



COMMONS REGISTRATION ACT 1965

Reference No 209/U/21

In the Matter of the Recreation  
Allotment, at Lewdown, Marystowe,  
West Devon District, Devon

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DECISION

This reference relates to the question of the ownership of land known as the Recreation Allotment at Lewdown, Marystowe, West Devon District being the land comprised in the Land Section of Register Unit No VG. 88 in the Register of Town or Village Greens maintained by the Devon 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 General Secretary of Commons, Open Spaces and Footpaths Preservation Society (the registration was made on their application) informed the Clerk of the Commons Commissioners that the land was awarded to the Churchwardens and Overseers of the Parish of Marystow as a place of exercise and recreation for the inhabitants, by an Award dated 18 September 1850 under an Act for the Inclosure of Holster Yard; and Mrs Norah Fritzsche of The Old Cottage, Lewdown, informed the Clerk that she always understood that the land, which is known as The Ramps, belonged to the Villagers, that her earliest title deed of 1920 described it as belonging to Mr Sabine Earing Gould, that it contained the Well of the village pump now blocked up, and that it was a popular place for the children in the time of her father, Mr Brian Godfrey, who gave them a see-saw etc. No person claimed to be the freehold 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 Exeter on 16 November 1977. At the hearing Mrs Fritzsche attended in person.

No evidence of ownership was offered. In the absence of any evidence I am not satisfied that any person is the owner of the land, and I shall accordingly direct the Devon County Council, as registration authority, to register Marystowe Parish Council as the owner of the land under section 3(3) 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 9<sup>th</sup> day of *December* — 1977

*a. a. Baden Fuller*

Commons Commissioner



The 1921 indenture is some evidence that under it the Town Council (then the Parish Council) became the owners of the land as successors of Mr HA Bentinck and also some evidence as to his being the successor of the allottee named in the 1866 Award. I am grateful to Mr Bond for the trouble he has taken in this matter, but giving his statements the best consideration I can, I find in them no good reason for my not giving full effect to the evidence provided by the indenture; I see no reason for inferring, as I understood him to suggest, that the land necessarily passed with the Lordship of the Manor after the 1866 Award, even although it may have done so before.

On the basis of the indenture, I am therefore satisfied that the Town Council are the owners of the land, and I shall accordingly direct the Devon County Council, as registration authority, to register Bovey Tracey Town Council as the owner of the 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 9<sup>th</sup> day of December 1977

*C. A. Bacon Fuller*

Commons Commissioner