



COMMONS REGISTRATION ACT 1965

Reference No. 276/D/292

In the Matter of Brynyfawnog Common Tregynon  
Aberhafesp and Llanwyddelan Montgomery D

DECISION

This dispute relates to the registration at Entry No 11 in the Rights Section of Register Unit No. CL.39 in the Register of Common Land maintained by the former Montgomeryshire County Council and is occasioned by Objection No. 119 made by T B Hopkins and noted in the Register on 5 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Welshpool on 14 June 1979. The hearing was attended by Mr J I Williams of Messrs. Longueville and Co on behalf of the applicant under Entry No 11, Mr D Evans, and Mr T B Hopkins appeared in person. By a conveyance dated 2 August 1963 Mr W E Davies conveyed to Mr T B Hopkins The Bank Farm and in that conveyance he accepted and reserved unto himself the right of pasturing 60 sheep on the sheepwalk known as Bryn-y-Fawnog and by an assignment dated 3 February 1966 Mr W E Davies assigned to Mr D Evans the right to graze 60 sheep which he had reserved to himself. Mr Hopkins conceded that his objection must fail if the exception and reservation in the conveyance of 1963 was effective to enable Mr Davies to retain the right to graze 60 sheep and did not extinguish the right.

At p. 72 in Harris and Ryan on The Law Relating to Common Land there appears the following passage:-

" If an owner of a right of common disposes of the land to which the right is attached and expressly excludes the transfer of the right from the conveyance then the right will be extinguished unless it can be exactly measured; in which case it will become a right of common in gross"

In the instant case the right is exactly measured viz: 60 sheep - and I confirm Entry No 11 modified by deleting all the words in column 5 and substitute therefore the words " in Gross"

Mr Hopkins registration at Entry No 12 of a right to graze 60 sheep as appurtenant to Bank Farm was clearly misconceived but since this registration became final without objection I have now no power to deprive him of that right.

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

16<sup>th</sup>

day of

July

1979

*H. Le Neve*

Commons Commissioner