



COMMONS REGISTRATION ACT 1965

Reference No. 276/D/523-537

In the Matter of Little Hill, Glascwm,
Radnor D

DECISION

These disputes relate to the registrations in the three sections of Register Unit No. CL 60 in the Register of Common Land maintained by the Powys County Council. They are occasioned by Objections which are as follows:-

(A) Objections to Entry No. 1 in the Land Section and consequentially to all Entries in the Rights Section:

Objection No.	Objector	Date noted in Register
586	Sir A C L Duff Gordon	14 October 1970
703	J R Niblett	" " "
840	Mrs G E Bowen	" " "
870	S T Jones	" " "

(B) Separate Objections to Entries in Rights Section:

432 (to Entries Nos. 8,9,11,12,13, 15-21)	L H Marshall	26 September 1970
275 (to Entry No. 21)	J Lewis and Son	25 September 1970

(C) Objection to Entry No. 2 in the Ownership Section:

592	Sir A C L Duff Gordon	28 September 1970
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There are also disputes arising from conflicts in the Ownership Section between Entries Nos. 3 and 5, and between Entries Nos. 3 and 6.

I held a hearing for the purpose of inquiring into the disputes at Llandrindod Wells on 5 October 1982.

At the hearing there were the following appearances: Mr H Cave, Land Agent of and representing Powys County Council; Mr A Davies, Solicitor, on behalf of the University of Wales (applicant for registration in the Land Section and at Entry No. 3 in the Ownership Section); Mr M Jarman, of Counsel, on behalf of Mr Niblett and Mrs Bowen's successor; Mr D Lloyd, Solicitor, on behalf of Sir A C L Duff Gordon; Mr G Morris, Solicitor, on behalf of Mr S T Jones and also of the estate of A D Rogers (Rights Entry No. 21); Miss Davies, Solicitor, on behalf of J Lewis and Son.

(A) The Land Objections. These objections relate to different sections of the Unit land, each section being shown on the plan accompanying the relevant



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Objection; each section is claimed to be in the ownership of the Objector.

As regards Objections No. 586 this relates to a very small area at the N.E. corner of the Unit land, which includes the western half of Bellibedw Mawn Pool. None of the parties present or represented resisted this Objection.

Objections No. 840 and 870 were accepted by all parties present or represented and had been consented in writing to by all rights holders, except one in the case of No. 870 and three in the case of 840. None of the rights holders whose written consent had not been obtained were present or had communicated any opposition to the Objections.

As regards Objection No. 703, written consents from the rights holders generally had not been obtained. There were four rights holders present in person - Mr T D Rogers, Mr S T Jones, Mrs Bevan and Mr M Lewis who were willing to accept the Objection, but expressed some reluctance unless all members of the Commoners' Association agreed: and Mr A C Hammond who said he represented Mr B. Hammond went along with this view. The other rights holders were not present to resist the Objection so that there was no evidence to support any claim to exercise rights over the section to which the Objection relates.

Neither the County Council nor the University of Wales (which was an applicant to register the land) opposed the Objections, and in all the circumstances I think these four Objections should be allowed. Accordingly I confirm the registration in the Land Section, modified by excluding from the land the four areas which are the subject of the Objections.

(B) The Separate Rights Objections. Objection 432 made on behalf of the Glanusk Estate challenges the number of stock for which grazing is claimed in each of the relevant Entries. It appears that the members of the Commoners Association have agreed to adopt a standard formula for the description of grazing rights, and this is acceptable to the Objector. This formula is to apply to all registered rights, not only those which are the subject of the objection, and I shall therefore confirm all the rights Entries modified to accord with the formula. The effect of the modification will be to substitute for the number of "sheep" specified in the registration the same number of "sheep units" followed by the provision (in place of any existing provision there may be) that a sheep unit is one ewe and one lamb until weaning time that 1 cow equals 8 sheep units and 1 horse equals 10 sheep units. The rights as so modified will of course no longer be exercisable over the four areas to be excluded from the land registration.

Objection 275 is an Objection to Entry No. 21 on the ground that "the land carries no right of common as the rights were transferred to Black Hill over 60 years ago". The right is one of grazing said to be attached to part of Cloggau and part of Pant Farm and was registered by A D Rogers, who is now deceased.

Mr Michael Lewis giving evidence in support of the Objection said that he had no objection to the right remaining as attached to Pant Farm. For 40 years no cattle had been turned out on the Register Unit from Cwm-part of Cloggau. In 1968 about the time of registration he came to an agreement with A D Rogers that he (Mr Lewis) would not register rights over another common called Black Hill and that Mr Rogers



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wouldn't register rights over this Unit land - Little Hill. There was no written document recording the agreement.

Mr Thomas D Rogers, son of A D Rogers, said he now owned Cloggau Farm which he bought from his father in 1973. The family moved to Cloggau in 1943 when he was nine years old: as long as he could remember, their sheep were on Little Hill and he collected them 2 or 3 times a year. He remembered talking to his father about the registrations under the 1965 Act but heard nothing about any agreement with Mr Lewis. His father had grazing rights over the Unit land from other farms and this presumably was why Lewis didn't personally object to their sheep on the land.

Miss Davies said that her case was one of abandonment of the rights pursuant to the agreement. In my view that case has not been made out. In the inevitable absence of evidence from A D Rogers, I think the evidence of the alleged agreement requires careful scrutiny, and Mr Lewis's account of the circumstances and terms of the agreement seemed to me somewhat nebulous - naturally enough perhaps after the lapse of time. Nor was there any other evidence of an intention by A D Rogers or T D Rogers to abandon the rights and indeed the fact of registering the right is inconsistent with such an intention. In the result I am not satisfied that the Objection has been made out, and I shall confirm the registration at Entry No. 21 (modified as mentioned above in relation to Objection No. 432).

(C) The Ownership Section Disputes. Objection No. 392 was withdrawn and I confirm the Entry at No. 2. As to the conflicts, the effect of my Decision to exclude the areas Objected to by Mr S T Jones and Mrs Bowen from the land means that Entries Nos. 5 and 6 will cease to be operative and the conflicts no longer arise. Accordingly I confirm the Entry at No. 3 which will not now extend to these two excluded areas.

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

27 October

1982

Commons Commissioner