



In the Matter of The Tract of Land known
as Common-Y-Garth and Common Coch,
Llanfihangel, Bryn-Pabuan

DECISION

This dispute relates to the registration at Entry Nos. 1-7, 9-14, 16, 8, 15 in the Rights Section of Register Unit No. CL 55 in the Register of Common Land maintained by the Powys County Council and is occasioned by Objections made by L H Marshall and noted in the Register on 4 November 1970 and to the registration at Entry Nos. 6, 7, 8, 9 and 15 in the said Rights Section occasioned by Objections made by E R Jones and noted on the Register.

I held a hearing for the purpose of inquiring into the dispute at Brecon on 13 July 1983. The hearing was attended by Mr Grieve of Dilwyn Jones and Co, Solicitors of Llandrindod Wells appearing for Mr E W J Thomas, the applicant at Entry No. 15 in the Rights Section. Mr E S G Williams appeared as successor to the application at Entry No. 6 and Mrs G M Williams as the applicant at Entry No. 7 appeared in person.

Mr J Bengogh of Messrs Knight Frank and Rutley of Hereford appeared for the Glanusk Estate and Mr E R Jones appeared in person.

Mr Grieve said that his client withdrew his application.

Mr Bengogh withdrew his client's objection to the applications at Entry Nos. 1-5, 10-15 and 16 and to the application at Entry No. 9 on the claim being reduced to 40 sheep.

Mr Williams said that he was aged 55 and the owner of Pentre Bach Farm which he inherited in 1979 from the original applicant A H Morgan. At present he had 8 cows and 160 ewes and lambs on the Farm. Mr Morgan had been at Pentre Bach Farm for 57 years and they had been neighbours for 55 years. Mr Morgan had a flock of 130-140 ewes which grazed the Common.

In cross-examination he agreed that he had attended a meeting of Commoners Association Commons Coch and Garth in February 1967 where the matter of registering grazing rights was discussed and it was accepted that the total of the prospective registrations would result in the Commons being over stocked if they were confirmed.

Those present agreed to restrict their applications to ^{the agreed} reduced figures. Mr A H Morgan was present and his figure for Pentre Bach was 40. The resolution to that effect was carried but Mr Williams did not know whether Mr Morgan had voted for or against.

Mr Jones gave evidence in support of the objection and produced the Minute Book of the Association where the allocation of claims to each farm was set out in detail and it was stated that they were accepted and agreed to. Although members were handed application forms at the meeting to register their rights and were asked to return them to the Chairman or Secretary for forwarding, Mr Morgan had sent in his application ~~direct~~ for 7 cattle and 40 sheep or 80 sheep.

direct to the registration authority.



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Mr Howarth, the applicant at Entry No. 8, said that he had occupied his farm since he purchased it in 1952 but he had not exercised any of the rights referred to in his application for the whole of the period 1952-1970 when the objection was lodged. His holding had originally formed part of the Common.

Mrs Lewis, the applicant at Entry No. 7⁴ agreed to reduce her claim to 30 sheep the figure shown in the Minute Book and the objections to her application were withdrawn.

If Mr Morgan had been the applicant his application must have failed because it is in breach of the agreement approved at the meeting in February 1967. It would be a fraud on the other members who had complied with the agreement to cut back their claims to allow him to obtain more than his agreed allocation.

Mr Howarth has not exercised his alleged rights for a period long enough to bring himself within the Prescription Act, 1932.

For these reasons I confirm the registrations at Entry Nos. 1-5, 10-14 and 16. I confirm the following registrations as modified.

Entry No. 6	limited to 40 sheep
Entry No. 7	limited to 30 sheep
Entry No. 9	limited to 40 sheep

I refuse to confirm the registration at Entry Nos. 8 and 15.

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

21st

day of

July

1983

George Henkett

Commons Commissioner