



COMMONS REGISTRATION ACT 1965

Reference Nos 52/U/25 and 33

In the Matter of the Common, Marian CwmDECISION

These references relate to the question of the ownership of land known as The Common Marian Cwm being the land comprised in the Land Section of Register Unit Nos. CL.34 and CL.15 in the Register of Common Land maintained by the Flintshire 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 these references no person claimed to be the freehold owner of the land in question and no one claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Mold on 12th April 1973.

This land was registered as common land on the application of Mr. C. L. Roberts, formerly of Hebron Cottage, Marian Cwm. Further applications for registration were made by Cwm Parish Council, Dr. H. J. Conlon (the then owner of The Sheiling, Marian Cwm), and Miss G. H. Williams of Tai Marian, Marian Cwm. Miss Williams attended the hearing on 12th April, and Dr. Conlon wrote to apologise for his inability to attend because of medical commitments. Mr. Roberts was not present, and it emerged that he had not been given notice of the hearing. No evidence of ownership was adduced at this hearing. I directed that Mr. Roberts should be asked whether he wished to claim ownership, in which event I would hold a further hearing so as to give him an opportunity to prove his claim. Mr. Roberts replied that he wanted to claim ownership. By a letter dated 5th June 1973 Flintshire County Council informed the Clerk of the Commons Commissioners that, as the result of the investigation of certain Inclosure Awards, they wished to claim ownership.

I re-heard the cases on 11th December 1973 at Mold. Notice of this hearing was given to Mr. Roberts, but he did not appear. The County Council was represented by Mr. H. W. Weston, and the Cwm Parish Council by its Clerk, Mr. Wyn Davies. There also appeared Miss G. H. Williams, Mr. and Mrs. H. Hayes (who in the meantime had bought The Sheiling from Dr. Conlon), and Mr. Cunnah of Marian Bach Farm. The County Council alone made a claim to ownership.

Mr. Weston produced extracts from an Inclosure Award (and annexed maps) dated 3rd July 1819, from which it appeared that the sole Commissioner, one John Matthews, allotted a number of allotments in the Parish of Cwm to the Surveyor of Highways for that Parish for the purpose (inter alia) of providing materials for the repair of highways within the Parish. These allotments have become vested in Flintshire County Council as highway authority by virtue of the Highways Acts 1862-4, the Local Government Act 1894, and the Highways Act 1959. I am satisfied that one or more of these allotments (including allotment No. 58 in the Award) comprised the



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western part of CL.15 (that is, that portion of it immediately to the west of Allotment No.57 in the Award) and the whole of CL.34.

For these reasons I am satisfied that Flintshire County Council is the owner of the said western part of the land including the whole of CL.34 and I shall accordingly direct the Flintshire County Council, as registration authority, to register itself as the owner of such part of the land under section 8(2) of the Act of 1965.

In the absence of any evidence I am not satisfied that any person is the owner of the remainder of the land and it will therefore be subject to protection under section 9 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 *30th* day of *January* 1974.

A. E. Francis

Commons Commissioner