



In the Matter of Land known as The Blorenge

Supplementary Decision

This decision is supplemental to my decision herein dated 16 July 1984 as amended on 19 December 1984 and is given after a re-opening of the hearing on 11 December 1984 at Abergavenny.

Mr D R B Bevan Solicitor appeared for the National Coal Board, Mr G Edwards of Everett and Tomkins, Solicitor of Pontypool appeared for Mr A Davies the applicant at Rights Entry Nos 25 and 26 and informed me that his client and the National Coal Board that the registrations should be

No. 25	120 sheep
No. 26	300 sheep and in either case up to one half the number of sheep could be converted into cattle on the basis of 5 sheep equalling 1 beast.

Mr Bevan confirmed that he had agreed the following claims.

Rights Entry No. 16	210 sheep
No. 31	250 sheep; no stock equivalent
No. 48	125 sheep
No. 86	125 sheep no other stock

Mr Graham Llewelyn Lewis the present applicant at Rights Entry No. 47 said that he was born in July 1939 and had lived at Royal Oak Farm for 8 years from 1952 when his father rented the Farm. During that time his father kept 40-50 sheep 2 milking cows and 2 ponies and turned them on to the common graze. The cows and ponies came from the farm which his father had previously occupied near the Sugar Loaf. The area of Royal Oak Farm was 4 acres.

Mr R W Lewis stated that he had not made any agreement with the National Coal Board as stated in the decision that had been issued.

Mr John Howel Lewis the father of Mr R W Lewis said that he was now aged 74 and has occupied Bryn-y-Cwm Farm from 1949-1963 Before him his brother had been tenant of the Farm from 1945-1949 and before 1945 the tenant's name was Reynolds. The witness had bought the freehold of the Farm in 1956. In 1963 he had sold the Farm to his son lock, stock and barrel.

Reynolds had 980 sheep as well as cattle and ponies.

From 1949 onwards there were 600 sheep 10 cattle and 10 ponies on Bryn-y-Cwm and they were all grazed on the common.

The acreage of the dominant tenement was 157 and not 196 as stated in the application. Bryn-y-Cwm had 11.6 acres and the Waun Land 41. The Waun Land was rented from the Marquis of Abergavenny and later from the National Coal Board.

The evidence given by Mr G L Lewis falls a long way short of the period of user required to support a claim for grazing rights under the Prescription Act 1832. Further proof would be necessary covering the period from 1960 to the date of the application and the period before 1952. This claim therefore fails.



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In the case of the application at Rights Entry No. 66 now being pursued by Mr R W Lewis. I am satisfied that for the period from 1945 to the date of the application 600 sheep 10 cattle and 10 ponies were kept on the 157 acres which included Bryn-y-Cwm Farm and were turned out on to the common to graze.

That however is not the end of the matter. It is well settled that for a claim under the Prescription Act to succeed the fee simple ownership of the dominant and servient tenements must be in different persons. With one exception, not applicable to rights of common, a tenant cannot acquire a prescriptive right against his landlord.

It follows from this that the grazing of the Bloreng established by the evidence of Mr J H Lewis cannot establish any right of grazing appurtenant to the Waun Land which was rented.

It will be therefore necessary to apportion the 980 sheep 10 cattle and 10 ponies as between Bryn-y-Cwm Farm and the Waun Land in the proportion of 116 to 41 and to confirm the registration in favour of the Farm for the apportioned figure..

For these reasons I confirm the following registrations in the Rights section subject to the modifications already mentioned.

Rights Entry Nos.	16	210 sheep
	25	120 sheep or stock equivalent to the extent of 60 sheep
	26	300 sheep or stock equivalent to the extent of 150 sheep
	48	125 sheep only
	64	441 sheep 8 cattle 7 ponies
	86	125 sheep and no other stock

I refuse to confirm the registration at Rights Entry No.47. Subject as above I confirm my ammended decision.

I am required by regulation 30 (1) of the Commons Commissioners Regulations to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this

17th

day of

January

1985

Commons Commissioner