



In the Matter of pieces of land part
of Emsay Moor, in Emsay-with-Eastby,
Craven District, North Yorkshire

DECISION

This reference relates to the question of the ownership of land being pieces part of that known as Emsay Moor, in Emsay-with-Eastby, Craven District and being the land comprised in the Land Section of Register Unit No. CL 307 in the Register of Common Land maintained by the North Yorkshire (formerly West Riding) 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 (1) the Trustees of the Chatsworth Settlement (Messrs Thomas Edward Sydney Egerton and Ian Hamish Leslie Melville) claimed (their Solicitors' letter of 15 November 1984) ownership of the land in question, and (2) Emsay-with-Eastby Parish Council said (their Clerk's letter of 26 January 1985) that they do not have any claim to the title to the land. No other person claimed to be the freehold owner of the land or 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 5 February 1985. At the hearing: (1) Messrs T E S Egerton and I H L Melville were represented by Mr John Michael Sheard FRICS, the Chatsworth Estate Trustees resident land agent of their Bolton Abbey Estate, and (2) the Forestry Commission were represented by Mr T G Wilkinson of their office at Pickering for their Durham and North Yorkshire lands.

The land ("the Unit Land") in this Register Unit comprises numerous pieces which adjoin the west, southwest and south boundaries of the land ("the CL 243 land") in Register Unit No. CL 243, being therein described as Emsay Moor containing 763.125 hectares (about 1,885 acres). The Unit Land pieces compared with the CL 243 land are all very small (some no more than narrow strips).

Mr Wilkinson said that the Forestry Commission owned some nearby or adjoining land. After some discussion about the Register Map, he said that he would make no formal representation.

Mr Sheard in the course of his oral evidence produced the documents specified in the Schedule hereto. He said (in effect):- The Unit Land is a mistaken omission from the CL 243 Register, the ownership of which land is now final pursuant to a decision dated 19 November 1982 and made by Mr Commons Commissioner Morris Smith (reference 268/U/269). He decided first that by far the greater part of the CL 243 land is for a legal estate in fee simple now vested in Andrew Robert Buxton (11th) Duke of Devonshire, such estate being held by him subject to an agreement dated 3 November 1926 by which his predecessor Victor Christian William (9th) Duke of Devonshire being then entitled for a like estate legally and beneficially, sold (subject to a mortgage) lands in various counties including York to the Chatsworth Estates Company (the benefit of this agreement is now vested in Messrs Egerton and Melville as Trustees of the Chatsworth settlement). And he decided secondly that the remaining and smaller part (between 200 and 300 acres) was under a 1971 conveyance and subsequent appointments then vested in Messrs Egerton and Melville (as such trustees).





The documents so produced to me are so far as now relevant identical with those produced to Mr Morris Smith, and his decision about them with which I agree, should be treated as repeated herein. The plan 'the Decision Plan' being page 3 of this decision is an uncoloured extract from the plan on the 1961 conveyance with the south boundary of the land thereby conveyed overwritten with a thick black line thereon marked AB.

Following the said decision I am satisfied that the Duke of Devonshire and Messrs Egerton and Melville are the owners of the Unit Land as next mentioned, and accordingly I shall in pursuance of section 8(2) of the Act of 1965 direct the North Yorkshire County Council as registration authority to register the most noble And Robert Buxton, Duke of Devonshire as the owner of that part of the Unit Land which is southeast or east of the line AB on the Decision Plan and to register Mr Thomas Edward Sydney Egerton of Heads Farm, Chaddleshire, Newbury, Berkshire and Mr Ian Hamish Leslie Melville of 41 Bishopsgate, London, EC2 as the owners of the part of the Unit Land northwest of the said line.

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.

SCHEDULE
(Documents produced)

CE/1	1973	Abstract of title of Walter John Duke of Buccleuch and Mary Alice Duchess of Devonshire to freehold property at Bolton Abbey:- commencing with a Mortgage dated 30 August 1897 by Spencer Compton Duke of Devonshire of (among other lands) the Manor of Rylstone Moor containing 811 acres, a plantation containing 1a.2r.23p. and an allotment planted containing 4a.3r.30p; and including an agreement for sale dated 3 November 1925 by Victor Christian William Duke of Devonshire and letters of administration dated 30 December 1950 to the estate of the said V C W Duke of Devonshire (he died 6 May 1938) granted to ARB 11th Duke of Devonshire, and an agreement dated 26 November 1950 by which Chatsworth Estate Company sold to W J Duke of Buccleuch and M A Duchess of Devonshire the lands by them purchased under agreement dated 3 November 1925.
CE/2	--	Supplemental abstract recording death on 3 October 1973 of W J Duke of Buccleuch and including two appointments dated 24 October 1973 and 9 July 1976 under which Messrs T E S Egerton and I H L Melville became Trustees of the land comprised in said sale agreement 26 November 1950.

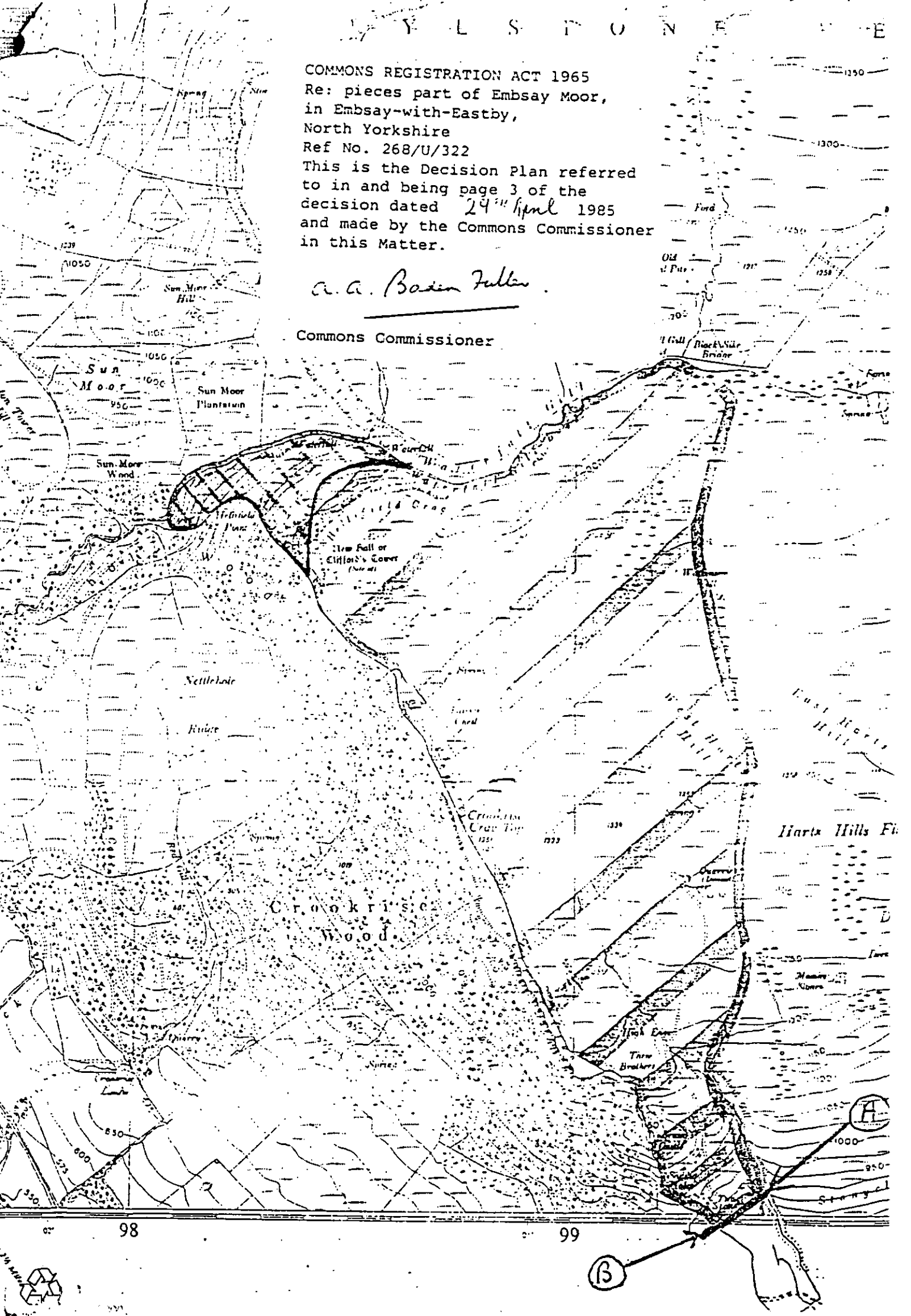


COMMONS REGISTRATION ACT 1965
Re: pieces part of Emsay Moor,
in Emsay-with-Eastby,
North Yorkshire
Ref No. 268/U/322

This is the Decision Plan referred
to in and being page 3 of the
decision dated 29th April 1985
and made by the Commons Commissioner
in this Matter.

A. A. Baden Fuller

Commons Commissioner





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CE/3 --

Map: being an extract of plans attached to a settlement dated 30 August 1897.

CE/4 21 March 1961

Conveyance by Trustees for Roman Catholic Purposes Registered to W J Duke of Buccleuch and M A Duchess of Devonshire of land on the plan annexed thereto striped green and edged green (being between 200 and 300 acres).

Dated the 29th — day of April 1985.

a. a. Barten Fuller

Commons Commissioner

