



In the Matter of Above Derwent Fells  
or Common, Derwent, Allerdale D

DECISION

This reference relates to the question of the ownership of land described above ("the Unit land") being the land comprised in the Land Section of Register Unit No. CL 394 in the Register of Common Land maintained by the Cumbria County Council. The reference is made in somewhat unusual circumstances since the provisional registration at Entry No. 1 in the Ownership section relates to the whole of the Unit land. There are two other Entries, Nos. 2 and 3, each of which claims ownership of a fractional share in the freehold, based on an entitlement to stints: at first sight the Entries appear to give rise to conflicts but it seems to me that since such fractional shares would, since 1925, be equitable interests they did not qualify for registration in the Ownership section, which relates to ownership of the legal estate.

I held a hearing for <sup>the purpose of</sup> inquiring into the question of the ownership of the Unit land at Keswick on 20 April 1983. At the hearing Mr G Hall, Land Agent of the National Trust, appeared on its behalf. By a Conveyance and Release dated 28 September 1979 made between J G Phillimore and Another (1) Commissioners of Inland Revenue (2) and the National Trust (3) there was conveyed to the National Trust an extensive area of land of some 28000 acres which included the Unit land. The registration at Entry No. 1 of the Ownership Section was made on the application of the Lord Egremont: that at Entry No. 2 by the National Trust, and that at Entry No. 3 by Lake District Farm Estates Ltd, to whose grazing rights or stints I understand that the National Trust has succeeded. On the evidence I am satisfied as to the National Trust's ownership of the legal estate in the Unit land, and I think the appropriate course is to confirm the registration at Entry No. 1 modified (1) by substituting "the National Trust" for the particulars at present registered in Column 3, and by substituting for the particulars in Column 4 the words "The whole of the land in this Register Unit" and (2) by refusing to confirm the registrations at Entries Nos. 2 and 3. I shall direct the Cumbria County Council as registration authority to register the National Trust as owner accordingly.

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

7 July

1983

*L. J. Morris Smith*

Commons Commissioner