



COMMONS REGISTRATION ACT 1965

Reference No. 276/D/61-63

In the <sup>M</sup>atter of Cwmgwyn and  
Medwalleth Common, Beguildy

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DECISION

These disputes relate to the registration at Entry Nos. 31, 32 and 33 in the Rights Section of Register Unit No. CL. 20 in the Register of Common Land maintained by the Powys County Council and are occasioned by Objection Nos. 1018, 1019 and 1021 made by A Pugh & Sons and noted in the Register on 28 July 1972.

I held a hearing for the purpose of inquiring into the dispute at Llandrindod Wells on 8 January 1976.

Mr Gareth Morris, Solicitor of the firm of Dilwyn Jones & Co appeared for the Applicants. Mr A C Pugh, one of the Objectors, appeared in person. The grounds of objection were (a) that the alleged rights did not exist because they had not been exercised for the statutory period of 30 years prior to the Objections, and (b) that the numbers of animals for which the rights were claimed were excessive.

Mr Thomas Lloyd Harris of Hendre Farm gave evidence, and told me that he was the owner of the three farms in respect of which the rights were claimed, that is, Cilfachau (Entry No. 31), part Hendre (Entry No. 32) and Tynyphant (Entry No. 33). He produced conveyances dated 7 June 1968 and 1 July 1970 by which the farms were conveyed to him. Cilfachau was bought by Edward Harris in 1889, and the conveyance to him conveyed the farm "together with commons...appertaining" thereto. Hendre was bought by Edward Harris in 1875, when the Sale Particulars referred to the valuable right of common in the township of Medwalleth. The witness stated that Hendre and Tynyphant had been in his family since 1965, and that, in respect of these farms and Cilfachau, rights of grazing had been exercised over the Common without permission or objection prior to the present dispute.

Evidence was also given by Mr Thomas Alfred Lewis (aged 68 years). He said he was well acquainted with the 3 farms, and that in 1921 his father became the tenant of them. His brother later took over Cilfachau, and he (the witness) took over Hendre and Tynyphant in 1929. He and his brother farmed the three farms as one unit. The witness said that his father turned ponies and sheep to graze on the Common, and after 1929 he and his brother also on occasions turned sheep onto the Common. In the 1930's and 1940's they used to turn as many as 200 sheep onto the Common after their lambs had been weaned, although not every year. But for about 10 years prior to giving up the farms in 1965 and 1968 they did not turn sheep onto the Common for the reason that their sheep were too good for the Common. They also used to cut fern on the Common every year for litter.



Another witness, Mr Edward Thomas Harris, produced entries in an old Account Book kept by his family at Hendre in the years 1905 and 1909. The entries were in his father's handwriting. His grandfather had bought Hendre in 1874, and his family had lived there until 1921. The entries showed that ponies and sheep were turned onto the Common in the years 1905 and 1909. This witness also stated that the right to graze was unstinted.

The Objector, Mr A C Pugh, also gave evidence and said that his objection was that the Applicants had not grazed the Common at all during the 30 years preceding his objection.

The evidence satisfies me that a right of common of pasture is attached to each of these three farms, and that the numbers of sheep sought to be registered are substantially correct. There was no evidence, however to support the registration of rights of turbary and estovers, but I think the registration of rights of turbary was intended to cover the right to cut and take away fern for litter.

For these reasons I confirm the registrations with the following modifications:-

- (a) At Entry 31, delete "5 horses plus foals to weaning 5 cattle plus calves to weaning", and delete also "rights of Turbary Estovers" and substitute "right to cut and take away fern for litter"
- (b) At Entry 32, delete "5 horses plus foals to weaning 15 cattle plus calves to weaning", and delete also "rights of Turbary Estovers" substituting "right to cut and take away fern for litter"
- (c) At Entry 33, delete "3 horses plus foals to weaning 5 cattle plus calves to weaning", and delete also "rights of Turbary Estovers" substituting "right to cut and take away fern for litter"

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

*Mary*

1976

*A. E. Francis*

Commons Commissioner