



In the Matter of a Tract of Land of about
1,900 acres called Halkyn Common, Holywell

DECISION

This dispute relates to the registration at Entry Nos. 18 - 53 inclusive, 55 - 173 inclusive, 175, 177 to 180 inclusive, 183, 185, 187, 189 to 198 inclusive and 200 to 205 inclusive in the Rights section of Register Unit No. CL.11 in the Register of Common Land maintained by the Clwyd County Council and is occasioned by Objection No. 58 made by Mr Raymond Bennett and noted in the Register on 25th July 1972.

I held a hearing for the purpose of inquiring into the dispute at Mold on 9th April 1975.

The hearing was attended by Miss F. E. Woodruffe, solicitor, for the Executors of the applicant for registration of the land (the late Duke of Westminster); by representatives of the Halkyn Mountain Graziers and Commoners Association Ltd; by Mr D. P. Edwards for the Representative Body of the Church in Wales (a Rights Applicant); and by Mrs Betty Bennett, the wife of the Objector.

The objection relates to two pieces of land which are hatched blue on the plan annexed to the Objection Form C.R.26. These two pieces of land were conveyed to the Objector by Scientific Roads (Northern) Ltd by a Conveyance dated 17th November 1970, which Mrs Bennett produced. There was also produced to me photostat copies of the Conveyances of these two pieces of land to Scientific Roads Ltd by the Halkyn Mining Co. Ltd. They are dated 3rd September 1934 and 1st November 1934. The earlier Conveyance, which comprised the larger (Westerly) piece of land, described the land as that "plot of land ... formerly the site of two ... dwelling houses now demolished ... and is now covered with gravel or stone tailings or chippings."

Mrs Bennett told me that prior to 1926 the land was being quarried for lead. The stone tailings left on the land were used and disposed of by Scientific Roads Ltd. for road works. In 1965 Mr Bennett obtained a licence from Scientific Roads Ltd. to remove the remaining material, and in 1970, at the invitation of the company, Mr Bennett bought the land. Shortly afterwards the land was fenced in, and since then the whole of the larger piece has been restored and re-seeded. The work of restoring the smaller area is still proceeding.

Evidence was also given by Mr. William Absalom Redfern, who is employed by the Duke of Westminster's Estate as a Land Agent specialising in minerals. He told me that the Halkyn Mining Co. Ltd. had bought the land from the Duke. The Company mined limestone underground and brought it on to the land in question for processing - the tailings were dumped on this land. Mining came to an end about the beginning of the first World War. There was no grass on the land in question.

Mrs Bennett told me that her husband had wished to object to the registration of the two pieces of land in question as common land, but that he was told he was out of time and that he could only object to the registration of rights. The registration of the land, however, is provisional only pending confirmation by me. I am satisfied by the evidence that no grazing rights or other rights of common have been exercised over these pieces of land since the early years of this century, due to mining or quarrying operations. It is a fair inference that any rights of common



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which may formerly have been exercisable over these two pieces of land have long since been abandoned.

I refer to my decision under the reference no. 271/D/1, from which it will appear that I have refused confirmation of the registration of these two pieces of land as common land; and I refuse confirmation of the rights registrations so far as they relate to these two pieces of land.

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 15th day of October 1975

A. E. Francis

Commons Commissioner.