



## COMMONS REGISTRATION ACT 1965

Reference Nos. 50/D/33-37  
inclusive

In the Matter of Mynydd  
Talyfan, Conway

DECISION

These disputes relate to the registrations at Entries Nos. 1-78 in the Rights 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 15th July 1969, (ii) Objection No. 15 made by Marjory Hurd, Lois Hurd and Robert Hurd and noted in the Register on 18th October 1969, (iii) Objection No. 104 made by Mrs Eileen Caswell and noted in the Register on 30th September 1970, (iv) Objection No. 58 made by the Borough of Conway and noted in the Register on 16th September 1970, and (v) Objection No. 113 made by the Talyfan Shepherds Society and noted in the Register on 30th September 1970.

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 Mr T.D. Jones, the Secretary of Talyfan Common Graziers Association, on behalf of the Association; the Misses Hurd and Mr Robert Hurd; Mrs Caswell; Miss McWhirter on behalf of Aberconwy Borough Council; Mr John Bellis, Solicitor, on behalf of the Talyfan Shepherds Society; and Mr Alan Davies, Solicitor, on behalf of the University of Wales. As appears below, various applicants also appeared and gave evidence before me.

I can deal with the Objections, other than Objection No. 113 by the Talyfan Shepherds Society, quite shortly. I have already dealt with the Objections of the Misses Hurd and Mr Hurd, and that of Mrs Caswell in my decisions under the references 50/D/30-32 and 50/D/38-9. These objections related only to the extent of the Common and sought to exclude certain areas from the registration; the Objectors did not challenge the registration of rights over the rest, being the great bulk of the Common. The Objection of Aberconwy Borough Council related only to the description at Entry No. 37 of Mr J.G. Jones, Bryn Gynog, as the "owner" of parcels Nos. 188 and 189. He had in fact conveyed these parcels to Conway Borough in 1966 by a Conveyance dated 18th February 1966, which was produced by Miss McWhirter. Mr J.G. Jones, however, as I gather, has remained in occupation as tenant. The error is admitted by Mr Jones (see his Solicitor's letter of 9th May 1974 to Aberconwy Borough Council). In these circumstances, I see no reason why the Registration Authority should not make the necessary correction in the description of Mr J.G. Jones at Entry No. 37 by substituting for the word "owner" the words "Tenant of Parcels 188 and 189 and owner of the remaining parcels".



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I turn, therefore, to the Objection of the Talyfan Shepherds Society (hereinafter called "the Society"). Originally, 78 rights of Common were registered, all of them being grazing rights for varying numbers of sheep over the whole of the Common (except in one case where the right claimed was for ponies), and in two instances rights of estovers were also registered. Subsequently, the registration at Entry No. 23 was cancelled, leaving 77 provisional registrations. The Society by their objection challenged the existence of 22 of these rights, that is, those numbered 15, 18, 19, 21, 29, 36, 40, 44, 46, 48, 52, 53, 56, 58, 61, 63, 65, 69, 75, 76, 77 and 78. I shall deal with each of these registrations separately.

(1) Right No. 15

The applicant, John Wyn Roberts, gave evidence. He told me that he bought Isallt, a holding of some 30 acres, to which the right is said to attach, in the year 1954. This holding is about one mile from Talyfan Common. His predecessor in title did not turn out sheep on to the Common because he had another sheepwalk. The witness started to turn his sheep on to the Common after 1954. This evidence, in my view, is insufficient to establish that Mr Roberts has a right to graze sheep on CL.49.

(2) Right No. 18

The applicant, Austin Davies, did not give or call any evidence in support of the registration. Mr David Thomas Jones, a member of the Society, testified that to his knowledge no sheep were turned on the Common from Ffridd Tyddyn Du, to which the right is alleged to attach. This right was clearly not proved to exist.

(3) Right No. 19

The applicant, John G. Hughes, did not appear. Mr D.T. Jones again testified that no sheep have been turned out on the Common from Eirianws, to which the right was alleged to attach. This right also was not proved.

(4) Right No. 21

The applicant, J.D. Edwards and his brother have farmed Cefn - y - Coed, Rowen, for the last 2 years as tenants, and during that period have taken sheep by trailer to the Common to graze there. Cefn - y - Coed is some 4 miles from the Common by road. From 1954 to 1972, Cefn - y - Coed was tenanted by the witness' father, who reared cattle for the first six years, and then in 1960 began to take sheep to graze on CL. 49. This evidence is not sufficient to establish a grazing right over CL. 49 in respect of Cefn - y - Coed. Mr Edwards has also registered a right of grazing in respect of Tanrallt, to which there is no objection.



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(5) Right No. 29

The applicant, John Davies, gave evidence, and told me that the land to which the right claimed is attached comprises Cefn Gae and Tanybraich, which together are some 80 acres in extent. Cefn Gae is about  $1\frac{1}{2}$  miles from CL. 49. He said that his father always took sheep to graze on CL. 49, and since his death 7 years ago he (the witness) had done the same. It emerged in cross-examination, however, that Mr Davies, and his father before him, owned a Ffridd or Ffriddau close to CL. 49, from which most of the sheep were turned out, and that Mr Davies had also registered a grazing right for 60 sheep over CL.27, a part of the mountain adjoining and not fenced off from CL. 49. Mr Hugh Owen Williams, a member of the Society, whose sheep have grazed the Common for upwards of 20 years, told me that there was no tradition of turning out sheep on CL. 49 from Cefn Gae and Tanybraich. He said that Mr Davies' father did not graze CL. 49, although he may have turned some sheep on to CL. 27.

On this evidence, I am not satisfied that a right of grazing over CL. 49 exists in respect of Cefn Gae and Tanybraich.

(6) Right No. 36

The applicant did not appear. Mr D.T. Jones gave evidence that the applicant keeps lowland sheep, and that he only turned them out to graze on CL. 49 in one season, when they turned up all over the Common, which showed that they had no "cynhefin".

(7) Right No. 40

Mr J.C. Jones, the applicant, withdrew his claim to a right of grazing over CL. 49 in respect of Vardre and Caerdiol.

(8) Right No. 44

The applicant did not appear. Mr D.T. Jones testified that the applicant had never turned sheep on to CL. 49 from Tyddyn Isa.

(9) Right No. 46

The applicant did not appear. Mr D.T. Jones testified that until some 6 years ago Ty Nemydd was a dairy farm, with a few crossbred sheep which were not grazed on the Common. The applicant started to graze CL. 49 for the first time within the last 10 years.

(10) Right No. 48

The applicant did not appear, and Mr D.T. Jones testified that he only started to graze the Common in the last few years.

(11) Rights Nos. 52 and 53

The applicants in these cases are the same. They did not appear, and Mr D.T. Jones testified that to his knowledge no sheep from either holding had been turned out to graze on the Common.



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(12) Right No. 56

The applicant did not appear. Mr D.T. Jones testified that the applicant has never turned sheep directly on to CL. 49, but that from time to time his sheep have strayed there from the adjoining Common CL. 27. The right claimed is clearly not established.

(13) Right No. 58

Mr Gwynfor E. Evans, the applicant, gave evidence that Ffridd Geffylan is about 7 acres in extent, and that he has owned it since 1961. Before 1961 the Ffridd was occupied by a tenant, and has also been tenanted during the last 5 years. Mr Evans told me that, during the period of his occupation - that is, from 1961 to 1969 approximately - he had habitually turned some 50 sheep to graze on CL.49 in the summer. There was no evidence that the tenant of the Ffridd had done this before 1961. Mr Evans also told me that he had registered a grazing right for this land over CL. 9, and that this had not been objected to. Mr Evans' evidence is clearly insufficient to establish a right of grazing over CL. 49.

(14) Rights Nos. 61, 63 and 65

The applicant in each of these cases is Mr W.H. Calvert. He did not appear. Mr D.T. Jones testified that no sheep have been turned out on the Common from Maen Bardd (No. 61). Tan - y - Gwalia (No. 63) is a private house. No sheep from Tyddyn Isa (No. 65) have been turned out to graze on CL.49.

(15) Right No. 69

Mr David Davies of Maes Cadwgan Farm, Llanrheddd, who is and has been since April 1967 the tenant of Ty Coch Farm, a small holding of some 15 acres to which the alleged right is said to attach, gave evidence in support of the registration. He told me that since April 1967 he had turned sheep to graze on CL. 49 from Ty Coch, because he was told, on taking over the tenancy, that there were grazing rights over Talyfan. He said that the previous tenant did not turn sheep on to Talyfan, at any rate during the latter years of his tenancy when he was semi-retired. Mr Davies has registered (at Entry No. 47) a right to graze on CL. 49 100 sheep from Maes Cadwgan, and this has not been objected to. This evidence is plainly insufficient to establish the right claimed in respect of Ty Coch Farm.

(16) Right No. 75

The applicant did not appear. Mr D.T. Jones testified that, at least for the last 25 years, no sheep from Baclaw Farm have been turned out to graze on Talyfan.

(17) Rights Nos. 76 and 77

The applicant in each of these cases was Mr H.J. Enston, who, I was told, has since died. His estate was not represented, and there was no evidence to support the registrations. Mr D.T. Jones testified that he had never seen any sheep from either holding on CL. 49.



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(18) Right No. 78

Mr J. Porter, Solicitor, of the firm of Porter & Co., Conway, appeared on behalf of the applicants. Mr T.G. Griffiths, one of the applicants, gave evidence. He produced a Conveyance dated 5th July 1955 by which Glyn Ucha (to which or part of which the alleged right is said to attach) was conveyed to him in fee simple. He said that ever since he had grazed sheep from Glyn Ucha on CL. 49. He conveyed the farm to his wife in 1967. The farmhouse is occupied by his father-in-law, Mr Tunnock, who farms the lower part of Glyn Ucha and rears cattle thereon. Mr Griffiths has not done any physical work since 1965, but he still rears sheep on the upper part of Glyn Ucha with the aid of a shepherd. This upper part is open mountain land forming part of common land known as Ffridd Mawr (registered as CL.9). It emerged in cross-examination that the only enclosed holding which Mr Griffiths owns is a small "ffridd" of some 11 acres adjoining Glyn Ucha. It also appeared that Mr Griffiths had applied to register a right to graze 200 sheep on CL.9 and 100 sheep on another common registered as CL. 11. Mr Griffiths told me that he never turned sheep from Glyn Ucha directly on to CL. 49, but that they wandered there from CL. 9. Mr D.T. Jones, on behalf of the Society, testified that Glyn Ucha sheep had never been turned out on CL. 49 directly, but that Glyn Ucha sheep strayed on to CL.49 from CL. 9 and CL. 11. In my view, the evidence is not sufficient to establish the right claimed in respect of Glyn Ucha.

For those reasons I refuse to confirm the registrations objected to by the Society - that is, those numbered 15, 18, 19, 21, 29, 36, 40, 44, 46, 48, 52, 53, 56, 58, 61, 63, 65, 69, 75, 76, 77 and 78 - but I confirm all the other registrations.

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 23rd day of October 1974

*A. E. Francis*

Commons Commissioner