



COMMONS REGISTRATION ACT 1965

Reference Nos:

CL.5 51/D/60 and 61
CL.15 51/D/125 and 126
CL.16 51/D/72

In the Matter of Hiraethog Moors Llansannan
Part of Denbigh Moors Llansannan
Part of Mynydd Hiraethog Llansannan
Colwyn B C

These disputes relate to ^{all} the subsisting Entrys in the Rights Section of Register Units CL.8, CL.15 and CL.16 in the Register of Common Land maintained by the former Denbighshire County Council and are occasioned by the following objections.

- CL.8 Objection No. 11 made by the Crown Estate Commissioners noted in the Register on 8 July 1970
Objection No. 76 made by Cymdeithas Tir Pori Bro Aled noted in the Register on 29 September 1970
- CL.15 Objection No. 13 made by the Crown Estate Commissioners noted in the Register on 7 July 1970
Objection No. 15 made by Cymeithas Tir Pori Bro Aled noted in the Register on 29 September 1970
- CL.16 Objection No. 12 made by the Crown Estate Commissioners noted in the Register on 9 July 1970.

I held hearings for the purpose of inquiring into these disputes at Mold on 11 May 1976 and 15 June 1977 and at Denbigh on 21 and 22 February 1978.

At the hearing on 11 May 1976

Mr Watkins Messrs. A D E Evans & Co appeared for the Commoners Association Mr Lynn Jones, Messrs Jones and Talog Davies for the applicants for rights Mr Gaetwyn Jones, Mr Preece for the Crown Estate Commissioners.

These three units CL.8 CL.16 and CL.15 are in effect one Moor and the Crown Estate Commissioners objections were confined to the quantum of grazing on that common. The area of the moor is in round figures 4,420 acres. The Crown Estate Commissioners submission was that the common could not support more than 1.5 mature sheep to the acre. While the Commoners contention was that the appropriate rate of stocking was 3 mature sheep to the acre. It was accepted by the Commoners that there was duplication by reason of the owners of flocks having registered rights for one flock over two or all three of the units, comprising this one moor. It was accepted that the only practicable course was for me to decide in the first instance the number of mature sheep which the common is capable of sustaining and that thereafter the question as to how that number was to be apportioned among the applicants would have to be resolved.



It was not disputed that the Commissioners objection was attributable to a complaint by Mr Peckover Burrill the shooting tenant that the number of grouse on the moor was steadily declining and his allegation that this decline was caused by over grazing. There had been no objection by the Crown Commissioners to rights registered on neighbouring moors on a scale in excess of 4 sheep to the acre and the commoners' feeling was that the objections in the instant case were an endeavour to sacrifice the grazing rights for the benefit of the shooting rights.

I have held enquiries into other grouse moors in other parts of the Country and have at these enquiries been assured that there is no conflict between the farmers and the owners of the shooting rights. If a moor is prudently grazed and well managed both the sheep and the grouse will prosper while if a moor is over grazed and badly managed the quality of the moor and the feed for both sheep and grouse will decline. The farmers and the owners of shooting rights have common interests in destroying predators and in preventing damage by the public.

In my view if the appropriate number of sheep are grazed on this moor it will at the same time be able to support the numbers of grouse which it has previously supported and the appropriate number of sheep.

For this reason I have come to the conclusion that the first question I have to decide is what is the appropriate number of sheep to graze on this moor.

The evidence given on behalf of the farmers established that their registrations were for their total flocks, what they called maxima and that it was only for a brief period that these maxima were grazed on the moor. The first sheep to go on the moor are shearlings, they are followed by the ewes with their lambs, sometime in May thereafter the store lambs and the draft ewes are taken off the moors and finally the ewes and their followers are taken off the moor to winter on low lying land.

Mr Dawes, the chairman of the Graziers' Association gave evidence that the quality of the sheep was better now than it was, there was better breeding, better feeding and better management, and there was increased productivity. This, it was urged, proved that the moor was not currently being over grazed. In my view this satisfactory state of affairs does not prove that the moor is not being over grazed and insofar as greater productivity results in increases in the size of the flocks there would be no right to graze an ever increasing number. The rights to which the farmers are entitled are those appurtenant to their respective farms and not rights to graze unlimited numbers. Mr Peckover Burrill who has shot over the moor for many years said in evidence that he had noticed an ever increasing number of sheep grazing on the moor and while some farmers may have kept their flocks constant it is more than likely that flocks have increased and more sheep are grazed than formerly and the availability of subsidies is an inducement for farmers to increase their grazing on the moor.

I had the advantage of viewing the moor accompanied by Mr Vaughan who gave evidence on behalf of the Commissioners and others. I refer in particular to Mr Vaughan because he is an undoubted expert on moors in Wales with a large fund of highly technical knowledge and during the years he acquired a great deal of local knowledge as the Ministry of Agriculture's Land Commissioner for the Counties of Denbigh and Flint. Mr Vaughan pointed out to me heather which had been burnt prematurely and old heather which was overdue for burning and also an area which was formerly heather where the heather had all been killed.



-3-

There was also a quantity of nardus grass of no value to either sheep or grouse.

The impression I formed was that the moor had deteriorated but that such deterioration was in large measure attributable to mismanagement. I am satisfied that the moor will now support less and not more sheep than heretofore and I am also satisfied that this state of affairs is not wholly attributable to over grazing. Furthermore I am not satisfied that the decline in grouse population on the moor is solely attributable to a lack of heather. I was told of an increase in the number of foxes whose habitat is in Forrestry Commission land, improved road facilities have resulted in increasing numbers of the public resorting to the moor.

In the result on the evidence led and as a result of my inspection I am satisfied that the quantification of the rights claimed which allowing for duplication I was told was 13 782 mature sheep is excessive but I am equally satisfied that Mr Crichtons suggested scale of 1.5 sheep to the acre viz 6650 mature sheep is unduly conservative, provided the necessary expertise is brought to bear in the management of the moor. Making the best estimate I can I have come to the conclusion that the appropriate number of mature sheep to graze on the moor is 9250.

Having stated this conclusion I adjourned the hearing in order to give the Commoners an opportunity to reach agreement among themselves as to the apportionment of the grazing right for 9250 sheep among themselves.

At the adjourned hearing on 15 June 1977 the Commoners had not arrived at any agreement.

In the course of the adjourned hearing on 21 and 22 February 1978 Miss Milling who then appeared for the Crown Estate Commissioners and the Commoners and has provided me with a schedule which is annexed to and forms part of this decision which sets out the numbers of sheep which the applicants for rights therein mentioned shall be entitled to graze.

For the purpose of giving effect to the agreement between the parties

1. I refuse to confirm Entry No. 66 on Unit No. OL.15
2. I confirm all the remaining Entries on Unit No. OL.15

Set out in column 1 of the said schedule and I confirm all the Entries on Unit No. OL.3 set out in column 5 of the said schedule modified in each case so as to limit the grazing rights to the numbers of sheep set opposite them respectively in column 3 of the said schedule and further modified in each case where there are Entries in both OL.15 and OL.3 so as to state that the numbers of sheep mentioned in column 3 may be grazed on units OL.15 and 3 but so that the total number of sheep grazed at any one time on either or both of these units shall not exceed the number stated in column 5.

3. I confirm Entry No 1 on unit No. OL.15 modified so as to confer the rights to graze 225 over that part of unit OL.15 mentioned in the 4th column of the Rights section and unit OL.16 but so that the total number of sheep grazed over either or both of these units at any one time shall not exceed 225 sheep.

-3-



-4-

4. I confirm Entry No. 1 in the Rights Section of Unit No.CL.8 modified so as to limit the grazing right to 104 sheep.

5. I confirm Entries Nos 1 and 2 on Unit No.CL.16 modified as follows:

Entry No. 1 substitute for all the words in column 4 the words "The right to graze 225 sheep over this unit and part of unit No.CL.15 but so that the total number of sheep grazed at any one time over this unit and part of Unit No.CL.5 shall not exceed 225 sheep"

Entry No.2 By adding in column 4 the following words

" But so that the total number of sheep grazed over this unit and unit No.CL.15 shall not exceed 150 sheep.

The applicants for rights under Entries Nos 45 and 66 on unit No.CL.8 and Entries Nos 51 45 and 67 on unit No.CL.15 are not members of Cymdeithas Tir Fori Bro Aled and did not appear to support their claim for rights and I refuse to confirm those Entries.

References to a sheep in the Rights Sections of these units shall be construed as meaning. One ewe with her lambs or one shearing a lamb to be classified as such until 31 December in the year in which it is born.

Finally I would welcome some guidance from the Registration Authority, I hope that Directions confirming the Entries modified as stated in my decision and the Schedule annexed thereto will be adequate. If this is not an adequate direction I hope the Registration Authority will notify me in due course before this decision becomes final.

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 14th day of April

1978

Commons Commissioner