



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/411

In the Matter of Watendlath Fell,
Borrowdale, Allerdale D

DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL.483 in the Register of Common Land maintained by the former Cumberland County Council and now by Cumbria County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference the National Trust claimed to be the freehold owner of the land in question ("the unit land") and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Keswick on 21 May 1981. At the hearing the National Trust was represented by Mr G Hall, Land Agent, and Mr Geer of the Registration Authority also attended. Mr Hall produced a conveyance dated 9 June 1966 between (1) Westminster Bank Ltd and Mrs M J Steel (2) the National Trust whereby land of some 1.84 acres was conveyed to the National Trust. The land conveyed is shown on the plan annexed to the Decision and included a section of the unit land, roughly triangular in shape, on the western side of the unit land, which I will refer to as "the 1966 section".

As to the remainder of the unit land, The National Trust's claim is based on its acquisition of the lordship of the manor of Borrowdale which was conveyed to it by a Conveyance dated 23 June 1978. This Conveyance included the demesnes common waste and other lands belonging or appertaining to the manor and the stints belonging to the vendors shown on the plan annexed to the Conveyance and thereon coloured red and there was a declaration by the vendor that to the best of their knowledge and belief the property edged red on the plan described the lands comprised in the manor. This property lies to the south of the unit land and I cannot find that any part of the unit land is included in it. On this evidence I am not satisfied that apart from the 1966 section, the National Trust is the owner of the unit land. I shall accordingly direct the Cumbria County Council, as registration authority, to register the National Trust as the owner of the 1966 section under section 9 (2) of the Act of 1965, and the remainder of the unit land will remain subject to protection under section 9 of the Act of 1965.

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 16 July 1981

L J Morris Smith
Commons Commissioner.