



COMMONS REGISTRATION ACT 1965

Reference No 276/U/30

In the Matter of Tract of land  
known as Recreation Allotment,  
Llandefaelog, Brecknock BC

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DECISION

This reference relates to the question of the ownership of land known as tract of land known as Recreation Allotment, Llandefaelog, Brecknock BC being the land comprised in the Land Section of Register Unit No VG. 7 in the Register of Town or Village Greens maintained by the former Breconshire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference the Vicar and churchwardens of the Parish of Llandefaelog-fach claimed to be the freehold owners of the land in question and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Brecon on 14 July 1977.

Lt Col F de R Morgan, a churchwarden, appeared for the Vicar and churchwardens of the Parish.

The land in question comprises one acre and I was told by Col Morgan that it is on the side of a hill or mountain on a very steep incline and that it cannot be used for any sports or pastimes save possibly tobogganing when covered with snow and then only subject to the risk inherent in the existence of a hedge at the foot. The land has not within living memory been known as the "Recreation Allotment" and its registration as a Village Green serves no useful purpose.

The Registration was made by the Commons Open Spaces and Footpaths Preservation Society and being undisputed became final 1 August 1972. The Society on 15 September 1976 wrote to the County Land Agent of the County of Powys stating that the Registration was based on a Inclosure Award made on 31 July 1862 for the inclosure of Sarnau Common whereby the land identified on a map was allotted and awarded to the Churchwardens and Overseers of the Poor of the Parish for exercise and recreation for the inhabitants of the Parish and neighbourhood.

The Registration being final the Society did not appear at the hearing and the Award and the map were not produced. The probability is that the Commissioners who made the Award felt constrained to make an allotment for the benefit of the Parishioners and the Lord of the Manor offered this unsuitable parcel of ground for which he had little if any use.

Be that as it may, assuming that the land has been correctly identified it is a Village green as defined by Section 22 of the Act of 1965.



The Award was made more than a hundred years ago and Col Morgan told me that some time in the past a Vicar of the Parish believed the land to be his personal property and gave it to the Vicar and churchwardens of the Parish as church property. No documentary evidence was available to confirm this hearsay evidence. However Col Morgan went on to tell me that since 1948 the land had been let for grazing and was still so let and that since 1948 the Vicar and churchwardens had been and still are in receipt of the rents and profits. Neither the Community Council nor any other Local Authority appeared to claim the land as the successor to the Churchwardens and Overseers of the Poor, and in view of the fact that the Vicar and Churchwardens of the Parish have been in receipt of the rents and profits for almost thirty years, I am satisfied that they are now the owners of the land in question.

I feel compelled to say that it is a matter for regret that the Society did not make some local enquiries before registering the land or alternatively before the Registration became final. It is in my view inconceivable that the Society would have put itself and all the other parties to the trouble and expense consequent on the Register if it had as the result of local enquiry become aware of the facts as they emerged at the hearing. It is relevant to refer to the decision in *Smith & Another v East Sussex County Council* reported in the Times July 20th 1977. I am satisfied that the description of this land as a Recreational Allotment on July 1969, the date of the Entry in the Register would not have alerted anyone in the locality to the fact that this parcel of land, unsuitable for any recreational activity was the subject of the Registration.

I shall accordingly direct the Powys County Council, as registration authority, to register the Vicar and Churchwardens of the Parish of Llandefaelog-fach as the owners of the land under section 8(2) of the Act of 1965.

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

Y A Lettle

Commons Commissioner