



In the Matter of Levenside,  
Stokesley, Hambleton District,  
North Yorkshire

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DECISION

This reference relates to the question of the ownership of pieces of land containing about 0.856 acres in all and known as Levenside, Stokesley, Hambleton District being the land comprised in the Land Section of Register Unit No CL. 27 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 Mr A E Ray (letter dated 27 March 1974) claimed ownership of part of the land in question and Stokesley Parish Council (letter dated 26 April 1974) claimed ownership of all the land in question. No other person claimed to be the freehold owner of the land or to have information as to its ownership.

Mr G D Squibb QC, Chief Commons Commissioner, held a hearing for the purpose of inquiring into the question of the ownership of the land at Northallerton on 10 March 1974 and adjourned the proceedings. I held a hearing for the same purpose at the same place on 21 February 1978. At this hearing, Mr Arthur Ernest Ray of The Lodge, 101 Lakeside attended in person, and Stokesley Parish Council were represented by Mr P Walker solicitor of Gilchrist Smith Vaux & Walker, Solicitors of Middlesbrough.

The land ("the Unit Land") in this Register Unit comprises a number of pieces or strips situate by or near the bank of the River Leven where such River flows (from east to west) through or very near to the Village. Although these pieces are not continuous, they extend from their east end to their west end for about 600 yards.

Mr Ray in the course of his evidence produced a plan and some photographs of the part ("the Disputed Part") which he claimed, being a triangular strip about 60 or 70 yards long situate between The Lodge on the east and the bank of the River on the west. He said (in effect):- He purchased The Lodge in January 1952. The Disputed Part was then very light cover of clay/soil: no grass: churned up by cycles and motorcycles: a sea of mud in wet weather and the road by it had a very uneven surface of stone: large potholes and depressions: holding rain-water. In 1952 he made calls upon the Parish and County Councils' surveyors and neither owned it or even attempted to repair or bring it to a satisfactory condition. In the following year in frosty weather he had to provide grit, in snow weather he had to remove snow, in autumn he had to remove leaves and throughout the year the Disputed Part was continually abused by cyclists and motorcyclists. To make the Disputed Part into a clean frontage for his home and more important to provide a pleasant path and a tidy landscape for passers by, the following work was undertaken by him at his own expense:- (i) He erected concrete posts and metal





tubes to stop cyclists vandalising the area, (ii) he provided about 100 loads of soil, level graded and consolidated it, and covered it with grass seed and turf and during the "growing" season he personally cut the grass every weekend, (iii) he provided and laid 5" x 10" precast concrete kerbs to support the soil and form a demarcation with the road and path, (iv) he made good the uneven road with stone and covered the whole surface with tarmacadam. He contended that to keep the areas in good condition it was not only necessary but absolutely essential for private ownership; he could and did order any vandals off; the Parish Council have not sufficient funds or staff to undertake this as can be seen by the photographs of the adjoining areas. In response to questions by Mr Walker, Mr Ray agreed that when he bought The Lodge the deeds did not show him to be the owner of the Disputed Part. He did not agree that he based his ownership claim on the fact that he had carried out the work on the land and maintained it; he was also the churchwarden and did considerable jobs for the benefit of the community which anyone in Stokesley would confirm: all the efforts he had put into and the expense he had paid was only to make the place nice and tidy. The reason for his claim was that there was a statutory notice put on the trees all through the town and when he enquired at Northallerton whether anybody else had claimed it he was told that they had not, so to keep it in order he said he would claim. This was in 1973 or 1974, but if the Parish Council had claimed then he would not have claimed ownership.

Mrs B Breen who has been clerk of the Parish Council since July 1975 in the course of her evidence produced a conveyance dated 19 July 1919 by which Mr H W French of the Manor House, Stokesley with the concurrence of trustees conveyed to the Stokesley Parish Council by way of gift, because he was desirous of conveying the same in memory of his father, the late Edward Heneage Wynne Finch of the Manor House, Stokesley "first ALL the wastes or waste ground belonging; appertaining or appurtenant to the Manor of Stokesley...within the precincts of the town of Stokesley as this latter is defined and comprised within the verge line coloured yellow and marked on the Ordnance map...for the use and benefit of the said township of Stokesley". There is no plan on the conveyance and the OS map referred to merely defines the boundary of Stokesley but not the boundaries of the manorial wastes in Stokesley. Mrs Breen said (in effect):- All the Unit Land are grasslands by the River of which the Parish Council have regarded themselves as owner. They maintain these lands. There are five mowings of the grass every year of a number of grass areas in Stokesley including the Unit Land; the payments for these mowings are shown in the Parish Council Account Book.

To Mr Ray's suggestion that the Parish Council has not for many years mown the Disputed Part, Mrs Breen agreed because "Mr Ray has mown it; obviously it has been more frequently cut"; she added "The whole of the Parish Council acknowledge that Mr A E Ray has made a very good job of maintaining it".

Mr Ray contended that it was absolutely essential that somebody in authority should maintain the Disputed Part; there have been many houses broken into quite recently and he wanted the necessary authority and added "If I ever sold my house, I would be quite prepared to hand it (meaning the Disputed Part) over to the Council".

Mr Walker made it clear that the Parish Council had a very high regard for Mr Ray.





I consider that the mowings done as described by Mrs Breen can properly be related to the 1919 conveyance, and I conclude therefore that the Parish Council have established their title to all the Unit Land except so far if at all that they have lost their title as a result of the acts done by Mr Ray.

If Mr Ray was in possession of the Disputed Part adversely to the Parish Council, then their title would have been extinguished by the Limitation Act 1939. In considering whether the things he did amount as against the Parish Council taking and being in possession, I must I think have regard to the nature of the acts done. Although Mr Ray derived some personal advantage from the things he did, they were and → were intended by him to be, → beneficial to the public; in my opinion such acts cannot be adverse to the Parish Council who could not be otherwise than, and were in fact, pleased, with what he did. I conclude therefore that Mr Ray never dispossessed the Parish Council.

For these reasons I am satisfied that the Parish Council are the owners of all the Unit Land and I shall accordingly direct the North Yorkshire County Council as registration authority to register Stokesley Parish 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 3<sup>rd</sup> day of *Nov*

1978

*a. a. Breen* *Fisher*

Commons Commissioner

