



COMMONS REGISTRATION ACT 1965

Reference No. 273/D/113-114

In the Matter of Mynydd Llanhilleth Common,
Abertillery, Llanhilleth and Abersychan, Gwent

DECISION

These disputes relate to the registration at Entry No. 1 in the land section and to the registrations at Entries Nos 1-51 and 54-57 in the rights section of Register Unit No. CL. 17 in the Register of Common Land maintained by the Gwent County Council and are occasioned by Objections Nos. 68, 69 and 70 made by Sir Anselm William Edward Guise and others and noted in the Register on 27 October 1970.

I held a hearing for the purpose of inquiring into these disputes at Cwmbran on 8 November 1988.

At the hearing the British Coal Corporation (owners of the greater part of the common and new objectors) were represented by Mr S. Weisbard, solicitor, the Mynydd Llanhilleth Commoners Association were represented by Mr. Emlyn Thomas of the Farmers Union of Wales, Mrs Padfield (registrant at Entry No. 2 in the rights section) appeared in person and Mr R. Williams represented the Registration Authority.

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Land Section - old objections

Objections Nos. 68, 69 and 70 made by Sir Anselm William Edward Guise and others (the "Abersychan Trustees") claimed that small parts of the unit land were not common land at the date of registration.

Mr Emlyn Thomas read out a letter from Messrs. Enoch Evans and Sons, solicitors, of Walsall on behalf of Messrs. C. Corner and A. Murrall who are the successors in title of the Abersychan Trustees and of Clay Colliery Company Limited who administer the estate on their behalf stating that they accepted that the land was common land and wished to withdraw the objections. Accordingly I shall not allow them.

Land Section - new objections

On 6 September 1988 British Coal wrote to the Clerk of the Commons Commissioners seeking leave to object to the registration of two pieces of land shown edged blue on a plan marked REM3 a copy of which will accompany the copies of this decision which go to British Coal, the Mynydd Llanhilleth Commoners Association and the Registration Authority. On 5 October they gave notice to all concerned parties of this application and sent them copies of proofs of the evidence on which they intended to rely and of the documents they intended to put in evidence.

These showed that the two areas had been used for opencast mining and that when the area had been reinstated the National Coal Board, wishing to use the area for forestry and to a small extent for underground coal mining, agreed with the commoners in 1962 to buy out their grazing rights for £3,000. The written agreement signed by the commoners is quite unambiguous. They agreed "to abandon all claims to exercise such rights of grazing" over the area.



Having studied these documents Mr Emlyn Thomas agreed that this land was not common land at the date of registration. I shall accordingly confirm the registration at Entry No. 1 in the land section with the modification that the land edged blue on map REM3 shall be omitted from registration.

At the request of Mr Emlyn Thomas Mr Weisbard stated -

- (1) That British Coal accept a perpetual liability to fence these areas against the common with a stock-proof fence.
- (2) That British Coal agree that they have no right to obstruct the corridor of common land between the two areas edged in blue on map REM3 which will be excluded from registration.
- (3) That British Coal have no present intention of using the land excluded from registration for any other purpose than forestry or coal mining.

Rights Section

All rights entries are in dispute as a result of objections 68 in the rights section and 69 and 70 in the ownership section.

There was no specific objection to any of the rights provisionally registered but it appears that the following rights entries were made by the NCB in respect of farms which were owned by the NCB who at the time of registration were also owners of part of the common - Entry Nos. -

37 - 45 and 47

In addition rights had been registered in respect of these farms by the tenants. Entry Nos. -

2	5	9	24	31
4	8	11	26	48.

In his letter of 6 September 1988, referred to above, Mr Weisbard gave notice that he wished to argue that these rights were properly registered notwithstanding the unity of seisin of the dominant and servient tenements.

At the hearing, however, Mr Weisbard told me that he had come to the conclusion that this was unarguable having regard to Wyat Wild's Case (1609) 8 Co. Rep. 786. In this I think he is right.

I shall, accordingly, not confirm these registrations.

Mr Weisbard also told me that he thought the registration at Entry No. 36 referred to a farm owned by the Abersychan Trustees who were also owners of part of the common. Since, however, he admitted he had no evidence to this effect I have no reason not to confirm this registration.



He also applied for leave to object to Entry No. 7 in the rights section on the grounds that the farm was too far from the common. Since, however, he had given no notice of this intention until the morning of the hearing I disallowed it.

Clearly the register though correct in law will now give an unreal picture of the actual situation on this common and I am glad to place on record that Mr Weisbard told me that British Coal had no objection to farms owned by the NCB at the date of registration in respect of which rights of grazing on the common had been provisionally registered, having grazing rights proportional to their holdings and that British Coal would discuss with the Commoners Association the best method of bringing this about.

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.

Dated this

14th

day of

November

1988

Peter Langdon-Davis

Chief Commons Commissioner