



COMMONS REGISTRATION ACT 1965

Reference No. 271/D/1

In the Matter of a Tract of land of about
1,900 acres called Halkyn Common, Holywell

DECISION

This dispute relates to the registration at Entry No.1 in the Land section of Register Unit No.CL.11 in the Register of Common Land maintained by the Clwyd County Council and is occasioned by Objection No 12 made by Mr William John Davies Mrs Nora Davies and Mr Alwyn Davies and noted in the Register on 16th April 1971.

I held a hearing for the purpose of inquiring into the dispute at Mold on 9th April 1975.

The hearing was attended by Miss F. E. Woodruffe, solicitor, of the firm of Messrs. Bremner Sons & Corlett, Liverpool, for the Executors of the Most Noble Robert George Duke of Westminster (the Applicant for registration), and by Mr Clement Jones solicitor of the firm of Messrs Clement Jones & Co. Holywell for the Objectors.

Halkyn Common is a large tract of land, some 1,900 acres in extent, situated in the Parishes of Brynford, Cilcain, Halkyn, Northop and Ysceifiog. There is no question that the great bulk of this land was properly registered as common land. A large number of commoners have registered grazing rights in respect of the land, and only in a few instances have objections been raised against such registrations. Certain small areas of the land are the subject of conflicting registrations as village greens, to which no objection was taken on behalf of the applicant for registration, and I deal with these in my decisions under the relevant references. Only two direct objections to the registration of the land as common land were made viz. the present Objection and Objection No.14 (see my decision under ref. no. 271/D/2), both of which relate to quite small pieces of land.

The present objection relates to a triangular plot of land adjoining the Objector's property known as The Mount, Milwr, Holywell. At the hearing, Mr Clement Jones produced a Conveyance dated 25th May 1973 by which the Executors of the Duke of Westminster (the applicant) conveyed this plot of land to the objectors in fee simple as beneficial joint tenants subject to all rights of common so far as still subsisting. Plainly, this Conveyance left open the question of whether this plot of land still formed part of the Common. Subsequently, however, Mr Clement Jones has at my request forwarded to me an Affidavit by William John Davies (one of the Objectors), which (inter alia) exhibited (a) a letter dated 3rd December 1930 from Mr E. Redfern, the then Agent of the Duke of Westminster's Estate, to Dr J. Owen Jones, the then owner of The Mount; (b) Statutory Declarations declared by respectively Messrs. Owen Jones and George Williams on 24th and 27th September 1963; and (c) a Conveyance on Sale dated 10th October 1963 by which the four daughters of the said Dr. Owen Jones, who had succeeded to the property on his death, conveyed The Mount and the adjoining plot of land in question to the Objectors in fee simple. This evidence makes it plain that this plot of land was fenced in, with the consent of the Duke's Agent, in or about 1930, and that, at least from 1930 if not from an earlier date, this plot of land has been in the exclusive possession of the successive owners of The Mount. No-one has purported to exercise any right of common, or claimed any such right, since 1930.

In these circumstances, I conclude that any common rights which may formerly have been exercisable over this plot of land have long since been abandoned.



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Accordingly, I refuse to confirm the registration as regards this plot of land. I confirm the registration as to the remainder of the land comprised in Register Unit CL.11 except as regards (i) the land forming the subject of Objection No.14 as to which, see my decision under the reference 271/D/2), (ii) the land referred to in Objection 58 belonging to Mr Raymond Bennett (see my decision under the reference 271/D/6), (iii) the land referred to in 59 belonging to Mr Oswald Blackwell (see my decision under the reference 271/D/7), and (iv) the pieces of land in respect of which I have confirmed their registration as village greens. ~~to which, see my decisions under the references~~

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, with 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this *15th* day of *October* 1975

A. E. Francis

Commons Commissioner.

A D D E N D U M

Since I wrote my decision, it has emerged that Mr R.R. Payne, the objector in the case of a piece of land 7.353 acres in extent under Objection No. 57, had intended to attend the hearing but did not ^{do} so because he and his solicitors were apparently not aware of it. There seems to have been a misunderstanding, and I think it is right that I should consider Mr Payne's Objection on its merits when the relevant evidence is available to me. Meanwhile, I reserve the question of whether the registration should be confirmed as regards Mr Payne's land.

A. E. Francis

2 April 1976



SECOND ADDENDUM

I have now decided (see my Decision under the reference 271/D/5) that the land referred to in Mr Payne's Objection does not form part of the Common. Accordingly, I refuse to confirm the registration with respect to Mr Payne's said land.

9th December 1977

A. E. Francis