



## COMMONS REGISTRATION ACT 1965

Reference No. 262/U/470

In the Matter of The Ghyll,  
Murton, Eden District, Cumbria

DECISION

This reference relates to the question of the ownership of land known as The Ghyll, Murton, Eden District being the land comprised in the Land Section of Register Unit No. CL30 in the Register of Common Land maintained by the Cumbria (formerly Westmorland 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 Mr G R Wharton claimed (his Solicitors' letter of 2 December 1981) to be the owner 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 Penrith on 12 March 1982. At the hearing Mr George Robinson Wharton, Mr George Lawrence Wharton and Mr Joseph Roland Wharton all of Keesley, Dufton, near Appleby were represented by Mr T A Hodges solicitor of Fell Kilvington & Co., Solicitors of Kirkby Stephen.

The land ("the Unit Land") in this Register Unit is a tract of grass land containing about 5.3 hectares (13 acres). About some disputes relating to the registrations in the Rights Section, I held a hearing at Penrith on 22 October 1980. The Unit Land is south of, and by a comparatively narrow strip (part of the Unit Land) connected with, the land ("Pasture End") in Register Unit No. CL29; about some disputes relating to the registrations in the CL29 Rights Section, I held a hearing at Penrith on 2 and 4 July 1980. On 4 July 1980 I inspected the CL29 land, and thereby became familiar with the CL30 land. My decisions on these hearings are both dated 8 January 1981, and were given under reference Nos. 262/D/277-279 and 262/D/297-298.

At the 1982 hearing, Mr Hodge produced a conveyance dated 27 June 1963 by which Mr G G Shiel as the personal representative of Rt Hon J S R Baron Hothfield (he died 21 December 1952) with the concurrence of Broadland Properties Limited and Cornthorn Land and Timber Company Limited conveyed to Mr John Toppin Hall first part of OS No. 144 in Murton containing about .950 coloured pink on the plan annexed and secondly the right so far as Mr Shiel and the said Companies "can assign the same to graze stock upon the remaining part of" the said OS No. 144 (comprising 11.893 acres "edged red on the said plan" between 26 April and 10 October or such other dates for which property may be free of the commons rights granted by the award of 17 December 1754; and (2) a conveyance dated 4 January 1965 by which Mr J T Hall conveyed to Messrs G R Wharton, G L Wharton and J R Wharton and Mr John Dargue Wharton the said premises described by reference to the said 1963 conveyance plan.

An uncoloured copy of the 1963 conveyance plan is at page 2 of this decision; on the original "pt 144, .950" is coloured pink and "pt 144 11.893" is edged red. By comparing



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it with the Register map, I identify the Unit Land with the land coloured pink and the land edged red.

Upon the said two conveyances, I conclude that under them Messrs G R, G L, and J R Wharton (represented at the hearing) and Mr J D Wharton (not so represented) became the owners of the coloured pink land. Since the hearing I have had a letter dated 7 April 1982 from Fell Kilvington & Co. saying that he is the joint owner with Messrs G R, G L, and J R Wharton of whatever part of the Unit Land they own; it may be that I am mistaken in thinking that he was not at the hearing represented by Mr Hodges. So I am satisfied that they are the owners of the coloured pink land, and accordingly I shall direct Cumbria County Council as registration authority to register Mr George Robinson Wharton, Mr George Lawrence Wharton and Mr Joseph Roland Wharton all of Keisley, Dufton, near Appleby, and Mr John Dargue Wharton of Town Head Farm, Old Tebay, near Penrith as the owners of that part of the Unit Land which is coloured pink on the 1963 conveyance plan.

As regards the remainder of the Unit Land edged red on the 1963 conveyance plan (containing 11.893 acres):- By section 22 of the 1965 Act, ownership is defined as "of a legal estate in fee simple". The 1963 conveyance dealt only with a right to graze stock, and so (quite apart from the doubting words:- "so far as ... can assign the same") falls short of showing any such ownership. In the absence of any other evidence as to the possible ownership of Messrs Wharton or anyone else, I am not satisfied that any person is the owner of this remainder of the Unit Land and it will therefore 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.

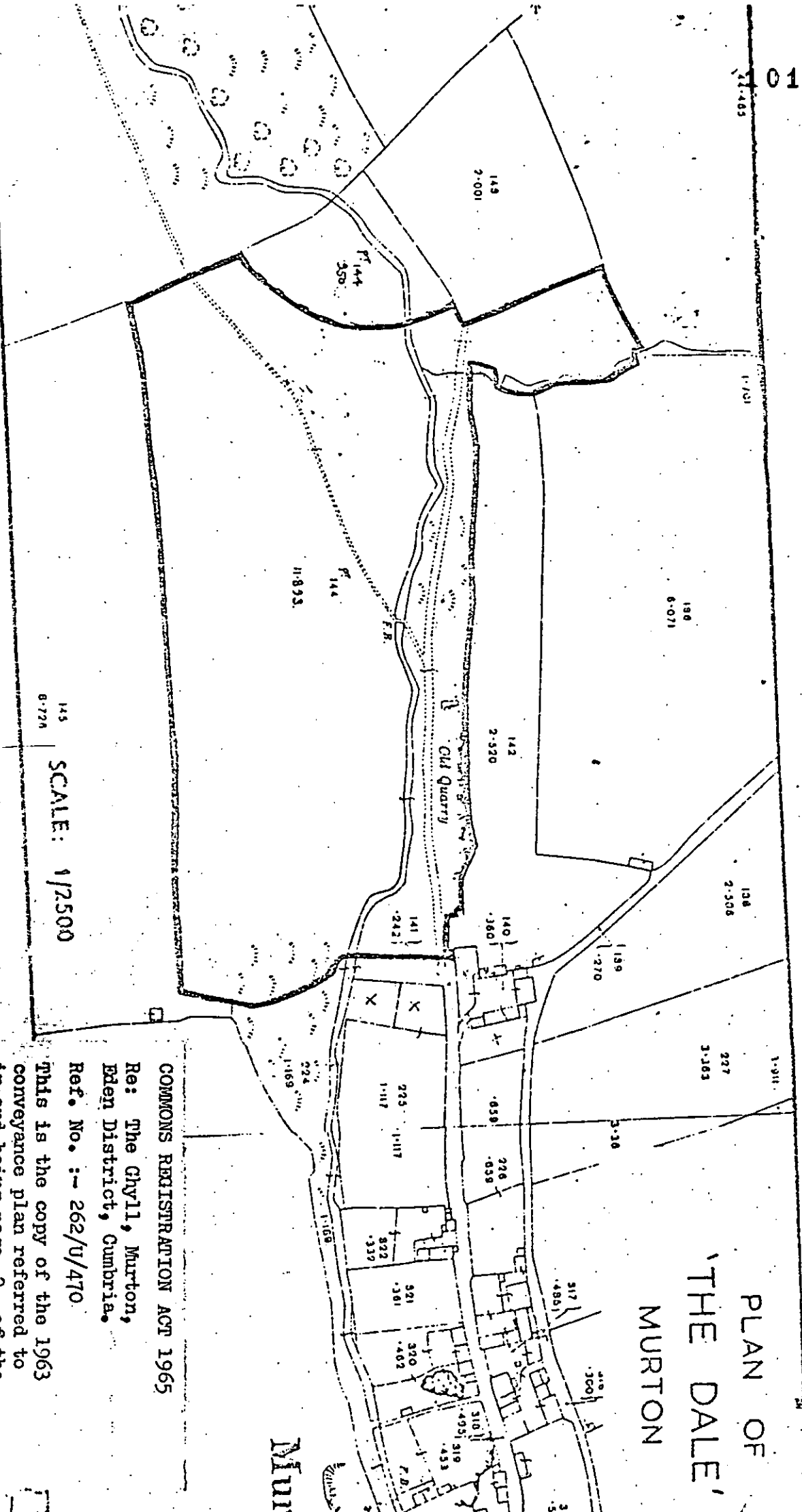
Dated this 11<sup>th</sup> —

day of May —

1982

*A. A. Baden Fuller*

Commons Commissioner



PLAN OF  
'THE DALE'  
MURTON

SCALE: 1/2500

COMMONS REGISTRATION ACT 1965

Re: The Chyll, Murton,  
Eden District, Cumbria.

Ref. No. :- 262/U/470

This is the copy of the 1963 conveyance plan referred to in and being page 2 of the decision dated 11 May 1982 and made by the Commons Commissioner in this Matter

*A. A. Batten Jllc*