



In the Matter of Coed-y-Polyn Common,
Tregoyd and Velindre, Brecknock B

DECISION

These disputes relate to the registrations at Entries Nos. 1, 2, 3, 4 and 5 in the Rights Section of Register Unit No. CL 89 in the Register of Common Land maintained by the Powys County Council and are occasioned by two Objections, No. 9 made by Swansea and Brecon Diocesan Trust and No. 21 made by the Representative Body of Church in Wales, both noted in the Register on 28 August 1970.

I held a hearing for the purpose of inquiring into the disputes at Brecon on 7 July 1981. The hearing was attended by Mr Russell, Land Agent, appearing on behalf of the Objectors: as regards the applicants for registration in the Rights Section, Mr D Jones, Solicitor, appeared on behalf of Mr D J Hughes (Entry No. 2), Mr J Bally represented Col. Crichton (Entry No. 3) and Mr J A Preen (Entry No. 5), appeared in person. Two of the applicants (Entries Nos. 1 and 4) were not present or represented.

The Objections state that the rights claimed do not exist.

Entry No. 2 This Entry is of a grazing right claimed to be attached to a property called Pen Lan of some 44 acres. Mr George Hughes, the applicant for the registration, gave evidence. Pen Lan is about 1½ miles from the Unit land, and he has lived there since 1915. His father was tenant until 1945 when he himself became tenant; he purchased Pen Lan in 1961; the property was conveyed to his son Derek Jack Hughes by Deed of Gift in 1969. He remembered sheep from Pen Lan going on to the Unit land from 1922 and this continued basically every year till 1969.

Mr D J Hughes said he had known sheep from Pen Lan grazing on the Unit land since 30 years ago. This occurred every year and the grazing was mainly by dry ewes. Since he acquired Pen Lan in 1969 the grazing had been less - in some years only for a week or two. It had never been challenged. Mrs Gladys Price also gave evidence and said that sheep were on the common for over 50 years and she understood that Pen Lan had rights of common.

Entry No. 3 Mr Bally said that Col. Crichton (his father in law) acquired the property to which the rights, a right of grazing, is claimed to be attached, about 1956. Col. Crichton, he said, did not acquire manorial rights but assumed that he had grazing rights.

Entry No. 5 This Entry is of a grazing right claimed to be attached to Aberllynfi Farm which Mr Preen came to as tenant about 1958 and purchased some 3 years ago. He was told by a neighbouring farmer when he first came that the Farm had grazing rights and he grazed sheep on the common for about 12 years - till 1970.

Mr Russell, on behalf of the Objectors, produced a map of 1750 which showed the tenants and their properties with common rights then: those properties, he said, were not occupied now by any of the claimants.



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On the evidence I find that a grazing right was acquired by prescription in respect of Pen Lan (Entry No. 2) and I confirm that registration: I am not satisfied that grazing rights had been acquired as claimed in Entries Nos. 3 and 5 and I refuse to confirm those registrations. As regards Entries Nos. 1 and 4, in the absence of any evidence to support the rights claimed, I refuse to confirm the registrations.

It appears that on part of the Unit land there is a school whose inclusion in the registration was probably made in error. None of the applicants for registration in the Rights Section who were present or represented at the hearing wished to claim rights over the school area and accordingly my confirmation of the registration at Entry No. 2 is subject to the modification that the right is not to extend to the school area.

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

7 August

1981

L. J. Morris Smith

Commons Commissioner