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COMMONS REGISTRATION ACT  
1965

Reference No. 268/U/334

In the Matter of the piece of land containing  
458.6 acres or thereabouts known as Cracoe In  
Fell, Cracoe

## DECISION

This reference relates to the question of the ownership of land known as Cracoe In Fell, Cracoe being the land comprised in the Land Section of Register Unit No. CL.34 in the Register of Common Land maintained by the North Yorkshire 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 Trustees of the Chatsworth Settlement Yorkshire Estate claimed to be the freehold owners of the land in question 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 Skipton on 20 May 1987.

Mr J Sheard, Chartered Surveyor and Land Agent, of the estate office, Bolton Abbey appeared for the Chatsworth Trustees. Mr J C Wade (Secretary) and Mr D Carlisle (Member) appeared on behalf of the Gaitholders of Cracoe Fell.

As appears from the register map, Cracoe Fell is divided into two parts, the In Fell and the Out Fell. CL.34, is the In Fell, comprising 458.6 acres or thereabouts. The Out Fell is CL.109.

Mr Sheard on behalf of the Chatsworth Trustees claimed ownership of the whole of the In Fell. He produced an Abstract of the Title of the Trustees down to the 30th December 1950.

The Abstract commences with a Mortgage dated the 30th August 1897 whereby Spencer Compton Duke of Devonshire (the Eighth Duke) mortgaged freeholds in the County of York described in the First Schedule thereto and coloured pink on the Maps annexed. Mr Sheard produced a photocopy extract from the schedule. This shows under the heading "Township of Cracoe", the entry 'As Lord of the Manor of Cracoe Moor - 714 acres'.

No one present at the hearing had ever heard of Cracoe Moor as being anything different from Cracoe Fell.

Mr Sheard also produced a photocopy extract from plan No.1 to the 1897 Mortgage. I am satisfied that the unit land falls within the land shown coloured pink on that plan.



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Mr Sheard further produced (from the custody of the Bolton Abbey Estate Office) the original of the Estate Terrier commencing in 1919, together with the plan which goes with the book. He referred me to pages 32, 36 and 38, each of which bears the heading "Cracoe". The entries on page 32 record (inter alia) that there were 74 sheep gaits on the In Fell; on page 36 that the In Fell was gaited - 477 acres, and that the Out Fell was not gaited - 201 acres (making a total of 678 acres); and on page 38 that the Moor - 678 acres - was In Hand,

The Abstract shows that the Eighth Duke died on the 24th March 1908, and that the legal estate in the mortgaged property in due course devolved upon Victor Christian William, Duke of Devonshire (the ninth Duke). By an Agreement dated 3rd November 1926 the Ninth Duke contracted to sell the property to Chatsworth Estate Company (the Company), but this agreement was never completed prior to his death on the 6th May 1938.

Letters of Administration (with Will annexed) to the Estate of the 9th Duke were granted to Edward William Spencer Duke of Devonshire (the 10th Duke) as syndic of the Company on the 29th June 1938. By an Agreement dated 26th November 1950 the Company agreed to sell the property to Walter John Duke of Buccleuch and Mary Alice Duchess of Devonshire, but this Agreement was not completed before the death of the 10th Duke. On the 30th December 1950 Letters of Administration (with Will) to the Estate of the Ninth Duke were granted to Andrew Robert Buxton Duke of Devonshire (the 11th Duke). Here the Abstract ends.

Since the date of the hearing, I have been supplied by Currey & Co., Solicitors, 21 Buckingham Gate London SW1E 6LS with a supplemental Abstract to bring the title up to-date. Currey & Co have also certified the Abstract and extract from the schedule and plan to the 1897 Mortgage as having been examined with the originals at their offices.

The Supplemental Abstract does not in fact carry the title much further, as it deals only with the equitable interest, with which I am not concerned. Currey & Co state in their covering letter to the Commons Commissioners dated 10 July 1987 that the Eleventh Duke is still fee simple owner of the legal estate, and holds as bare trustee for the Trustees of the Chatsworth Settlement under the 1926 and 1950 Agreements for sale, which still remain uncompleted

Currey & Co have also produced to me the counterpart of an Access Agreement dated 12th July 1968, whereby the Duke of Buccleuch and Mary Alice Duchess of Devonshire (the purchasers under the 1950 Agreement) granted rights of access to the public over land which includes the unit land.

On this evidence I am satisfied that the Most Noble Andrew Robert Buxton Duke of Devonshire is the owner of the land and I shall accordingly direct the North Yorkshire County Council, as registration authority, to register him as the owner of the land under section 8(2) of the Act of 1965.



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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 this decision is sent to him, require me to state a case for the decision of the High Court.

Dated this

23<sup>rd</sup>

day of

July

1987

Commons Commissioner