



In the Matter of Tranch Wood Common,
Abersychan

DECISION

These disputes relate to Register Unit No. CL.57 in the register of common land maintained by the Gwent County Council and arise as follows-

(1) Disputes relating to Entry No 1 in the Land Section

273/D/73 occasioned by objection no. 19 made by British Rail and noted in the register on 28 August 1970.

273/D/74 occasioned by objection no. 27 made by the Forestry Commission and noted in the register on 15 October 1970.

273/D/75 occasioned by objection no. 121 made by Richard Hanbury Hanbury-Tenison and noted in the register on 30 September 1970.

(2) Disputes relating to Entry Nos 1, 2 and 3 in the Rights Section

273/D/76 occasioned by objection no. 19 above

273/D/77 occasioned by objection no. 27 above

273/D/78 occasioned by objection no. 121 above

273/D/79 occasioned by objection no. 119 made by Richard Hanbury Hanbury-Tenison and noted in the register on 30 September 1970

273/D/80 occasioned by objection no. 156 made by Pontypool Urban District Council and noted in the Register on 28 September 1971

(3) Disputes relating to Entry Nos 1 and 2 in the Ownership Section

273/D/81) occasioned by the conflicting registrations at 273/D/82) Entries no 1 and 2 in that section

273/D/83 occasioned by objection no. 120 to Entry No. 2 in that section made by Richard Hanbury Hanbury-Tenison and noted in the register on 30 September 1970.



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I held a hearing for the purpose of inquiring into these disputes at Monmouth on 19 November 1985.

At the hearing Malcolm Leslie Heare, the applicant for registration of the land as common land and of a right of estovers and turbary in gross over the whole of the unit land did not appear and was not represented.

The same applies to Olwen Roberts and Hazel Mavis Doherty both of whom claimed a similar right of common. Unlike Mr Heare, however, both these ladies wrote to the clerk to the Commissioners - Mrs Roberts to withdraw her registration and Mrs Doherty to support hers. The Forestry Commission were represented by Mrs C. Pearson, solicitor, of the Treasury Solicitor's Office, Mr Hanbury-Tenison appeared in person. The Registration Authority were not represented. No other person offered to give evidence.

Mrs Doherty's letter, though pleasant and interesting, contains nothing which, if given in evidence, could support a claim to the rights she has registered.

In the absence of any evidence as to the existence of the rights provisionally registered or that the land was waste land of a manor I refuse to confirm the registration.

Mr Hanbury-Tenison applied for costs against Mr Heare and Mrs Doherty on the grounds that by making and persisting in these claims without being able to substantiate them, they have put the objectors to unnecessary trouble and expense.

I think I should remind Mr Heare and Mrs Doherty that on the form of application to register rights of common which they signed in 1968 there was a note which they both stated they had read (but may possibly have forgotten) which warned them that-

"if, at the hearing before the commissioner, the registration cannot be substantiated, it will be removed from the register, and the applicant may be ordered to pay the costs of the objector"

Persons who, having registered rights of common, fail to produce any evidence to support their claim therefore run a serious risk of having to pay costs. Costs are, however, a matter of discretion and in this case I shall make no order.



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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

3rd

day of

December

1985

Peter Langham-Davis

COMMONS COMMISSIONER