



COMMONS REGISTRATION ACT 1965

Reference Nos. 50/D/38-39

In the Matter of Mynydd Talyfan, ConwayDECISION

These disputes relate to the registration at Entry No. 3 (part) in the ownership section of Register Unit No. CL.49 in the Register of Common Land maintained by the Gwynedd County Council and are occasioned by Objection Nos. 134 and 138 made by Robert Hurd Marjory Hurd and Lois Hurd and noted in the Register on 18 January and 5 July 1972.

I held a hearing for the purpose of inquiring into the disputes at Caernarvon on 22 and 23 May 1974.

The hearing was attended by Mr Alan Davies, Solicitor, of the firm of Rees Currie-Jones and Davies on behalf of the University of Wales, and by the Objectors in person.

Mr Alan Davies gave oral evidence in support of the registration in the terms of a written proof which he produced. He also put in an Affidavit sworn on 17 May 1974 by Mr John Gareth Thomas, the Registrar of the University. This evidence shows that the land claimed by the University formerly formed part of the Manor of Gogarth and was vested in the Ecclesiastical Commissioners as Lords of the Manor. Pursuant to the Welsh Church Acts 1914 to 1945, the land (save for the "Red Land" conveyed by the Deed of Exchange mentioned below) became vested in the University by virtue of an Order of Transfer made by the Welsh Commissioners on 14 December 1945.

Mr Davies, however, produced a Deed of Exchange dated 2 May 1912, by which the Ecclesiastical Commissioners by way of exchange conveyed a piece of land shown coloured red on the plan drawn on the Deed and referred to therein as the "Red Land" to one James Scott (a predecessor in title of the Objectors) in fee simple for all the estate and interest therein of the Commissioners. The red land was described as containing 1,600 square yards or thereabouts and as forming part of Gwern-y-to-Common. It was conveyed to Mr Scott subject (inter alia) to "the existing rights or claims (if any) of the tenants of the Manor" - that is, the Manor of Gogarth - and "to the intent that the said red land may be used as and for a road and for no other purpose whatever".

It would appear that the estate and interest so conveyed to Mr James Scott in the red land is now vested in the Objectors, and Mr Davies rightly conceded that the red land should be excluded from the registration.

The objectors also claim ownership of a crescent shaped piece of land lying between Mountain Lodge and the Penmaenmawr to Conway Highway, but I am clearly of opinion that this piece of land, save insofar as it forms part of the red land described in the said Deed of Exchange, belongs to the University of Wales, subject to the rights of common thereover. This land is open and unenclosed, and has always been regarded as part of the common (see my decision under reference 50/D/30-32). The evidence adduced by Mr Davies satisfies me that (subject as aforesaid) this land is now vested in the University by virtue of the Order of Transfer dated 14 December 1945.



-2-

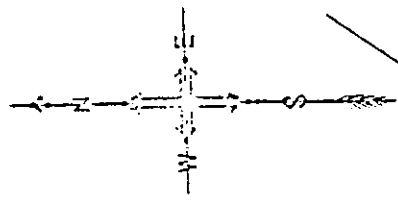
For these reasons I confirm the registration with the following modification: - Viz that there should be excluded from the registration the land referred to as the "red land" in the Deed of Exchange above referred to.

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.....23rd.....day of.....October.....1974

A.E. Francis
.....
Commons Commissioner

The Plan referred to



M^r J. Stott

PARISH BOUNDARY

Sir F. Cullinan

2. 3. 32

Gyffin

G W E R N - Y - T O C O M M O N

from
Penmaenmôr

Parish of
G W E R N - Y - T O C O M M O N

We hereby certify that
this is a true copy of the plan
concerned to an Indenture of
Exchange dated 20th May 1912
and made between the
Commissioners of Customs and
Excise (1) and James
Stott (2).
Respectfully,
A. J. J. J.

Scale

10 CHAINS

Arthur
Arthur
Inks 100
Penmaenmôr
17th Feb 1912