or not? It should own up.

### 8 May 2008

**Val Lloyd:** The next petition is P-03-080 on the Old School House. Joanest has some information on this, and some comments on how to take it forward.

**Ms Jackson:** This petition has its roots in a conveyance that was made in 1860 under the School Sites Act 1841. Under that Act, land was conveyed to be held in trust for the premises to be used as a school, with provision for religious education to be provided at the school. There has been a long history of occupation of the

schoolhouse, leading to two sets of court proceedings, which have dealt with the issue. Under the School Sites Act and various ensuing education Acts, if the land ceased to be used for the purpose for which it was conveyed, it is possible for the Secretary of State to make an Order to allow new provision to be made under the endowment. In 1989, under the relevant education Act at the time, an Order was made vesting the site in the Bangor Diocesan Trust. I understand that there is claimed to be an issue as to the actions taken, preparatory to preparing and making that instrument.

Functions under the School Sites Act still existed when the Assembly was set up in 1998, and were then vested in the Assembly by the original National Assembly for Wales (Transfer of Functions) Order 1999. Under the provisions of the Government of Wales Act 2006, those functions are now vested in the Minister, so it has gone almost full circle. If there is an issue as to the propriety of the 1989 Order, in my opinion, it is now a matter for the Welsh Ministers to try to untangle anything that there might be to untangle, and to deal with it. My recommendation, therefore, is that you forward this to the Welsh Ministers to consider and to take any action that they may consider to be appropriate.

**Val Lloyd:** I think that that is our only course of action, following the legal advice.

**Michael German:** I compliment Joanest on her diligence in reading the 1841 Act. Do you keep copies in your office? [Laughter.]

**Val Lloyd:** We should all compliment her, individually and as a committee.

**Ms Jackson:** You would be surprised to see what I can dig out of the back of my cupboard, sometimes. [Laughter.]

**Val Lloyd:** Thank you very much, Joanest. We will proceed with writing to the Minister, as suggested, and we will also ask the Minister to keep us informed, out of interest.

### **16 October 2008**

**Val Lloyd:** We have had updates on two existing petitions. The first one is on the old school and schoolhouse in Caergeiliog. I am going to ask Joanest to initiate our discussion on this.

**Ms Jackson:** Members might recall this petition, which came in some months ago. It relates to the concern of a petitioner about the making of a statutory instrument in relation to an old ecclesiastical school. The petitioner, in parallel with any correspondence initiated with the committee, has obviously had considerable correspondence with the Government. You will see that from the, I must say, very comprehensive response from the Minister for Children, Education, Lifelong Learning and Skills, dated 9 October 2008. It sets out the comprehensive history of the matter and the involvement that the Government has had in this matter. It would seem that the matter has been very thoroughly investigated by those who are charged with dealing with it, and I would suggest that you consider that this committee has done all that it can and that you may wish to consider closing the matter. I would urge the petitioner to take independent advice if he considers that the matter should be taken further.

**Michael German:** It all hinges on the last page and the bit of Jane Hutt's letter about the notice of the order containing inaccuracies—relating to B1, B2 and B3 planning

use classes? To be honest, I do not feel in a position to judge and I do not think that I should be in a position to make a judgment on whether the Minister is right. What is clear is that there has been significant investigation of this matter by the Minister and I do not think that there is anything more that we can do.

**Val Lloyd:** I think that the Minister has given it huge consideration and I think that it also received huge consideration when the petitioner, quite legitimately, prior to coming to us, approached his Member of Parliament and his former Assembly Member. I agree with Mike. We will now formally close this petition.

## Annex 2

## Y Pwyllgor Deisebau

### Petitions Committee

Bangor Diocesan Trust  
Diocesan Centre  
Cathedral Close  
Bangor  
Gwynedd  
LL571RL

Bae Caerdydd / Cardiff Bay  
Caerdydd / Cardiff CF99 1NA

Our ref: PET-03-080

14 March 2008

Dear Sir or Madam,

**RE: PETITION P-03-080 OLD SCHOOL AND SCHOOL HOUSE, CAERGEILIOG**

The Petitions Committee is currently considering a petition in relation to the Old School and School House in Caergeiliog, Anglesey.

The lead petitioner has provided numerous documents outlining the history of the ownership of this property. There are several gaps in this narrative. However, the documentation provided indicates that ownership of this property was passed to you in trust, by order of the Welsh Office, in 1989.

To help the Committee's future consideration of this petition, I would be grateful if you could confirm whether you still own this property, and provide us with any information you may have in relation to your period of ownership of this property. In addition, the Committee would welcome any other information that you are able to provide that may assist it in its future deliberations.

The Committee will consider your response at a future meeting before deciding on any further action it may wish to take in relation to this petition. I have enclosed a copy of the petition wording for your reference.

Yours faithfully,

**Val Lloyd AM**  
**Chair, Petitions Committee**

## **Annex 3**

# Y Pwyllgor Deisebau

## Petitions Committee

Jane Hutt AM  
Minister for Children, Education, Lifelong  
Learning and Skills  
Welsh Assembly Government  
Cardiff Bay  
CF99 1NA

Bae Caerdydd / Cardiff Bay  
Caerdydd / Cardiff CF99 1NA

Our ref: PET-03-080

20 May 2008

### PETITION – OLD SCHOOL HOUSE

The Petitions Committee has been considering a petition in relation to a dispute over the making of a 1989 Statutory Instrument (*The Diocese of Bangor (Educational Endowments) Order 1989* SI890, made under s.2(1) of the *Education Act 1973*) that allowed the Bangor Diocesan Trust (BDT) to make provision for the sale of the properties known as the Old School and School House in Caegeiliog, Anglesey.

The petition calls for the 'breaking' of this statutory instrument, as the petitioner believes that it should not have been granted on a number of grounds.

These include that:

- a. The application for the SI was made by 'others apart from the appropriate trustees of the property' i.e. he does not believe that the BDT were the appropriate trustees.
- b. The notice of the proposed order (published in *The Mail*, 4 November 1987) contained inaccurate information, as it:
  - i. Did not site the property in the correct Parish
  - ii. Did not mention that the school was to be sold
  - iii. Did not mention the estate of Mr Richard T Griffith of the Carreglwyd Estate.

To clarify point b (iii), above; Mr Richard T Griffith was the original landowner, who conveyed the properties unto a trust in the Minister and Churchwardens of Llanfihangel-yn-Nhowyn under the *School Sites Act 1841* for the purposes of education in 1860.

The petitioner and the inheritor to the Carreglwyd Estate, Mr. Tom Carpenter, believe that the ownership of the school should have reverted to the Carreglwyd Estate once it ceased to be used for the purpose of education.

At its meeting on 08 May 2008, the Petitions Committee agreed that if there were some irregularity in the granting of the statutory instrument then, due to the transfer of functions under the *Government of Wales Act 2006*, the power to determine this matter would now rest with the appropriate Welsh Minister.

It agreed to ask that you investigate the granting of the 1989 Statutory Instrument, and that you report your findings, in writing, to the Committee.

The Committee's Clerking team has received a considerable amount of documentation from the petitioner. If your officials would like to discuss this petition, or arrange access to this documentation, please direct them to the Petitions Deputy Clerk, Alun Davidson. He can be contacted at [alun.davidson@wales.gsi.gov.uk](mailto:alun.davidson@wales.gsi.gov.uk) or on 029 20 8639.

I have included a copy of the original petition, and a paper summarising the information provided by the petitioner to aid you in your consideration of this matter.

I am grateful for your consideration of this petition, and look forward to receiving your response.

Yours sincerely

**Val Lloyd,**  
**Chair, Petitions Committee**

C.c. Mr. Parry, Petitioner  
Enc. Petition Wording; Summary Document; Extract from Transcript.

Jane Hutt AC/AM Y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a  
Sgiliau Minister for Children, Education, Lifelong Learning and Skills

Eich cyf/Your ref  
Ein cyf/Our ref JH/00782/08  
Val Lloyd  
National Assembly For Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

9 October 2008

Dear Val,

Thank you for your letter of 20 May 2008 on behalf of the Petitions Committee concerning a petition in relation to a dispute over the making of the Diocese of Bangor (Educational Endowments) Order 1989 (S.I. 1989/890) ("the Order"). The Order was made under the authority of the Secretary of State for Wales on 18 May 1989 and concerned the sale of the properties known as the Old School and School House in Caergeiliog, Anglesey ("the Property").

You advise that the Petitions Committee has considered the above petition which calls for the 'breaking' of the Order as Mr Parry ("the Petitioner") believes that it should not have been granted on a number of grounds. We understand that by the use of the term "break" the instrument, the Petitioner means that the Assembly Government should determine that the Order is unlawful and so should be revoked.

The details of Petitioner's complaints are as follows:

- a) The application for the Order was made by 'others apart from the appropriate trustees of the property' i.e. the Petitioner does not believe that the Bangor Diocesan Trust were the appropriate trustees.
- b) The notice of the proposed order (published in the Mail, 4 November 1987) contained inaccurate information, as it:
  - i) did not site the property in the correct parish;
  - ii) did not mention that the school was to be sold; and
  - iii) did not mention the estate of Mr Richard T Griffith of the Caerreglwyd Estate.

I think it important that my response to you and the Petitions Committee provides an outline to the history of the Petitioner's complaints regarding the above matter and the length of time it has taken for officials in responding to the Petitioner's

letters of complaint during the last 13 years. The law in this area is complex and therefore I have also set out a brief summary of the legislative background.

### **Legislative background**

In the past many schools were established on charitable trusts by way of gift of land, usually on terms which ensured that the endowment was to be used for a school to provide education according to the tenets of a particular religious denomination (usually the established church of England and Wales). Following disestablishment of the Church in Wales, the school site and buildings usually became vested in the diocesan trust.

When such a school closes, the trust can no longer apply to the Assembly Government under what is now sections 554-6 of the Education Act 1996 ("the 1996 Act") for an order known as an Educational Endowment Order ("EEO") to make fresh provision for use of the trust's endowments. The procedure set out in the 1996 Act has to be complied with before any such order can be made.

The procedure and wording of the order vary according to the founding deed of gift. If the gift was made under section 2 of the School Sites Act 1841, then ownership of the land reverted to the grantor or his successors in title once the terms of the trust were no longer complied with. When this happened, for example, if the school closed the owner of the reverter often did not pursue his claim. This led to a number of problems and so in 1987 the Reverter of Sites Act 1987 was passed. That Act established a retrospective trust for sale in place of the reverter, so the reversioner no longer had a right to the land but was instead the beneficiary of the trust and hence entitled to the proceeds of sale. This change allowed trustees to sell the property and prevented beneficiaries' claims from becoming statute barred (unless the reversionary rights to the land had already become statute barred before the 1987 Act came into force). However, an Educational Endowments Order can extinguish beneficiaries' rights, provided the provisions of the 1987 Act, and those of the 1996 Act, are complied with.

As mentioned above many schools founded during the mid- to late nineteenth century were established on charitable trusts by way of a gift of land and property. Such schools, called at that time non-provided public elementary schools, were comprised in deeds which usually vested the land and property in the local vicar and church wardens, as trustees. Such deeds usually required them, in their capacity as trustees, to ensure that the premises were used as a school in which religious education was taught, usually in accordance with a particular religious denomination. Under the Education Act 1944 these schools were classified as either voluntary aided or voluntary controlled schools.

The relevant religious denomination was usually what was known at the time as the Established Church in England and Wales. In Wales the church was

disestablished on 31 March 1920<sup>1</sup> and became known as the Church in Wales. Before disestablishment, the “vicar and church wardens” of a parish formed an ecclesiastical corporation, i.e., they had a legal identity by virtue of their status within the church. Land vested in “the vicar and church wardens” was therefore vested in the vicar and church wardens for the time being, regardless of the identity of the specific individuals involved. One of the effects of disestablishment of the church was that such ecclesiastical corporations ceased to exist. The freehold title to, and trusteeship of, property hitherto held on trust for charitable purposes by such corporations became vested in the Welsh Commissioners<sup>2</sup>. The Welsh Commissioners were placed under a duty to convey or transfer such property, at the request of the Representative Body of the Church in Wales<sup>3</sup>, either to that Representative Body or to those appointed by that Representative Body<sup>4</sup>. In the great majority of cases the property was transferred to the Church in Wales Diocesan authority for the relevant area, which therefore also became the new trustee. However, these transfers affected neither the terms of, nor the validity of, the pre-existing trusts.

When a voluntary school founded on charitable trusts closes, those trusts are no longer being fulfilled. If the school was a denominational school, i.e., where its premises can be shown to have been either held (under the terms of the trust deed), or in fact used<sup>5</sup>, in connection with appropriate religious education, the Secretary of State (but now see paragraph 1.7) has power to make certain fresh provision for the use of the endowments of the foundation (i.e., the assets of the charity). “Appropriate religious education” in this context means that the religious education must be provided in accordance with the tenets of a particular religion or religious denomination (but note paragraph 1.9 below). See paragraph 2.4 for further details.

Such fresh provision for the use of assets is achieved by the making of a local Statutory Instrument known as an Educational Endowments Order<sup>6</sup> (“EEO”). It will, for example, authorise a Church in Wales Diocesan authority to use the proceeds of sale of the premises for the benefit of other Church in Wales voluntary schools in the Diocese.

Historically, these arrangements arose from an agreement between the Government and the Church prior to 1944. Under that agreement, in exchange

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<sup>1</sup> See Welsh Church (Temporalities) Act 1919, section 2

<sup>2</sup> The vesting took place by virtue of section 22 of the Welsh Church Act 1914. The Welsh Commissioners were appointed under sections 10 and 11 of that Act. Their dissolution was suspended by section 1 of the Welsh Church (Temporalities) Act 1919. They were dissolved on 31<sup>st</sup> December 1947

<sup>3</sup> Creation of this body is authorised by Welsh Church Act 1914, section 13.

<sup>4</sup> See Welsh Church Act 1914, section 22.

<sup>5</sup> See Education Act 1996, sections 554(2)(a) and (b).

<sup>6</sup> i.e., an Order under Education Act 1996 sections 554 and 556 (which re-enacted section 2 of the Education Act 1973 as amended, which in turn had replaced section 86 of the Education Act 1944).

for benefits by way of grant aid to denominational voluntary schools under the 1944 Act, the proceeds of sale of discontinued denominational voluntary schools providing appropriate religious education and established on charitable educational trusts were to be recycled within the voluntary sector of education. The funds made available by EEOs enable a Diocese to assist the governors of other voluntary schools in the Diocese to meet their financial commitments.

On the introduction of grant-maintained schools, the provisions applying to the endowments of voluntary schools were extended to those grant maintained schools<sup>7</sup> which were formerly voluntary schools. Following the re-categorisation of schools in the Schools Standards and Framework Act 1998, those provisions were extended again to foundation schools<sup>8</sup> The endowments of all these types of schools therefore are potentially eligible for inclusion in EEOs.

All relevant powers given to the Secretary of State in the School Sites Act 1841, the Reverter of Sites Act 1987 and the Education Act 1996 have been transferred to the National Assembly for Wales under the National Assembly for Wales (Transfer of Functions) Order 1999 and are now vested in the Welsh Minister by virtue of paragraph 30 of Schedule 5 to the Government of Wales Act 2006.

In the past, trustees had to obtain consent from either the Secretary of State or the Charity Commissioners to the sale of any land<sup>9</sup>, for which an independent valuation would be needed. However, such consents are now no longer required<sup>10</sup>.

## **History of Cae'r Pwll School, Caergeiliog Anglesey**

*1860:*

Richard Trygarn Griffith gifted land in Cae'r Pwll to the Minister and Churchwardens of the parish of Llanfihangelynhowyn (then Church of England). This was the Property referred to in the first paragraph of the section of this letter headed background. The land gifted was to be used as a location for a voluntary school run in accordance with the principles of the Church of England. The wording of the deed of grant of 1860 ("the Founding Deed") was as follows:

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<sup>7</sup> See Education Reform Act 1988 section 112, which amended section 2 of the Education Act 1973. Grant-maintained schools were abolished by the School Standards and Framework Act 1988 from 1PstP September 1999.

<sup>8</sup> For the full list of schools currently eligible see Education Act 1996 section 554, as amended by paragraph 168 of Schedule 30 to the School Standards and Framework Act 1998.

<sup>9</sup> Under charity law, trustees of a charity were unable to sell an interest in land without consent. Originally that consent was given by the Secretary of State, but in 1973 all the educational charity files were passed to the Charity Commissioners, who took over the giving of consents.

<sup>10</sup> The 1992 Charities Act removed the consent requirement – see now section 36 of the Charities Act 1993.

*“for the purposes of a school for the education of children and adults or children only of the labouring manufacturing and other poorer classes ... conducted according to the principles ... of the National Society for promoting the education of the poor in the principles of the Established Church throughout England and Wales.”*

The Property therefore falls within the provisions of section 2 of the School Sites Act 1841 –

1. Site for a school for the education of poor persons.
2. For the residence of the schoolmaster/mistress.
3. Otherwise for the purposes of the education of such poor persons in religious and useful knowledge.

*1860 Deed:*

As indicated above the vicar and church wardens of the parish of Llanfihangalynhawyn were made trustees. It seems as though there never was a parish called “Cae’r Pwll”. Instead this was probably the name of a field in the parish of Llanfihangalynhawyn. However, the vesting of the Sunday School Fund in the “Deacon and Churchwardens of the Parish of Cae’r Pwll ...” can properly be construed as the vesting of the fund in the Deacon and Churchwardens of the Parish within which Cae’r Pwll foundation fell in their personal capacities. The 1860 Deed did contain a reverter clause to the effect that if the Property ceased to be used as a school the property reverts to the original donor – the Richard Griffith’s estate. However, that claim must be made by those benefiting by his will within 12 years from the date the land use changed.

*1883:*

At this time the Property was leased to the local school board and, therefore, the original trust purposes were abandoned in 1883. Due to a decision of the House of Lords in (*Fraser and others v Canterbury Diocesan Board of Finance [2005]*) this does not necessarily create a reverter. A reverter only occurs when the site ceases to be used for any of the three purposes set out in the School Sites Act 1841 – a site for the education of poor persons, residence of schoolmaster or mistress, or otherwise for the education of such poor persons in religious and useful knowledge.

After that date the Property continued quite legitimately to be held by the Minister and Churchwardens of the parish and their successors at law (Welsh Church Commissioners, then the Representative Body of the Church in Wales), in breach of the religious education trust, but this is a common situation when the original owner does not claim the land back.

We are aware that the Petitioner understands the basic principles of land reverting to the original owner upon breach of trust. However since 17 August 1987, all reverter provisions became redundant in light of the Reverter Sites Act

1987 (acting retrospectively). Therefore, instead of a claim to the return of the land, the person originally entitled to claim a return of the land, the person entitled to claim a return of the land upon breach of trust, would lose the claim to the land but would gain a claim to the proceeds of sale of land. This is a matter for the beneficiary and the Bangor Diocesan Trust.

*1910:*

In this year the Property closed as a school closed due to lack of funding. If the reverter had not already occurred in 1893, it would nonetheless have occurred at this stage. The Property was no longer being used for any of the original purposes set out in the School Sites Act. At this stage it seems the school reverted back to Richard Griffith's estate. The trustees (vicar and church warden) had title to the property good against everybody in the world, save for the reversioner – Richard Griffiths Estate.

*1914:*

The Welsh Church Act came into force. As a result all property of the Church of England in Wales was vested in the Commissioners of Church Temporalities in Wales.

*1915:*

New school opened nearby.

*1922:*

By virtue of section 15 of the Limitation Act 1980 the limitation period elapsed. At this point the trustees (vicar and church wardens) acquired an indefeasible possessory title and any claim of the Richard Griffiths estate became statute barred. This did not affect the trusts upon which the Property was held.

*1910-1948:*

The land was leased to Anglesey County Council for non-educational purposes.

*1947:*

On 12 December 1947 an Omnibus Vesting Order was made. The effect of this order was that the Commissioners of Church Temporalities in Wales vested all remaining property (that had not been vested by earlier vesting orders) in the Representative Body of the Church in Wales. A transfer would then have to be made from the representative Body of the Church in Wales to the Diocesan Board of Finance.

*1950-1990:*

In the 1950s the Petitioner's parents started renting the school house. By all accounts the school house was in poor condition. They remained there, paying in the 1980s a rent of £1 per week.

*1985:*

Bangor Diocesan Trust became trustees of the Property.

*1987:*

In 1987, the Bangor Diocesan Trust approached the Secretary of State seeking an order under section 2 of the Education Act 1973. The Secretary of State then had the power (also available in near identical terms to National Assembly for Wales) under sections 554-557 of the 1996 Act) to vest the Property in the Bangor Diocesan Trust and authorise it to sell the land so that 11/14ths of the proceeds of sale could be recycled into Diocesan schools in the area with 3/14ths being allocated to the parish for provision of a Sunday School. The Secretary of State exercised these powers in 1989 and made the Order.

The Order refers to the land as Cae'r Pwll School and creates a Sunday school fund the trustees of which are the Deacon and Churchwardens of the parish of Cae'r Pwll. The Order makes no mention of reverter provisions.

After the Order was made, the Parrys made several offers to purchase the land (subject to their own tenancy) but higher offers were received from others.

*17 December 1987:*

The Reverter of Sites Act 1987 came into force on this date. This Act is retrospective. It arises any time a reverter would have occurred but does not revive the beneficiary's rights. This provides that land is vested in the trustees in trust for sale for the reversioner. That means the trustees can sell the land but hold the net proceeds of sale on behalf of the reversioner. The purchaser of the land gets unencumbered title.

In the case of the Property this means that in 1910 when the school ceased to be used for the purposes of a school, the Property vested in the vicar and churchwardens in trust for sale. They could have sold the land, giving a purchaser unencumbered title, and would have had to hold the net proceeds on trust for Richard Griffiths's estate. However, as stated above the Reverter of Sites Act 1987 does not revive any beneficiary's rights and any claim that Richard Griffiths estate was statute barred from 1922.

*1990:*

At some point in the 1990s the elderly Mr and Mrs Parry died. Remaining at the property was Mr G Parry, the Petitioner's, brother. We are informed that, at some point, the brother ceased to pay the rent. Bangor Diocesan Trust then took the brother to court to seek a possession order in respect of the property. Bangor Diocesan Trust were successful and the land was eventually sold in 2003 free from tenancy.

### **Brief history of the Petitioner's enquiries**

The Petitioner has made the following sequence of enquiries / allegations encompassing a range of matters including inappropriate treatment of the reverter clause provisions, provision of incorrect / misleading information to the Secretary of State, incorrect references to the property as Cae'r Pwll school and lately incorrect references to Cae'r Pwll parish. Below is a schedule of the history of his enquiries / allegations.

*1996*

Ieuan Wyn Jones raises matter with the Welsh Office (letter of response from Jonathan Evans MP notes that already 6 previous queries have been dealt with by Welsh Office officials) Copy letter attached. The letter provided a copy of the information that was considered by the Welsh Office at the time the Order was made.

Ieuan Wyn Jones raised the matter at Parliamentary Questions in the House of Commons asking if Jonathan Evans MP would place a copy of the application and supporting evidence presented to him prior to making an order for the disposal of the Property. Jonathan Evans MP replied that he would do so.

*1997*

2 January 1997 - Ieuan Wyn Evans wrote to the Petitioner advising that he collate the evidence he has obtained so far and seek his own legal advice.

*2001*

Albert Owen MP raises the matter in general terms on behalf of the Petitioner by writing to Paul Murphy MP.

Planning receive query from the Petitioner personally - passed on to then Office of the Counsel General ("OCG") - response given on "reverter clause" issue.

*2002*

The Petitioner involved the County Council and a letter from the Isle of Anglesey County Council is received on 14 August 2002. Councillor Gwilym O. Jones asks if the National Assembly is satisfied with the information supplied to enable the Order to be granted. The OCG responded on 5 September 2002 that they have reviewed all the information supplied by the Petitioner and so no reason to doubt the validity of the Order. The OCG explain that the powers of the National Assembly when making such an order for the use of the trusts. The OCG explain that the only purposes which can be included must be related to the provision of denominational religious education, usually within the Diocese. In particular the National Assembly has no powers to order assets be used for general residential or non-educational purposes.

The Petitioner also involved the beneficiaries of the Richard Griffiths Estate and a letter was received from Mr Tom Carpenter on 1 August 2002. The OCG responded at length on 29 August 2002. The OCG advised that whether a reversionary interest arises is a matter between you and Bangor Diocesan Trust as the Order does not affect that and advised he seek his own legal advice. The OCG advice, as noted above in its response to the Isle of Anglesey Council that the Order could not authorise non-educational trusts. Mr Carpenter alleged that Bangor Diocesan Trust had misrepresented the existence of a reverter clause in the information it sent to the Welsh Office at the time the Order was being made. However, the OCG note there was no such reverter clause on the face of the original 1860 deed. The OCG also examined correspondence dating back to 1909 and failed to find any evidence of such a clause.

Three letters are received from the Petitioner enclosing various documents and making various allegations with respect to the "reverter clause" and other alleged omissions from

the Order. The letters are dated 30 July, 5 August and 16 August 2002. The OCG reply at length on 5 September 2002. Dealing with the Petitioner's allegations OCG respond as follow:

1. Whether or not a right of reverter exists is a matter of the beneficiaries of the Richard Griffiths Estate (Mr Tom Carpenter) to pursue with Bangor Diocesan Trusts. The OCG advise that whilst it is for the courts to interpret the law it is the National Assembly's view that where a statutory right of reverter exists, or used to exist, the Reverter of Sites Act 1987 gives trustees power to sell the property regardless of any wording in the Founding Deed. That Act also authorises the National Assembly to make an order under section 554 of the 1996 Act extinguishing a reversionary right or potential reversionary right, although the Order in this case did not do so.

2. The OCG advised that to the extent there is no reversionary interest which is still enforceable, the 1987 Act authorises the Order to declare fresh trusts, but only for appropriate educational purposes. As noted above the OCG advised the only purposes which can be included must be related to the provision of denominational religious education, usually within the Diocese. In particular the National Assembly has no powers to order assets be used for general residential or non-educational purposes.

3. The National Assembly has no power to intervene in cases of this nature and has no power to oversee the administration trusts. The OCG advised that would usually be a matter for the Charity Commissioners.

4. The OCG advise that there is no evidence in the papers provided by the Petitioner that substantiates the allegation that Bangor Diocesan Trust supplied in complete information. As noted above the OCG note there was no reverter clause on the face of the Founding Deed. The OCG also examined correspondence dating back to 1909 and failed to find any evidence of such a clause.

5. The Petitioner was of the view that was an incorrect claim on the part of the Church that was a Sunday School at the time the Order was made. The OCG advised the existence or not of a Sunday School does not affect the validity of the Order. The OCG advised that the Order provides that part of any proceeds of sale are to be used to establish Sunday School fund. The OCG points out that this would allow either an existing Sunday School to be continued or a new one established. The OCG concluded that there was no need to consider any further action in respect of the Order.

*2004*

- January / February 2004 - 6 written assembly questions are tabled by Glyn Davies A.M. in relation to this matter - a letter of response issues from the Minister dealing in detail with each matter and noting that in each case the Minister did not propose taking any further action. (Copy attached). In summary the response from the OCG stated:

1. Whether or not there is a reversionary interest is a matter for the Petitioner or Mr Carpenter to take up directly with Bangor Diocesan Trust and does not affect the validity of the Order.

2. Clarified the statutory basis of the Order.

3. The National Assembly has no power to determine whether or no a right of reverter arises.

4. The Order was made authorising the trustees to sell the freehold or leasehold property as described in the Order. Any proceeds of sale will be held on trust in

accordance with the terms of the Order. The National Assembly has no power to intervene in the sale or disposal of trust property and no power to decide the right of any third party claim to compensation. The National Assembly has no duty to compensate any third party for any alleged losses arising out of the disposal or sale by the trustees.

5. Advising the property was not abandoned and explaining the ownership history of the Property. The explanation noted that the Property was originally conveyed to vicar and churchwardens for the time being. Upon disestablishment of the Church in Wales ecclesiastical corporations ceased to exist. By virtue of the Welsh Church Act 1914 the freehold title, and trusteeship to property held on trust for charitable purposes by such ecclesiastical corporations became vested in the Welsh Commissioners who were themselves appointed under sections 10 and 11 of that Act. The Welsh Commissioners were placed under a duty to convey such property, at the request of the Representative Body of the Church in Wales or to those appointed by the Representative Body. The OCG advised that on 12 December 1947 following such a request, by an order of the Welsh Commissioners, title to the property was transferred to the Representative Body of the Church in Wales.

6. The OCG advised that given this matter dated back to the 1980s all reasonable attempts to locate all the original papers were unsuccessful. The OCG did advise that the Secretary of State would have had to satisfy himself that the application had been made by the persons appearing to be the appropriate authority of the Church in Wales.

- Meeting held on 9 January 2004 between the Petitioner and David Webb of the Welsh Office to discuss how the former Wales Office had handled the making of the Order. Letter issued by David Webb on 30/4/04 acknowledging that they had spoken a number of times regarding the way the Order had been processed. David Webb advises that before making an order the Secretary of State would have to satisfy himself that the school had ceased, or likely to cease to be used for the purposes of a voluntary aided school, it been requested by a denominational authority and the prescribed notice had been given. David Webb goes to advise that it is not the role of the Secretary of State to consider third party interests in land. (copy enclosed).

- 19 March 2004 – letter addressed to First Minister from Peter Rogers Associates Ltd advising that they were acting on behalf of the Petitioner who is pursuing an interest in a property known as Cae'r Pwll School, Caergeiliog – returned to cabinet secretariat – no action taken. (Forwarded to SMD as First Minister's correspondence on 27 April 2004).
- 1 April 2004 – letter from Mr Rogers chasing a response to his letter of 19/3/04, also enclosing letter to Mr David Webb – Head of Local government at the Wales office (for information only).
- 21 April 2004 – letter from Mr Rogers querying why the issue was being referred to the Wales Office.
- 26 April 2004 – letter from Mr Rogers to Ms Cherie Jones at the Wales office, seeking clarification why the Wales Office was dealing with the Petitioner's case and complaining over the length of time it was taking for Mr Webb to compile his report. Mr Webb of the Wales office responded to the Petitioner on 30 April 2004, copied to Mr Rogers. (copy enclosed)
- 28 April 2004 – response to Mr Rogers from First Minister advising matter to be handled by Schools Management Division.
- May - telephone conversation held between Mr Rogers officials, along with numerous telephone calls from the Petitioner.
- 18 June 2004 – letter from Mr Rogers chasing response to his letter of 6/5/04. This letter was never received by the First Minister's office, and was a response from Mr Rogers to First Minister's letter of 28 April 2004, questioning role of SMD and also copy of letter from Mr David Webb of the Wales Office
- Letter sent to Mr Rogers on 7 July 2004 which referred to a lengthy telephone conversation officials had with Mr Rogers during which it was explained at length that the complexity of the issues meant that the matter had to be dealt with by Assembly lawyers.
- Mr Rogers wrote on a further three further occasions. On 31 August 2004 in which he restated the allegations made on 7 July 2004. On 7 September asking for clarification as to whether the Welsh Office had been informed of Mr C. Parry's offer to purchase the school and that both offers were considered by the Secretary of State. Mr Rogers also asked for confirmation as to who supplied description of the Property being, (in the Parish of Caer Pwll).
- A letter is received from Peter Rogers Associates dated 18 November restating his concerns and offering to supply further information. A

subsequent letter was received from Peter Rogers associates on 22 December 2004 providing further information.

On 23 November 2004 - a letter is received from Llanfair yn Neubwll community council asking for an investigation to be undertaken. The National assembly for Wales responded on 10 March 2005 confirming that it had undertaken an extensive investigation of the claims made and had formed the view that the Order was validly made. The letter advised that the Order did not affect any rights the Petitioner, or any other third party, might have and such parties should pursue the matter through the civil courts. In response to the allegation that the community council were not consulted on the disposal of the property a copy of the advertisement which appeared in the local press at the time was enclosed. That advertisement advised those who wished to make an objection to contact the legal division of the Welsh Assembly Government. The advertisement records that a copy of the draft order could be inspected at the offices of amongst others Llanfair-yn-Neubwll Community Council.

The Welsh Assembly Government obtained legal opinion from Counsel on the issues raised by the Petitioner and others.

## *2005*

- Letter received from the Council leader on 20 January 2005 in support of the Petitioner's claim and asking the Welsh Assembly Government to look into the matter. The Welsh Assembly Government responded on 10 March 2005 stating that it had undertaken an extensive investigation of the claims made and had formed the view that the Order was validly made. The letter advised that the Order did not affect any rights the Petitioner or any other third party might have had and such parties should pursue the matter through the civil courts.
- A further letter received from Peter Rogers Associates date 20 January 2005 restating his concerns.
- A further letter is received from Peter Rogers Associates dated 2 February 2005. The letter provides further information and re-stating their prior allegations.
- A further letter from Peter Rogers and Associates dated 11 February 2005 enclosing further information.

Officials conclude their investigations into the points raised by Peter Rogers Associates Ltd on behalf of the Petitioner and their consideration of the legal opinion received from Counsel. A full response to the Petitioner allegations

issued 8 March 2005, that response was lengthy and for ease of reference a copy enclosed.

- The Petitioner telephoned education officials in response to Elizabeth Taylor's letter of 8 March 2005 advising that he was not content with the Assembly Government's response. The Petitioner made subsequent phone calls regarding this matter.
- 25 June 2005 letter from Peter Rogers addressed to Mrs Elizabeth Taylor Head of SMD. Mr Peter Rogers advises that he was not content with our response of 8 March 2005 and makes further allegations. These allegations were responded in our letter of 2 August 2005 referred to below.
- 19 July 2005 Letter from Peter Rogers to the Permanent Secretary. Elizabeth Taylor. Further allegation made by Peter Rogers Associates and these were responded to in our letter of 2 August 2005.
- Head of Schools Management Division issues a final response drafted by lawyers dated 2 August 2005 (see attached). This letter responded to all the allegations raised to date by the Petitioner, Peter Rogers Associates in addition to those of the local Community Council. I have set out below a summary of that letter:

| <b>Allegation</b>   | <b>Government Response</b>   | <b>Date previously responded to</b> |
|---|--|-------------------------------------|
| There are no documents referring to a change of use scheme. | Any question relating to a Charity Commission Scheme or the absence of such must be directed to the Charity omission. The National Assembly for Wales has no powers to intervene in such cases. It is open to you to take the matter up with the Charity Commission's complaints procedure. It is not within the National assembly's remit to enforce obligations of charity trustees. | 8 March 2005                        |
| There is no documented reference to any approach to the     | Ditto.   | 8 March 2005                        |

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| estate with such a scheme.  |  |   |
| <p>The Church cannot claim that it did not know if a successor to Richard Griffiths existed.</p>                                    | <p>Whether any reversionary interest exists is a matter for the Petitioner to take up with Bangor Diocesan Trust. The existence or not of such an interest does not invalidate the Order and if you wish to pursue the matter you must take your own legal advice. The National Assembly has no power to invoke any reverter or to determine whether any such right exists, nor did the Secretary of State previously have such a power.</p> | <p>Mrs Wiles letter of 29 August 2002</p> |
| <p>The appropriation of the property by the BDT was achieved through a trail of false and misleading application and documents.</p> | <p>The Welsh Assembly Government has found no evidence to support this allegation.</p>   | <p>8 March 2005</p>                       |

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| <p>It is not satisfactory to say that any question relating to a charity Commission Scheme must be directed to the Charity Commission, as its response is to direct you to the National Assembly for Wales.</p> | <p>Any question relating to a Charity Commission Scheme or the absence of such must be directed to the Charity Commission. The National Assembly for Wales has no powers to intervene in such cases. It is open to you to take the matter up with the Charity Commission's complaints procedure. It is not within the National assembly's remit to enforce obligations of charity trustees.</p> | <p>8 March 2005</p> |
| <p>When trustees are appointed to a charity, there is a legal obligation to ensure that a Scheme is in place.</p>   | <p>Ditto.</p>   | <p>8 March 2005</p> |
| <p>The application to vest property in the Bangor Diocesan Trust should not have been made in the circumstances where the Charity Commission had not been informed of the</p>                                   | <p>The National Assembly for Wales cannot advise Mr Parry on the legal implications of sections 554-557 of the Education Act 1996. The Petitioner was advised to legal</p>  | <p>8 March 2005</p> |

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|  | <p>advice.<br/>However, must be satisfied that all endowments to be included in the Order must have either have been held or used partly in connection with the provision of</p> |  |
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| <p>change of use to residential occupation by the Parry family.</p> | <p>appropriate religious education at the school. “Held” means that the trusts comprised in the founding deed state that religious education of a particular religion or religious denomination must be provided at the school. The purpose of the Founding Deed is set out in the deed itself and is:</p> <p><i>“for the purposes of a school for the education of children and adults or children only of the labouring manufacturing and other poorer classes ... conducted according to the principles ... of the National Society for promoting the education of the poor in the principles of the Established Church throughout England and Wales.”</i></p> <p>The National Assembly for Wales is therefore satisfied that the trusts comprised in the Founding Deed state that religious education of a particular religion or religious denomination must be provided at the school. It follows the making of the Order was within the Secretary of State’s powers. Any use to which it was put (including residential or as a hospital) did not affect the Secretary of States’ power to make the Order by relying on the wording of the Founding Deed.</p> <p>The Secretary of State is not under a duty to consider the rights of any alleged occupants of the land affected by the Order. The National Assembly does not have powers to decide the rights of any such party’s claims in relation to trust property including any alleged right to compensation. Any such rights if they exist would be unaffected by the Order as would any right to pursue a claim through the civil courts.</p> <p>Any allegations that Bangor Diocesan Trust should not have made the application, or that insufficient information was provided to the Charity Commissioners, should be directed to the parties concerned.</p> |
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| The land in question was used as an Isolation Hospital from 1 January 1949. | Ditto. | 8 March 2005<br><br>(indirectly) |
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| Mr Carpenter has never been approached regarding the right of reverter, nor for his permission to vest trusteeship, authorising sale, in the Bangor Diocesan Trust. | Whether any reversionary interest exists is a matter for the Petitioner to take up with Bangor Diocesan Trust. The existence or not of such an interest does not invalidate the Order and if you wish to pursue the matter you must take your own legal advice. The National Assembly has no power to invoke any reverter or to determine whether any such right exists, nor did the Secretary of State previously have such a power.                            | 8 March 2005 |
| The Welsh Assembly Should consider asking for a police investigation into the conduct of Bangor Diocesan Trust.   | During the course of our research we have found no evidence to support this allegation. It is understood that North Wales Police have advised that they will only proceed with an investigation if the Welsh Assembly Government advice that the Order was made on the basis on inaccurate information. In light of our conclusions and which are set out above we do not believe a police investigation into the conduct of Bangor Diocesan Trust is necessary. | 8 March 2005 |

- 24 August 2005 – letter from Peter Rogers Associates to the Permanent Secretary indicating that he was not content with our response and was continuing to pursue the matter both with the Charity Commission and the North Wales police.

- 24 November 2005 - further letter from Peter Rogers to the Permanent Secretary, following a landmark ruling in *Fraser and Other v Canterbury Diocesan Board of Finance [2005]* regarding the sale of land subject to the School Sites Act 1841.

- 19 December 2005 - full and final response sent to Mr Rogers letter of 24 November 2005. That letter advised:

1. That the decision in *Fraser and Other v Canterbury Diocesan Board of Finance [2005]* did not impact on the validity of the Order.
2. The National Assembly has no power to intervene with the Charity Commission.
3. We have not seen any evidence to support the allegations the Order was made on the basis of misleading information.

## 2006

- Letter dated 6 January 2006 from Peter Rogers to the Permanent Secretary on behalf of the Petitioner, chasing a response to his letter of 24 November 2005. Copy of response faxed to Mr Rogers on 12/1/06.
- March 2006, Ieuan Wynn Jones AM writes to the Secretary of State – Wales Office on behalf of the Petitioner. Requesting that the Secretary of State review the Petitioner's grievance which he has been pursuing for several years. Responded to by Mr David Webb of the Wales Office, 31 March 2006, who explained that the role which the Secretary of State would have exercised in 1989 was a limited one and that he was clearly satisfied as to the matters he needed to consider. He found no evidence of any defects in the way the matter had been handled. He concluded that there was no call for any further action. (Copy of draft letter attached).

## 2007

- 20 February 2007 Letter from Ieuan Wyn Jones asking the First Minister to review the matter and asking whether:
  1. Bangor Diocesan Trust were the correct trustee.
  2. Whether the requirements of the School Sites Act 1841 had been complied with.
  3. If the Petitioner's view is correct what steps should be taken to set aside the Order.

The First Minister replied on 16 March 2007 enclosing a copy of previous correspondence to Peter Rogers Associates in which the Assembly Government have already responded to the points made. The First Minister advises that the Petitioner should seek his own legal advice.

- No further action taken and complaint considered closed.

## Summary

The Petitioner originally commenced his enquiries/allegations regarding the making of the Order in 2001. Albert Owen MP also raised the matter in general terms on behalf of the Petitioner at that time. Between 2002 and 2006 Assembly officials have been investigating the allegations brought by the Petitioner into the making of the Order.

The investigations into the Petitioner's allegations were completed early 2005 and a full response was issued to Mr Peter Rogers who was acting on behalf of the Petitioner on 7 March 2005. Further representations were made By Mr Rogers and subsequent letters were issued on 2 August 2005 and 19 December 2005.

I make the point that the Assembly Government along with the Office of the Secretary of State for Wales has taken the complaints brought by the Petitioner extremely seriously and lawyers and policy officials have undertaken detailed research, which, in the process meant referring to law dating back to 1841 and necessitating enquiries to be carried out with third parties.

Our response on the 7 March 2005 concluded at the time that the Welsh Assembly Government was of the view that the Order was validly made. Assembly lawyers advise that the more recent evidence provided by the Petitioner to the Petitions Committee does not change the original conclusion as set out in the letter of 7 March 2005.

I can only repeat the statements made in the letters of 7 March 2005, 2 August 2005 and 19 December 2005 that during the course of our investigations, we have found no evidence to support the allegations made by the Petitioner

Turning to the specific points raised by the Petitioner:

a) That the application for the Order was made by others apart from the appropriate trustees of the Property:

We have not seen any information to suggest that the Order was granted on misleading or inaccurate information. The results of our research show that Secretary of State was entitled to make the Order and that the Order did comply with legislation. If the Petitioner still wishes to pursue this matter he must obtain his own legal advice and take the matter up directly with the Diocesan Trust

b) That the notice for the Order contained inaccurate information in that it:

i) Did not site the property in the correct parish.

As indicated above the vicar and church wardens of the parish of Llanfihangalynhawyn were made trustees in the Founding Deed. Research shows that it is likely that there never was a parish called "Cae'r Pwll". Instead this was probably the name of a field in the parish of Llanfihangalynhawyn. However, the vesting of the Sunday School Fund in the "Deacon and Churchwardens of the Parish of Cae'r Pwll ..." can properly be construed as the vesting of the fund in the Deacon and Churchwardens of the Parish within which Cae'r Pwll foundation fell. The 1860 Deed did contain a reverter clause to the effect that if the School ceased to be used as a school the property reverts to the original donor – the Richard Griffith's estate. However, that claim must be made by those benefiting by his will within 12 years from the date the land use changed. Therefore, the Order remains valid.

ii) Did not mention that the school was to be sold.

Prior to making the Order, under section 2(2) of the Education Act 1973, the Secretary of State was under a duty to publish in such manner as he thought sufficient for informing any other persons interested a notice of the proposal to make the Order and of the place where any interested party could (during a period of not less than a month) inspect a draft or summary of the Order. An advertisement appeared in the press on 4 November 1987 which referred to Cae'r Pwll School. The School had been referred to as Cae'r Pwll school I copies of documents dating back to 1948 and 1909. The advertisement referred persons interested to the locations where copies of the text of the draft Order could be inspected for a period of a month or alternatively copies could be obtained from the legal division of the Welsh Office. The advertisement stated that the Order could be inspected at the offices of Gwynedd County Council, Ynys Môn/Isle of Anglesey Borough Council and Llanfair-yn-Neubwll Community Council. Therefore, the advertisement was not legally required to state that a power of sale was to be granted. The Order itself which clearly contained the power of sale was widely available for inspection in the locality and this was made clear in the advertisement. Therefore, the Order remains valid.

iii) Did not mention the estate of Mr Richard T Griffith of the Caerreglwyd Estate.

There is no legal requirement to mention the estate of Mr Richard T Griffith. The existence or not of a reversionary interest by the beneficiaries of Mr R T Griffith, or any other third party, must be pursued directly with Bangor Diocesan Trust. The Order does not affect any such interests, if such exist. Therefore, the Order remains valid.

We consider that the Assembly Government has taken great pains over the years to consider carefully the various allegations put to us by the Petitioner. Officials within the Assembly Government have undertaken a great deal of research and have not found anything to justify the allegations made by the Petitioner and those acting for him. If the Petitioner wishes to pursue this matter then he must obtain his own legal advice and take the matter up with the Charity Commission and/or the Bangor Diocesan Trust.

Yours sincerely,