



In the Matter of Land known as The Bloreng
SUPPLEMENTARY DECISION

This decision is supplemental to my earlier decisions dated 16 July 1984 (as amended) and 17th January 1985 (as also amended). This decision is given after a re-opened hearing at Brecon on 1 May 1985.

Mr D R Bevan, Solicitor, appeared for the National Coal Board, Mr Brian Edwards, Secretary of the Gwent Branch of the Farmers Union of Wales appeared for Miss M Edmunds and Mr and Mrs Harris the persons now claiming at Entry No.68 in the Rights Section.

In the case of Entry No.68 Mr and Mrs Harris had acquired the dominant tenement in about 1980 but no record of the change had reached the Registration Officer. The application which was originally made by Mr J R Lewis was for the right to graze 200 sheep 10 cattle and 10 horses. Mr Lewis gave evidence at the first hearing in support of the claim but I came to the conclusion that his evidence was insufficient to establish his claim and refused to confirm the registration. Mr and Mrs Harris had recently heard of my decision and applied to me to re-open the hearing. As no notice of my decision had been sent to Mr and Mrs Harris their application was made within the time limited by the Commons Commissioners Regulations 1971.

Mr Bevan offered to withdraw his objection to the application if it were reduced to 100 sheep no cattle or horse provided that it was noted that they had corresponding rights in respect of the same animals of units No CL.36 & 37 in the former County of Brecknock. This proposal was accepted by Mr and Mrs Harris.

Miss Edmunds made the application at Rights Entry No 16 jointly with her mother (who has since died) as ^{persons} ~~present~~ representatives of Miss Edmunds father who had died shortly before the application had been made. The claim was to graze 400 sheep. The name of the dominant tenement is Castell Ferwyat and its size is 140 acres.

The application was ^{all} rejected by me ~~after~~ the original because I had not appreciated ^{that} some evidence given by a third party was intended to support Miss Edmunds claim, and for that reason I agreed to re-open the hearing to give her an opportunity of clearing up the misapprehension.

At the re-opened hearing held at Abergavenny on 19 December 1984 Miss Edmunds was represented by a Solicitor who informed me that he had agreed with Mr Bevan on behalf of the National Coal Board that Miss Edmunds claim should be accepted at 210 sheep. I recorded this agreement and gave effect to it in my decision.



-2-

On receipt of my decision Miss Edmunds informed me that she had never been consulted about the agreed reduction of her claim to 210 and that she had evidence that would support in full the claim as originally made.

Miss Edmunds was informed that if she made a formal application for the hearing to be re-opened and gave notice of her application to the National Coal Board and her Solicitor I would hear it.

Miss Edmunds said on oath that she had had one meeting with her solicitor between receiving a copy of the decision dated 16 July 1984 and the hearing on 19 December 1984. At no time was she told of any agreement with the National Coal Board. She was present in the back of the Court Room on 19 December but did not hear what her Solicitor said because of the noise of road repairs. (This accords with my own recollection). The decision dated 17 January 1985 came as a complete surprise to her and she immediately consulted the County ~~Surveyor~~ of the Farmers Union of Wales about explaining the true position.

With regard to her claim Miss Edmunds said that she was 62 years of age and had lived on the farm all her life. Her grandfather had farmed the same land from before 1900. For as long as she could remember there had always been a flock of over 450 sheep grazing the Blorenges from the farm.

Miss Edmunds' former solicitor did not appear and her evidence was not challenged.

For these reasons I shall vary the terms of my decision dated 17 January 1985 and confirm the registration at Rights Entry No.16 without modification and the registration at No. 68 limited to 200 sheep and with the note already mentioned.

On the question of the costs, Miss Edmunds' application I am limited by S.17 (4) of the Commons Registration Act 1965. Mr Beavan can rightly complain that his client was not responsible for the events which made a re-opening of the hearing necessary but Miss Edmunds is ~~and~~ also blameless so I will make no order as to costs.

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

30th

day of

May

1985

(Cyril Henrich)
Commons Commissioner