



COMMONS REGISTRATION ACT 1965

Reference No 274/D/94 to 100 inclusive

In the Matter of Coed Ffordd Goch,
Llanelltyo, Meirionnydd D

DECISION

These disputes relate to the registration at Entry No 1 in the Land Section and the Entry No 1 in the Rights Section of Register Unit No CL.138 in the Register of Common Land maintained by the former Merioneth County Council and are occasioned by Objection No 146 made by Marie Joan Graham and noted in the Register on 2 December 1970, Objection No 147 made by Maria Henderson noted in the Register on 18 November 1970 and Objection No 340 made by Brigadier J M S Wardell noted in the Register on 17 November 1971.

I held a hearing for the purpose of inquiring into the dispute at Dolgellau on 21 April 1977.

Mr Oliver Jones, counsel, instructed by Messrs J Charles Hughes & Co appeared for the Amnos Corp Estate Co the successor to Brigadier J M S Wardell. Mr D Jones of Messrs Guthrie Jones & Jones appeared for Marie Joan Graham. Messrs Griffith Adams & Williams by letter dated 21 April 1977 applied for an adjournment on behalf of the personal representative of Maria Henderson deceased. In view of the circumstances that the interest of Maria Henderson deceased was identical with that of the other two objectors who were represented by professional advisers I did not accede to this application.

The applicant for a right of piscary, The Dolgellau Angling Association appeared by its chairman Mr Eric Ewyn Davies.

Mr Davies stated that his Association had no grant of fishing rights but stated that its members had habitually fished the river adjoining the land in question without obtaining permission and without any objection. His claim was a claim by prescription and it was put forward as a claim to a right in gross.

The Association is a fluctuating body of persons and it is well settled that such a body cannot prescribe for a "profit a prendre" such as a right to take fish; it is also well settled that rights in gross cannot be claimed under the Prescription Act 1330.

The fact of the matter is that the fishing from the land in question has been either by privilege or by tolerance, and it is relevant to refer to the judgment of Harman LJ in *Beckett v Lyons* 1967 Ch 449 where after referring to *Fitzhardinge (Lord) v Purcell* 1908 2 Ch 139 he said at p 470, "In other words if you push a privilege into a right you will find it opposed, which it never would be so long as you admit that it is a privilege".



Mr Oliver Jones produced a Deed of Gift dated 1 January 1947 whereby the fishing rights in question were conveyed to Brigadier Wardell which said rights are now held by the ~~Commons~~ ^{Amnos} Corporation. The Association will be well advised to endeavour to arrive at some friendly arrangement with the Amnos Corporation.

For the reasons given above I refuse to confirm the Entry in the Land Section and the Entry in the Rights Section.

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 17th day of June

1977

G. A. Little

Commons Commissioner