



## COMMONS REGISTRATION ACT 1965

Reference Nos. 50/D/30-32  
inclusiveIn the Matter of Mynydd, Talyfan, ConwayDECISION

These disputes relate to the registration at Entry No. 1 in the Land Section of Register Unit No. CL. 49 in the Register of (Common Land) maintained by the Gwynedd County Council and are occasioned by (i) Objection No. 13 made by Marjory Hurd, Lois Hurd and Robert Hurd and noted in the Register on 15 July 1969 (ii) Objection No. 104 made by Mrs Eileen Caswell and noted in the Register on 30 September 1970, and (iii) Objection No. 15 made by Marjory Hurd, Lois Hurd and Robert Hurd and noted in the Register on 10 October 1969.

I held a hearing for the purpose of inquiring into the disputes at Caernarvon on 22 and 23 May 1974.

The hearing was attended by the Objectors in person, and by Mr Thomas Dewi Jones, the Secretary of Talyfan Common Graziers Association, a voluntary society formed in 1967 for the purpose of registering and protecting the grazing rights of farmers over Talyfan Common. There also appeared Mr Alan Davies, Solicitor, of the firm of Rees Currie-Jones and Davies, Cardiff, on behalf of the University of Wales, which had registered a claim to ownership of part of the Common (see my decision under the reference 50/D/38-9). As appears from my decision under the reference 50/D/33-37, some 77 applicants have registered grazing rights in respect of the Common, only a few of which are the subject of objections.

The objections of Robert Hurd and his sisters Misses Marjory and Lois Hurd, who are the owners of Mountain Lodge at Sychnant Pass, are confined to Mountain Lodge itself and two comparatively small pieces of land which they claim form part of the grounds of Mountain Lodge. It appears that Mountain Lodge was erected in or about the year 1912, and it was purchased by Mr Hurd and his sisters in 1959 and conveyed to them in fee simple by a Conveyance dated 14 July 1959. It is plain that Mountain Lodge itself has long since ceased to form part of the Common, and, as was conceded by Mr P.D. Jones on behalf of the Graziers Association, ought to be excluded from the registration.

The first of the two pieces of land above referred to consists of a piece of land at the western end of Mountain Lodge, which is coloured red on the plan drawn on, and is called "the red land" in, a Deed of Exchange dated 2 May 1912 made between the Ecclesiastical Commissioners (the then Lords of the Manor of Gogarth and as such the owners of the soil of Gwern - y - to Common, part of Talyfan Common) of the one part and James Scott (a predecessor in title of Mr Hurd and his sisters) of the other part. By this Deed the Ecclesiastical Commissioners conveyed the red land



- 2 -

(which was described as forming part of Gwern - y - to Common) to Mr Scott for all their estate and interest therein subject (inter alia) to "the existing rights or claims (if any) of the tenants of the Manor ..... To the intent that the said red land may be used as and for a road and for no other purpose whatever".

In the face of this Deed of Exchange, Mr Alan Davies very properly gave up the claim of the University of Wales to ownership of the red land, but this does not mean that this land has ceased to be common land. As I understand the position, this land has not been enclosed as part of Mountain Lodge, but remains open land. Part of it, however, as I gather, has been made into a road leading from the Penmaenmawr to Conway main road to Mountain Lodge. This access road, which I take it is the area shaded black on the plans attached to Objections Nos. 13 and 15 should also, as it seems to me, be excluded from the register map.

The other piece of land in dispute under Objections Nos. 13 and 15 consists of a crescent-shaped piece of land lying between the Penmaenmawr to Conway road and Mountain Lodge. The access road above referred to traverses this land near its western end. This land has never been enclosed as part of Mountain Lodge. It is open land, and Mr T.D. Jones testified that it has always been regarded as part of the Common and has been grazed habitually by the sheep on the Common.

I turn now to Mrs Caswell's objection, which relates to the more westerly of the two finger-shaped parts of the Common at its northern end. Mrs Caswell produced a Conveyance dated 21 May 1968 by which this land was conveyed to her in fee simple "subject to such rights of common of pasture or turbary (if any) as are now legally exercisable over the same". She also produced a Conveyance dated 26 April 1891 to her predecessor in title, which contained a habendum in similar terms. Mrs Caswell's land is not fenced off from the rest of the Common, and several witnesses gave evidence before me to the effect that the commoners' sheep habitually grazed this part of the Common. Mrs Caswell was unable to contradict this evidence.

For these reasons I confirm the registration with the following modification viz. that there should be excluded from the registration (a) Mountain Lodge, including the gardens or grounds enclosed therewith, and (b) the site of the access road to Mountain Lodge from the Penmaenmawr to Conway highway.

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

23<sup>rd</sup>

day of

October

1974

*A. E. Francis*

Commons Commissioner