



COMMONS REGISTRATION ACT 1965

Reference Nos 274/D/108 & 109

In the Matter of Y Lordship,
Llanuwchllyn, Meirionnydd D

DECISION

This dispute relates to the registration at Entry No 1 in the Land Section and Entry Nos 1, 2, 3 and 4 in the Rights Section of Register Unit No CL. 153 in the Register of Common Land maintained by the former Merioneth County Council and is occasioned by Objection No 455 made by the Forestry Commission and noted in the Register on 6 September 1972.

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

Mr F Mallows appeared for the Forestry Commission and Mr D Jones of Messrs Guthrie Jones & Jones appeared for the four applicants for grazing rights under Entry Nos 1, 2, 3 and 4 in the Rights Section of the Register.

Prior to his death on 24 May 1944 the settled land known as the Glanllyn Estate was vested in Sir H L Watkins Williams Wynn and comprised in that Estate were (i) the Unit Land, (ii) the three farms now in the ownership of the applicants for Rights under Entry Nos 1, 3 and 4 and (iii) the land adjoining the Unit Land on its northern boundary known as Ffridd Awr. By a conveyance and release dated 25 March 1948 made between the Trustees of the Settlement of the first part the Executor of Sir Watkins Williams Wynn of the Second Part and the Crown of the third part, the lands being parts of the Glanllyn and Transfynydd Estates described in the Schedule and coloured pink on the plans annexed to the said conveyance were conveyed to the Crown in part satisfaction of the death duties payable on the death of Sir Watkins Williams Wynn. Comprised in this conveyance were (1) the Unit Land (ii) the three above mentioned farms and (iii) the land known as Ffridd Awr. The Unit Land was described in the Schedule as being in hand and Partgaited being a grouse moor and unlet sheepwalks known as the Lordship of Llanuwchllyn comprising 209 acres.

Mr Jones did not claim there had been any grants of rights for the benefit of the three said farms and based the claims of the owners of these farms on prescription. Mr Jones alleged that the Unit Land was in the ownership of the Crown, in 1892 that the owners of the farms had always grazed the Unit Land, as no doubt they had. In support of the allegation that the Crown owned the Unit Land in 1892 Mr Jones read to me an extract from the Report of the Royal Commission on Land in Wales of 1892, which he said established that arrears of rent were due to the Crown in respect of the Unit Land at that date and that distress should be levied on Wynnestay. Mr Jones was not familiar with the conveyance of 25 March 1948 and when faced with the identification of the Unit Land in the Schedule to that conveyance he felt bound to accept that the Unit Land and the said three farms were in the ownership of Sir Watkins William Wynn in 1944 and in the ownership of the Crown from 1948 to 1964 when it conveyed the three farms (together with other lands) to Glanllyn Limited which said company later conveyed the farms to the present owners or their predecessors in title. Mr Jones accepted that while the Unit Land and the three



farms were in the same ownership there could not have been any rights over the Unit Land appendant to the three farms and consequently since unity of ownership only ceased in 1964 the applicants' claims founded on prescription must fail. It was common ground between Mr Jones and Mr Mallows that the Forestry Commission started planting the Unit Land in 1951 and there had been no grazing since that date.

For these reasons I refuse to confirm Entry Nos 1, 3 and 4.

Entry No 2 was made by W H Pugh claiming rights appurtenant to the farm known as Castell Hen which has never at any relevant time been in the same ownership as the Unit Land. Mr W H Pugh died in October 1973 and his son D M Pugh claims as his successor. Mr Jones called as witnesses on behalf of Mr Puw. Mr Puw himself, Mr Thomas Jones, Mr D W Roberts and Mr Trevor Farry.

Mr Thomas Jones gave no relevant evidence on this claim but he produced a large scale plan which I found more convenient to use than the other more detailed smaller scale plans which were available. Unfortunately the northern boundary between the Unit Land and Ffridd Arw was not marked on this plan.

Mr Puw said in evidence that he was born on 6 July 1934 that he had lived at Castell Hen all his life and was a farmer. His first memory in connection with collecting sheep from the Unit Land (the Lordship) was at shearing time in about 1940. He remembered meeting his father there by a gate through which the sheep were turned out; the sheep were coming from the Unit Land to be sheared. At my request he identified the gate at the point at the north extremity of the large scale plan which I have marked X on the large scale plan. He said the field No 2987 was not part of Castell Hen but part of Ffridd Arw; the sheep had to cross this field to get to the Unit Land. The Castell Hen sheep were on the wide part at the north. He remembered taking the sheep every summer and taking them off when necessary and also when they came off for the winter. The Forestry Commission ploughed the Unit Land and field 2987 in 1951. His father had three cows; the practice was to put 2 or 3 heifers on the Unit Land. He used to go with his father and after he left school he went for two seasons by himself. In cross-examination he said he was now the owner of Castell Hen as his father was before him and it was on the northern fringe of the Glanllyn Estate. When he was a boy there was a fence around the Unit Land but it was open to the field No 2987. He pointed out that the northern boundary and the boundary between the points I have marked X and Y on the large scale plan were unfenced. When asked by me what was the purpose of the gate to which he had referred if there was no fence, he said that there was no gate but merely old gate posts where there had at some time in the past been a gate.

DW Roberts now employed by the local council worked at Castell Hen for Mr Puw's father for 3 years commencing in 1928 and later for a period of 4 years prior to the 1939/45 war. In 1928 he was ploughman and attended the sheep; he took them to the Lordship to graze in the summer. There were about 25 sheep and some times more. This also applied during the later period of his employment. There were others that grazed, it was mixed grazing and he did not remember any cattle. Cross-examined he said all the other graziers were tenants of the estate and the Castell Hen sheep used to keep themselves apart in the north. Asked by me to identify the Castell Hen cynhefin he marked it with a circle on the large scale plan and he identified at a point marked Z the furthest south that he remembered collecting any Castell Hen sheep.



Trevor Parry used to live at Bryn Caled; he lived there for 25 years from 1946 to 1971 and it adjoins the Unit Land. He was born at Brynillech, field 1477 and lived there all his life till he went to Bryn Caled and he is now aged 65. Castell Henn animals had he said grazed the Lordship; they would occasionally roam down to his end and he would keep them till Mr Pugh came and collected them. He confirmed the evidence given about the fences.

In cross-examination it was put to him by Mr Mallows that his was the first application for rights and it was in consequence of that application that the Entry was made in the Land Section of the Register and he was asked how he came to define the area of the Unit Land. This line of questioning very obviously perplexed Mr Parry and I therefore showed him his application and the plan annexed. He admitted his signature but denied ever having seen the plan annexed thereto. Mr Jones' explanation of this situation was that a Mr Taylor an official of the Registration Authority had prepared the plan for Mr Parry. Mr Taylor I was told was frequently helpful in rendering this service for applicants.

At the conclusion of the evidence called on behalf of Mr Puw, Mr Mallows alleged that the grazing proved by the above-mentioned witness was on Ffridd Arw and not on the Unit Land and he produced a map prepared by Mr Harrison of the Forestry Commission which was a copy of the plan attached to the 1964 conveyance with the register map of the Unit Land and the supplementary maps imposed thereon. This was the first time that I and, I suspect, some others appreciated that the Unit Land might not be identical with the whole of the land edged red on the large scale map.

At my request Mr Thomas Jones who is a chartered surveyor and Mr Richardson together marked on the large scale map the northern boundary of the Unit Land and it then appeared that the cynhefin identified on the said map by Mr D W Roberts was well to northwest of the northern boundary of the Unit Land and the point L, the southernmost point from which Mr Roberts had ever collected any Castell Henn sheep was only just inside the Unit Land.

Subsequent to the hearing I referred to the plan attached to Mr Pugh's application for rights from which it appears that Castell Henn is situate well to the north of the Unit Land, except possibly the small northern tip and it is also to the east of the Unit Land and separated from it by Ffridd Arw.

In the light of the evidence given by Mr Roberts and Mr Puw and the maps and plans referred to above, I am satisfied that the grazing of sheep referred to by them was on Ffridd Arw and not on Y Lordship and I must therefore refuse to confirm the Entry No 2 in the Rights Section and also the Entry in the Land Section.

In fairness to Mr Puw and his witnesses it is relevant to point out that there has been no grazing on either Y Lordship or Ffridd Arw since 1951 and in my view they failed to remember, if they ever appreciated, that these contiguous and unfenced lands were two separate parcels.

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 May

1977

G A Little

Commons Commissioner