



COMMONS REGISTRATION ACT 1965

Reference No. 276/D/46-47

In the Matter of Cwmgwyn and  
Medwalleth Common, Beguildy

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DECISION

This dispute relates to the registration at Entry No. 13 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 Nos. 6 and 618 made by John Lewis Mills and noted in the Register on 20 May 1969 and 29 September 1970.

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, for the Applicant, Mr J W Stephens; and by Mr Gareth Morris, Solicitor, of the firm of Dilwyn Jones & Co, for the Objector, Mr J L Mills.

The ground of the objection was that the Applicant claimed his admitted common of pasture in respect of an excessive number of sheep units ie. 500. In the Objection Form (C.R. Form 26) Mr Mills at first suggested that the proper number was 172 sheep units. This was later amended to 200 sheep units. At the hearing before me, Mr Gareth Morris submitted that the proper number was 350 sheep units. This submission was based on the Applicant's own evidence that 30 years ago the extent of his user of the Common was limited to 350 sheep units. According to the Applicant and his witnesses the number of animals turned out on the Common from the dominant land (Cwmgwyn Hall) had gradually increased after 1945, and the Applicant testified that in 1975 he had turned out as many as 500 sheep on the Common. This was disputed by the Objector in his evidence, and also by his witness, Mr J W T Hamer of Tynllwyn, Felindre. Be that as it may, the claim made by the Applicant is based on prescription, that is, on user, and, as Wrightman J said in Davies v Williams (1851) 16 A & E (N.S.) 546, at P.558, "A right claimed by user can only be co-extensive with the user". The Applicant, as it seems to me, cannot prove user as of right for the statutory period of 30 years in respect of more than 350 sheep units (as defined in the Register).

The Applicant has also registered a right to take bracken and turf, to which there was no objection. The Applicant agreed to the deletion of the reference to fish in the registration.

For these reasons I confirm the registration with the following modifications:-  
(1) for the words "500 units" in column 4 read "350 sheep units", and (2) delete the reference to fish.



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