



In the Matter of the tract of land containing approximately 86.50  
acres known as Pant-y-Gwair situate in the Parish of Llangwryfon

## DECISION

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No. CL.40 in the Register of Common Land maintained by the Dyfed - County Council and is occasioned by the conflicting registration at Entry No.7 in the Rights Section of the same Register Unit.

I held a hearing for the purpose of inquiring into the dispute at Aberystwyth on 12 October 1994. The hearing was attended by Mr Price of Humphreys Parsons & Co, Solicitors on behalf of Mr T E Morgan, Mr Davies of Ungoed-Thomas & King, Solicitors on behalf of Dyfed Wild Life Trust, Mr Peter Arnold Collen the owner of the cottage known as Pant -y- Gwair, Mr D I Morgan and Mr D Jenkins. Mr W Lewis represented Dyfed County Council the registration authority.

The dispute arises because a well which provides water for Mr Collen's cottage, Pant-y-Gwair is included within the Land Section of the above Register Unit, which registration is in conflict with Mr Collen's entry (Rights Section No.7) of rights to take water from the said well.

The freehold title to the said well (which is approximately 4' x 4' in area and is surrounded with a stone wall and fencing) was conveyed with the cottage Pant -y- Gwair by Lewis Phillips to Thomas Benjamin Jones by a Conveyance dated 30 September 1963: the said Conveyance recites that T B Jones purchased the cottage and well in 1944 and has been in possession thereof ever since that time. T B Jones sold and conveyed the cottage and well to Mr Collen on 5 February 1964 and Mr Collen has been in occupation of the cottage during holidays ever since then. Mr Collen explained to me that the mains water supply to the cottage frequently becomes deficient due to lack of pressure, and that water from the well is necessary for washing and (after boiling) for use as drinking water. The water from the well is not used by beasts feeding on the common but (according to Mr D I Jenkins) was used for drinking by "the old people", by which he meant a former generation of commoners tending their beasts on the common. Since the water has now been analysed and is unfit for drinking except after boiling, I assume that commoners no longer drink from the well. In any event a right to take water from a well is not a right of common - *Race v Ward* (1855) 4 E & B 702).

I therefore consider that the well forms no part of the common and I confirm the registration at Land Section Entry No.1 with the modification that the site of the well be excluded from the registration. Since Mr Collen is the owner of the well he cannot have an easement to take water from it (he takes water in right of freehold ownership, not as holder of an easement). Accordingly I also direct the cancellation of Entry No.7 in the Rights Section.

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

October

1994

Commons Commissioner