



COMMONS REGISTRATION ACT 1965

Reference No. 274/D/92 and 93

In the Matter of Moelfre Mountain  
Llanenddwyn Meirionydd D

DECISION

This dispute relates to the registration at Entry Nos 1 and 2 in the Rights Section of Register Unit No. CL.149 in the Register of Common Land maintained by the former Meirioneth County Council and is occasioned by Objection No. 53 made by J O Jones and noted in the Register on 7 October 1970, and objection No. 62 made by W P Jones and noted in the Register on 8 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Dolgellau on 14 December 1976. The hearing was attended by Mr B Williams of Messrs. Gwyndof Williams and Roberts on behalf of Mrs L E Jones the successor to the claimant for Rights under Entry No 2 and Mr G Evans of Messrs. J Charles Hughes and Co., on behalf of the objectors and he told me that Entry No 1 had been withdrawn and there being no appearance by that applicant I refuse to confirm Entry No 1.

Mr Williams traced the title to Penybont, the land for which rights are claimed from 1899 and in each of many conveyances the land was conveyed with rights of pasture if any. This in my view left Mr Williams in the position of having to prove by evidence of user that at some stage between 1899 and 1963 rights had been acquired or proved by reason of the exercise of these rights. The relevance of the date 1963 is that Mr Evans conceded that there had been grazing from 1947 to 1963 and that there was thereafter and still is grazing but he said, and this was not disputed that subsequent to 1963 the continuance of grazing was without prejudice to the objectors contention that the rights do not exist. The period of grazing during which there was no objection was therefore 16 years. Mr Williams invited me to accept two affidavits which he hoped would prove the exercise of the grazing rights but Mr Evans objected. Both deponents are alive and able to give evidence but for personal reasons declined to give evidence at the hearing despite Mr Williams last minute endeavours during an adjournment.

In these circumstances I declined to have any regard to the said affidavits and Mr Williams had no evidence of the exercise of the alleged rights prior to 1947. He did however produce a lease dated 1937 under which the tenant covenanted to graze 20 sheep on the land in question. I was told that Penybont was originally approximately 31 acres of which Mrs L E Jones now only owns approximately 12 acres and that this land is about 4 miles distant from the Commons.

The claim at Entry No 2 is for 50 sheep if I was to presume that there had been compliance with the covenant in the said lease from 1937 to 1947 such presumption would establish a right to graze 13/31 and 20 sheep = 8 or 9 sheep. Had the grazing provided for in the lease been a valuable right which could have been conveniently exercised I would have been tempted to presume a lost grant, but the very fact that the landlord felt it necessary to impose a covenant on his tenant is some indication that he took the view that the tenant was unlikely to take 20 sheep to graze on the common some 4 miles distant unless obliged so to do and I do not feel able to make any presumption that the alleged right was exercised. I was told that if Mr Williams witnesses had been available the evidence of these witnesses and Mr Evans witness would have been conflicting.



-2-

Mr Williams has for lack of evidence failed to discharge the onus of proving the right claimed, and I refuse to confirm Entry No. 2.

It may be some consolation to Mr Williams and his client to appreciate that on any view it was unlikely in the extreme that I would have confirmed a right to graze more than 9 sheep.

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 22 day of January 1979

A handwritten signature in cursive script, appearing to read 'G. A. Little'.

Commons Commissioner