



COMMONS REGISTRATION ACT 1965

Reference No 274/D/137 & 138

In the Matter of Ffridd Fawr, Penmaenmawr,
Aberconwy D

DECISION

This dispute relates to the registration at Entry No 1 in the Land Section and Entry Nos 1-5, 7-14, 16 and 17 in the Rights Section of Register Unit No CL. 9 in the Register of Common Land maintained by the former Caernarvonshire County Council and are occasioned by Objection No. 103 made by Mrs E Caswell and noted in the Register on 30 September 1970.

I held a hearing for the purpose of inquiring into the dispute at Caernarfon on 16 February 1977. The hearing was attended by Mr Ellis of Messrs Armon Ellis & Co on behalf of Mrs Caswell Mr Oliver Jones counsel instructed by Messrs Porter & Co on behalf of Mr Tunnoch and Mr Griffiths applicant for rights under Entry Nos 17, and Mr I E Owen of Messrs Robyns Owen & Son on behalf of Roland Jones and W R Jones applicants for rights under Entry Nos 16 and 8. Mrs Caswell is entered in the Ownership Section of the Register as the owner of the major part of the land, but she did not give any evidence or call any evidence to support her objection which is to the effect that

"The part of the land coloured red on the attached map is not common land and is owned by me."

In these circumstances I ruled that the onus was upon the claimants for rights to establish that the land was common land.

Mr Rowland Jones gave evidence that he is the owner of Plas Ucha Farm (Entry No 8) which he and his brothers bought in 1969. Prior to that his father in law owned it and he was there about 15 years. Prior to that the Robinsons were at Plas Ucha as tenants. Since the Jones purchased the farm they have taken sheep on to this Unit CL. 9 and he used to help his father in law Robert Davis when he was courting, and there were sheep on the land then. Sheep have always grazed the whole Unit Land though part was fenced 10 years ago. Sheep have also come on to the land from Units CL. 10 and CL. 11. Pandyffryn Farm (Entry 16) was purchased by his father in 1955. He thought Robert Jones owned it before that. His father bought the sheep with the farm and before John Roberts there was Harry Roberts. There was a sheep dip on this farm which was also used for Plas Ucha sheep. After dipping the sheep were split into their different flocks, they had different marks.

Cross-examined by Oliver Jones he said he was now nearly 40 years of age. The farmers get together for gathering and he went once or twice to gather. There were Griffiths sheep (Entry 17) on this Unit Land. Cross-examined by Mr Ellis he said Plas Ucha



was not far from Pandyffryn but he and his brothers keep separate flocks on each farm. Pandyffryn has registered rights on CL. 11. The Pandyffryn cynhevin is on the eastern boundary of CL. 9 and they have no cynhevin on either CL. 10 or CL. 11. There are about 150 sheep at Pandyffryn and they take 50 out of the flock to graze on CL. 9.

Mr D C Jones (Entries 1, 2, 3 and 4) gave evidence that he had farmed Cae Sling (Entry No 1) since 1952 and that all his sheep graze this Unit Land. His claim under Entry No 1 is for 22 sheep and no one has ever interfered. As to Entry No 2, a claim in gross for 50 sheep. He said he had grazed these for 12 to 13 years, and no more. As to Entry No 3 he claimed to graze 23 sheep from Ffridd Wen as the tenant of Mrs Caswell, and he also claimed to graze 45 sheep from Tan Llyn as the tenant of his great aunt.

In my view his evidence as to Entry No 2 falls far short of that required to establish a right in gross and I refuse to confirm Entry No 2. Mrs Caswell's land Ffridd Wen cannot confer any rights over her own land and I refuse to confirm Entry No 3, though Mrs Caswell may licence Mr Jones as her tenant to graze provided by so doing she does not prejudice the commoners. I confirm Entry Nos 1 and 4.

Mr W O Jones (Entry 5) gave evidence that he had kept sheep at Tyn y Ffrith ever since he was 3 years old; it is now 7 acres, it used to be 10 acres but he sold the house and 3 acres. He remembered the sheep of Mr Griffiths and Mr John Fox Hughes on the Unit Land.

Mr S W Jones (Entry 9) gave evidence. His family had owned Tyddyn Du Farm for three generations. He is 54 years of age and sheep from his farm had always been on the land, their cynhefin is there and there has never been any objection to him grazing. His farm is 22 acres, he remembered sheep from Mr Griffiths farm Glyn Tachaf grazing on the Unit Land.

Mr A Roberts (Entry Nos 10 and 11) aged 73 gave evidence. He lives in a council house and rents Ffrith Vaen which is 10 acres and he has the Sycorant Land which is 10 acres from his brother in law; he has always been there and his memory goes back 60 years. He now has 140 sheep which he keeps for pleasure and he has been collecting on the Unit Land.

Mr E L Hughes (Entry 12) gave evidence that his father bought Trwyn yr Wylfa in 1939 and retired in 1954. His father's sheep cynhefyn was part on Units CL. 9, CL. 11 and CL. 7. The sheep were down on the farm for lambing. The CL. 9 flock has a blue H mark and the CL. 11 flock has a red H mark.

Cross-examined by Mr Ellis he said his farm was 115 acres and he keeps 550 sheep in total on the two mountains. The blue flock is 150 ewes and there have been no cattle on the farm for 2 years. He has caravans in an orchard; all the sheep are down at lambing time in the months of March and April but some lamb as early as February or as late as July. The ewes and male lambs are kept in the fields and the gathering for lambing was three weeks ago in January 1977 and they will go back to the mountain in May.



Mr Griffiths was unavoidably unable to attend the hearing but Mr Oliver Jones as appears from the evidence set out above was able to establish from many of those who did give evidence that Mr Griffiths sheep do in fact graze and that sheep from Glyn Ucha have for very many years grazed the Unit Land.

In the light of the evidence it is clear beyond doubt that the Unit Land is common land and I must confirm the Entry in the Land Section.

The Objection to the rights was consequential to the objection to the Entry in the Land Section. There is no objection to any specific claims to rights nor as to the quantification of any claims to rights. In these circumstances I take the view that I must confirm the Entries of those applicants who did not appear, who may well have taken the view that the Objection to the Entry in the Land Section was bound to fail and that there was therefore no necessity for them to come and establish their respective claims. They have after all sworn statutory declarations in support of their claims. On the question of quantification I did in the course of the hearing consider whether some claims were duplicated on this Unit and CL. 10 and/or CL. 11. There is no Objection by Mrs Caswell to any claims on CL. 10 and CL. 11 and I have come to the conclusion that I have no jurisdiction on this hearing which relates only to CL. 9 to modify any rights claimed on CL. 10 and CL. 11.

There being no objection to the quantification of the rights claimed, I confirm all the Entries in the Rights Section other than Entry Nos 2 and 3 and I refuse to confirm Entry Nos 2 and 3.

I should add that on the evidence given at the hearing I am not satisfied that any of the rights claimed are excessive.

I am required by regulation 50(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 April 1977

C. A. Little

Commons Commissioner