



Reference Nos 51/U/72  
51/U/73  
51/U/74

In the Matter of lands at  
(1) Mountain Lodge,  
(2) Top-y-tai-nant, and  
(3) elsewhere on Newton Mountain,  
Penycae, Wrexham Maelor Borough,  
Clwyd

### DECISION

These references relate to the question of the ownership of lands at (1) Mountain Lodge having an area of about 3.144 acres, (2) Top-y-tai-nant containing about 1.2 acres, and (3) elsewhere containing about 5.6 acres, all on Newton Mountain, Penycae, Wrexham Maelor Borough being the lands comprised in the Land Section of Register Unit (1) No. CL 271, (2) No. CL 272 and (3) No. CL 273 in the Register of Common Land maintained by the Clwyd (formerly Denbighshire) County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference Sir Owen Watkin Williams Wynn and his trustees claimed (their solicitors letter of 26 July 1973) to be the owners of the lands in question, Mr P Eardley said (letter of 29 July 1973) that his great-grandfather Mr John Davies owned and lived in the CL 271 land and that he called it Boncyn Melyn (Yellow Bank), and Mrs G Jordan said (letter dated 18.7.73 and since somewhat torn) that her father the late Edwin Thomas Edwards was the last person to (? ...) the CL 272 and the CL 273 lands and she took him to (be the) owner. No other person claimed to be the freehold owner of any of the said lands or to have information as to their ownership.

I held hearings for the purpose of inquiring into the question of the ownership of the lands at Holywell on 17 July 1980. At the hearings (1) Sir O W W Wynn was represented by Mr J I Williams, solicitor of Longueville & Co, Solicitors of Oswestry, and (2) Mr Philip Morgan whose parents Mr William Herbert Morgan (he died August 1979) and Mrs Margaret Jane Morgan had applied for the registration of a right to graze 200 sheep and 200 lambs over these lands, attended in person.

Mr J H Roberts who is now head clerk of the <sup>Gym</sup>W~~est~~stay Estate Office and who has been employed there (except for the war years) since 1936 in the course of his evidence produced: (1) articles of agreement dated 18 November 1852 by which Sir Watkin Williams Wynn agreed to purchase from the Queens Most Excellent Majesty the lands therein specified; (2) a plan certified on 8 July 1857 pursuant to the said articles of the land therein specified; (3) a conveyance dated 15 June 1857 and made on behalf of Her Majesty for the purpose of giving effect to the said articles; (4) Probate granted on 12 September 1885 of the will of Sir Watkin Williams Wynn (he died 9 May 1885); (5) a vesting deed dated 30 June 1926 by which certain lands including those purchased by Sir Watkin Williams Wynn in 1857 were declared to be vested in Sir Herbert Lloyd Watkin Williams Wynn; (6) Probate dated 23 February 1945 of his will (he died 24 May 1945); (7) a vesting assent dated 7 March 1946 in favour of Sir J E Bankes, Mr H G Best and Mr H Robertson; (8) and (9) two vesting deeds dated 31 March 1951 and 24 March 1955 (the second confirming the first) in favour of Sir O W W Wynn (then and therein called O W W Wynn Esq); and (10) a map (6" = 1 mile) based on the OS 1909 revision) showing the Estate.



Mr Roberts of the CL 271 land said (in effect):- The building on it known as Mountain Lodge is now and has always been occupied by a keeper employed by the Estate (Sir O W W Wynn or his predecessor in title); he identified the CL 271 land as shown on the Register map with a part of the land shown as part of the Estate on the 1909 map and with plot No. 80 on the 1857 plan (in the 1852 articles and the 1857 conveyance described as 'Gamekeeper's House land and building: 2 A.O.R.3P). Of the CL 272 land, Mr Roberts said (in effect):- It is part of the Moor within the Estate as shown on the 1909 map and part of Ruabon Mountain in the 1852 articles and the 1857 conveyance so described and as being over 2,500 acres. There is no difference between the CL 272 land and the rest of the Moor on the west, and it is distinct from the enclosed land on the east. Over this Moor sporting rights have been exercised; at one time such rights have been leased although they are now in hand. On the CL 273 land Mr Roberts said (in effect):- This land too is part of the Moor over which the said sporting rights have been exercised; its use and position are (in all relevant respects) the same as that of the CL 272 land.

Mr Morgan in the course of his evidence said (in effect):- In succession to his parents he now owned Trefechan (being the land mentioned in the said Rights Section registration). He did not challenge the ownership of Sir O W W Wynn of the CL 271 land. He challenged the identification made as set out above by Mr Roberts of the CL 272 land with the parts of the Estate included in the 1909 map and in the 1857 map; on the CL 272 land he claimed he had squatter's rights, because he and his parents had grazed it along with the rest of the Moor. The CL 272 land was not included in any of his title deeds.

Mr William Howell Price of 6 Hall Street, Penycae volunteered to give evidence saying (in effect):- His family had for 150 years owned Pant-glas, Trefechan and Plas-du. He did not now own Pant-glas, its present owner being the Wrexham Water Company. He did not own Trefechan as it had been sold to Mr Morgan in 1957. But he did still own Plas-du. He thought that there were grazing rights on the Moor exerciseable without payment. Such rights had been exercised over the Mountain Lodge land. He agreed with Mr Williams the Lodge had since 1936 been occupied by the keeper of Sir O W W Wynn (or his predecessor) and that he (Mr Price) apart from having a number of sheep there had never done anything on the land and did not now claim to be the owner of it.

As regards all these lands the "paper title" of Sir O W W Wynn is regularly deduced under the documents produced. I reject the criticism of the maps made by Mr Morgan in relation to the CL 272 land; making due allowance for the age of the maps and the slight variations to be expected between maps made at different times, the identification of Mr Roberts seems to be close, or at least close enough. In these proceedings I am concerned with ownership of the land for an estate in fee simple, see section 22 of the 1965 Act; in my view the grazing described by Mr Morgan can be ascribed to the registered right of common and does not support any claim against Sir O W W Wynn that Mr Morgan or his parents could have any such estate. In my opinion nothing said either by Mr Morgan or Mr Price provides any good reason why I should not give full effect to the paper title produced on behalf of Sir O W W Wynn and to the evidence of Mr Roberts that the persons apparently entitled under such title have by themselves, or their keeper or their tenants been in occupation of the building and been in possession by exercising sporting rights of the lands.

For the reasons and upon the evidence above summarised I am satisfied that Sir O W W Wynn is the owner of the lands and I shall accordingly direct the Clwyd County Council, as registration authority, to register Sir Owen Watkin Williams Wynn, Baronet of Llangedwyn Hall, Llangedwyn, Clwyd as the owner of the lands under section 8(2) of the Act of 1965.



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 4<sup>th</sup> — day of August 1980.

A. A. Baden Fuller.

Commons Commissioner