



COMMONS REGISTRATION ACT 1965

Reference No. 276/D/45

In the Matter of Cwmgwyn and  
Medwalleth Common, Beguildy

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DECISION

This dispute relates to the registration at Entry No. 2 in the Rights Section of Register Unit No. CL. 20 in the Register of Common Land maintained by the Powys County Council and is occasioned by Objection No. 5 made by John Lewis Mills and noted in the Register on 20 May 1969.

I held a hearing for the purpose of inquiring into the dispute at Llandrindod Wells on 7 January 1976.

The hearing was attended by Mr Peter Morris, Solicitor, of the firm of E P Careless & Co on behalf of the Applicant, Mr J E Davies; and by Mr Gareth Morris, Solicitor, of the firm of Dilwyn Jones & Co, on behalf of the Objector, Mr J L Mills.

The ground of the Objection was that the Applicant's right of common was attached only to such part of Bwlchyllyn and Friesland Farm as was situated within the bounds of the old township of Medwalleth, that part being an area of 2 acres only, and that, therefore, the Applicant's right was limited to 10 ewes, plus suckling progeny to weaning time. The Applicant based his claim on prescription extending over a period of 60 years.

The Applicant, who is aged 63 years, gave evidence and told me that he had been farming Bwlchyllyn all his life. Bwlchyllyn and the adjoining farm Friesland were bought by the Applicant in 1957 from his cousin. The Applicant's father had farmed the land until his death in 1935. His father used to turn out some 100 sheep and 30 ponies onto the Common regularly. In the 1940's the numbers somewhat increased to about 150 sheep or more and 30 to 40 ponies. Some 15 to 20 cattle were also turned out on the Common. The animals were turned out from the whole of the farms Bwlchyllyn and Friesland. The witness had never heard before this dispute of the suggestion that only land in Medwalleth enjoyed grazing rights over the Common. His use of the Common had never been objected to until now.

Evidence to the same effect was given by Mr Gilbert Pugh (aged 67 years), who until 1945 farmed Slate House, Felindre, a farm adjoining the Common. He said that during the period 1917-1945 some 100 to 150 sheep and 30 ponies were regularly turned out on the Common from Bwlchyllyn and Friesland farms. Further evidence to the same effect was given by Mr John S Davies (aged 67 years) of Penybank, Llanbadarn Fynydd, which is now and partly adjoins Bwlchyllyn. He said that ever since he was a boy he had seen some 140 to 150 sheep and 30 ponies turned out regularly on the Common from Bwlchyllyn and Friesland.



Mr Gareth Morris for the Objector~~on~~ relied first on the fact that the old township of Cricg-y-bydder (which apparently embraced the whole of Bwlchyllyn and Friesland, except 2 acres) was the subject of an Inclosure Award in 1857, so that this land could not previously have enjoyed rights of common. Plainly, however, this did not preclude prescriptive rights of common being acquired thereafter.

Alternatively, Mr Morris argued that the prescriptive rights claimed were excessive, especially having regard to the fact that the Applicant had also registered a right to graze 50 sheep and 10 ponies or cattle in respect of Butterwell Farm, this registration having become final on 1 October 1970. Butterwell Farm is some 31 acres in extent, and Bwlchyllyn and Friesland some 163 acres. On the face of them, these registrations do not strike me as unreasonable, and accordingly it seems to me that the extent of the right claimed for Bwlchyllyn and Friesland must be determined by the degree of user proved. The evidence called for the Applicant satisfied me that user to the extent claimed and as of right was enjoyed in respect of Bwlchyllyn and Friesland for upwards of 30 years. This evidence was not seriously challenged by the Objector, Mr Mills. Mr Mills testified that in 1944, when he was employed by the Agricultural Executive Committee, he made a count at a sheep dipping of sheep from the Common of 11 score sheep from Bwlchyllyn (including Friesland) and Butterwell. He had never tried to stop the Applicant from turning sheep out on the Common from land not in Medwalleth. He also said that his objection was not to the stocking rate claimed by the Applicant, but was based on the view that farms in the old township of Cricg -y-bydder did not have rights of grazing over the Common. If this view was ever well-founded, it seems to me that it has long since been displaced, in the case of Bwlchyllyn and Friesland, by the uncontradicted evidence of prescriptive user.

For these reasons I confirm the registration.

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 20<sup>th</sup> day of

May

1976

A. E. Francis

Commons Commissioner