



**In the Matter of Stonehill Hard and Town Hard,
West Mersea, Essex**

DECISION

This reference relates to the question of the ownership of land known as Stonehill Hard and Town Hard, West Mersea, being the land comprised in the Land Section of Register Unit No. VG 241 in the Register of Town or Village Greens maintained by the Essex 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 Wm Wyatt Ltd and Dabchicks Sailing Club claimed to be the freehold owners of parts 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 Colchester on 8 December 1983.

At the hearing the Colchester Borough Council was represented by Mr M J Ennals, Solicitor, Wm Wyatt Ltd by Mr S J Cutts, one of its directors, and Dabchicks Sailing Club by Mr T W Wood, its Vice-Commodore, and Mr B R Keene appeared in person. Mr Keene did not claim to be the owner of the land in question, but, living in a house opposite the land, he was concerned as to its future. I am however, grateful to him for producing a map containing more detail than the copy of the Register Map which accompanied the reference.

Most of the land originally comprised in the Register Unit has been excluded from it, leaving within it only a strip of land on the landward side of Stonehill Hard and a small area to the south of the Dabchicks Sailing Club's clubhouse.

The easternmost part of the strip of land on the landward side of Stonehill Hard, together with other land to the east, was conveyed to the Borough Council by a Conveyance made 23 December 1978 between (1) West Mersea Town Council (2) Colchester Borough Council. The Town Council had a good title to the major part of this land in a Conveyance made 7 May 1959 between (1) Cyril Stanley Page and Beryl Margaret Dimmock (2) The Urban District Council of West Mersea and to a very small part at its northern extremity in Conveyance made 10 May 1958 between (1) Munson George Cooke (2) Urban District Council of West Mersea.

On this evidence I am satisfied that the Colchester Borough Council is the owner of the easternmost part of the land adjoining Stonehill Hard, and I shall accordingly direct the Essex County Council, as registration authority, to register the Borough Council as the owner of that land under section 8(2) of the Act of 1965.

In the absence of any evidence I am not satisfied that any person is the owner of the westernmost part of the land adjoining Stonehill Hard, and I shall accordingly direct the County Council to register the West Mersea Town Council as the owner of that part of the land adjoining Stonehill Hard under section 8(2) of the Act of 1965.



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Turning to the remaining land still comprised in the Register Unit, namely, that to the south of the Dabchicks Sailing Club's clubhouse. I have had some difficulty with this part of the case in reconciling the various plans which have been produced - a difficulty which was shared by those who appeared before me. However, after a careful consideration of the evidence, I am satisfied that a small triangle of land in the north-east corner of this land was conveyed to the Trustees of the Sailing Club by a Conveyance made 9 July 1956 between (1) Thomas Peter Bromley Smith (2) Barclays Bank Ltd (3) Walter Bruce Rainbird, Leo Ferdinand Michael-Smith, Frederick George Unwin, and Edwin William Winfield.

Land to the south of that conveyed to the Trustees of the Sailing Club (I use this vague description advisedly) was conveyed to Wm Wyatt Ltd by a Conveyance made 1 July 1952 between (1) John William Wyatt (2) Wm Wyatt Ltd. This land is described in an indenture made 1 August 1914 between (1) Henry Geoffrey Elwes (2) Joseph Aloysius Kumer as bounded on the north by a sewer of the former West Mersea Rural District Council. This boundary is not now identifiable. However, Mr Cutts, who has been a director of Wm Wyatt Ltd for the last fourteen years, gave evidence that during the whole of that time his company had used the land up to the boundary of the Dabchicks Club property for the storage of articles connected with its trade of yacht and boat builders. About 1972 the Dabchicks Club put up a notice warning people off the northern part of the land, but Wm Wyatt Ltd contested this and no further action was taken. Nobody else has ever questioned the right of Wm Wyatt Ltd to occupy this part of the land.

On this evidence I am satisfied that the Trustees of the Dabchicks Sailing Club and Wm Wyatt Ltd are the owners of parts of the small area of land the subject of the reference to the South of the Sailing Club's clubhouse, and I shall accordingly direct the Essex County Council, as registration authority, to register the Trustees and Wm Wyatt Ltd as the owners of their respective parts of what land under Section 8(2) 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

16th

day of

December

1983

Chief Commons Commissioner