



COMMONS REGISTRATION ACT 1965

Reference No 276/D/257

In the Matter of the Childrens Playground,  
Llangattock, Brecknock D

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DECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No CL. 87 in the Register of Common Land maintained by the former Breconshire County Council and is occasioned by Objection No 143 made by Major & Mrs R F Davies and noted in the Register on 8 December 1970.

I held a hearing for the purpose of inquiring into the dispute at Brecon on 12 July 1977. The hearing was attended by Mr J P C Stankey-Barker who registered the land as common land, Major F R Davies one of the joint Objectors and Mrs A M Caple.

Major Davies' Objection is limited to that part of the land in question which adjoins his property Village Farm House which is the means of access to his garage and he concedes a right of way over this disputed land to premises known as The Old Six Bells and The Gables. The disputed land is in fact a road, not surprisingly there are no rights of common claimed over this land and it is the means of access to that part of the land in question as to which there is no dispute and to a footbridge across a stream which adjoins the land in question. Major Davies did not dispute the allegation that the public habitually passed and repassed over the disputed land and I indicated that the land might be a highway and that if it was a highway it could not be common land as defined in Section 22 of the Act of 1965. In Halsburys Laws of England Vol 19 at p 12 a highway is defined as a way over which all members of the public are entitled to pass and repass and it is stated that a highway need not be a carriage way for footpaths, bridleways and driftways if open to the public generally are highways nor need a highway be a thoroughfare.

At the hearing I indicated that the convenient course for me to take would be to confirm the registration without prejudice to the question as to whether any part of the land in question is a highway. On reflection I have come to the conclusion that this course will not be convenient for the reason that there will have to be an unclaimed land reference to a Commissioner under section 8 of the Act of 1965 as to the ownership of the land, and on that reference a Commissioner will have no jurisdiction to decide the question of ownership of a highway. For this reason I have come to the conclusion that I must give a decision in accordance with the view which I formed at the hearing that the disputed land is a highway and there being no dispute as to the remainder of the land, I confirm the Registration modified so as to exclude the land identified on the plan annexed to Major Davies' Objection No 143.

I think it right that I should say that it is not within my jurisdiction to decide the extent of the public rights over the disputed land and I say no more than that I have arrived at my decision because I am satisfied that the public has



the right to pass and repass on foot as a means of access to the footbridge and the land which I have confirmed as common. Whether there is a public right to pass and repass with vehicles will if necessary have to be decided in the Courts.

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 28<sup>th</sup> day of July 1977

G. A. Little

Commons Commissioner